

2 A.A.C. 8

Supp. 22-3

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

The table of contents on page one contains links to the referenced page numbers in this Chapter.

Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
April 1, 2023 through July 31, 2023

Section R2-8-301 numbering corrected and subsection reference under the "Estimated Social Security disability income amount" definition corrected. No other changes have been made to this Chapter since Supp. 22-3 (Supp. 23-2).

Questions about these rules? Contact:

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The release of this Chapter in Supp. 22-3 replaces Supp. 22-3, 1-56 pages.

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

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

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

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

ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

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

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

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

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

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

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division

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TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

Authority: A.R.S. § 38-711 et seq.

Supp. 23-2

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

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

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

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

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

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

R2-8-104. Definitions

A. The definitions in A.R.S. § 38-711 apply to this Chapter.

B. Unless otherwise specified, in this Chapter:

1. "Actuarial assumption" means an estimate of an uncertain future event that affects pension liabilities, or assets, or both.
2. "Assumed actuarial investment earnings rate" means the assumed rate of investment return approved by the Board and contained in R2-8-118(A).
3. "Authorized employer representative" means an individual specified by the Employer to provide the ASRS with information about a member who previously worked for the ASRS employer.
4. "Contribution" means:
 - a. Amounts required by A.R.S. Title 38, Chapter 5, Articles 2 and 2.1 to be paid to the ASRS by a member or an employer on behalf of a member;
 - b. Any voluntary amounts paid to the ASRS pursuant to 2 A.A.C. 8, Article 5 by a member to be placed in the member's account; and
 - c. Amounts credited by transfer under 2 A.A.C. 8, Article 11.
5. "Day" means a calendar day, and excludes the:
 - a. Day of the act or event from which a designated period of time begins to run; and

- b. Last day of the period if a Saturday, Sunday, or official state holiday.
6. "Designated beneficiary" means the same as in A.R.S. § 38-762(G) or another person designated as a beneficiary by law.
7. "Director" means the Director appointed by the Board as provided in A.R.S. § 38-715.
8. "Individual retirement account" or "IRA" means the types of eligible retirement plans specified in A.R.S. § 38-770(D)(3)(a) and (b).
9. "DRO" means a copy of an original domestic relations order specified in A.R.S. § 38-773(H)(1) that contains all of the following:
 - a. The requirements of A.R.S. § 38-773(C);
 - b. The date of the member and alternate payee's marriage;
 - c. The date of divorce or the date in which the community property interest ended;
 - d. A court stamp indicating the domestic relations order is a true and correct copy of the original domestic relations order on file with the court;
 - e. How the member's ASRS benefits should be split in specific amounts for the following possible events:
 - i. The member's retirement;
 - ii. Return of contributions and termination of membership according to R2-8-115; and
 - iii. The death of the member prior to retirement;
 - f. Whether the member may transfer all ASRS service credit to another retirement system;
 - g. Whether the member is required to maintain the alternate payee as the member's beneficiary;
 - h. Whether the member may rescind their retirement option according to A.R.S. § 38-760; and
 - i. The judge's dated signature.
10. "Party" means the same as in A.R.S. § 41-1001(14).
11. "Person" means the same as in A.R.S. § 41-1001(15).
12. "Plan" means the same as "defined benefit plan" in A.R.S. § 38-712(B), and as administered by the ASRS.
13. "Retirement account" means the same as in A.R.S. § 38-771(J)(2).
14. "Rollover" means a contribution to the ASRS by an eligible member of an eligible rollover distribution from one or more of the retirement plans listed in A.R.S. § 38-747(H)(2) and (H)(3).
15. "Terminate employment" means to end the employment relationship between a member and an ASRS employer with the intent that the member does not return to employment with an ASRS employer.
16. "United States" means the same as in A.R.S. § 1-215(39).

Historical Note

Former Rule, Social Security Regulation 4; Former Section R2-8-04 renumbered as Section R2-8-104 without change effective May 21, 1982 (Supp. 82-3). Amended subsections (G), (J), and (K) effective April 12, 1984 (Supp. 84-2). Typographical error corrected in subsection (5)(c) "required" corrected to "required" (Supp. 97-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1). Amended by final rulemaking at 28

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A.A.R. 1746 (July 22, 2022), effective September 4, 2022 (Supp. 22-3).

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

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

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

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

R2-8-114. Emergency Expired**Historical Note**

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

R2-8-115. Return of Contributions Upon Termination of Membership by Separation from All ASRS Employment by Other Than Retirement or Death**A.** The following definitions apply to this Section unless otherwise specified:

1. "Eligible retirement plan" means the same as in A.R.S. § 38-770(D)(3).
2. "Employer Number" means a unique identifier the ASRS assigns to a member employer.
3. "Employer plan" means the types of eligible retirement plans specified in A.R.S. § 38-770(D)(3)(c), (d), (e), and (f).
4. "LTD" Means the same as in R2-8-301.
5. "On File" means ASRS has received the information.
6. "Process date" means the calendar day the ASRS generates contribution withdrawal documents to be sent to a member.
7. "Warrant" means a voucher authorizing payment of funds due to a member.

B. A member who terminates from all ASRS employment by other than retirement or death and desires a return of the member's contributions, including amounts received for the purchase of service, any employer contributions authorized under A.R.S. § 38-740, and interest on the contributions, shall request from the ASRS, in writing or verbally, the documents

necessary to apply for the withdrawal of the member's contributions.

C. Upon request to withdraw by the member, the ASRS shall provide:

1. An Application for Withdrawal of Contributions and Termination of Membership form to the member, and
2. An Ending Payroll Verification - Withdrawal of Contribution and Termination of Membership form to the employer, if ASRS has received contributions for the member within the six months immediately preceding the date the member submitted the request to ASRS.

D. The member shall complete and return to the ASRS the Application for Withdrawal of Contributions and Termination of Membership form that includes the following information:

1. The member's full name;
2. The member's Social Security number or U.S. Tax Identification number;
3. The member's current mailing address, if not On File with ASRS;
4. The member's birth date, if not On File with ASRS;
5. Notarized signature of the member certifying that the member:
 - a. Is no longer employed by any Employer;
 - b. Is neither under contract nor has any verbal or written agreement for future employment with an Employer;
 - c. Is not currently in a leave of absence status with an Employer;
 - d. Understands that each of the member's former Employers will complete an ending payroll verification form if ASRS has received contributions for the member within the six months immediately preceding the date the member submitted the request to ASRS;
 - e. Understands that the member's most recent Employer will complete an ending payroll verification form for the member if the member has reached the member's required beginning date pursuant to A.R.S. § 38-775;
 - f. Has read and understands the Special Tax Notice Regarding Plan Payments the member received with the application and the member elects to waive the member's 30-day waiting period to consider a roll over or a cash distribution;
 - g. Understands that the member is forfeiting all future retirement rights and privileges of membership with ASRS;
 - h. Understands that LTD benefits will be canceled if the member elects to withdraw contributions while receiving or electing to receive long-term disability benefits;
 - i. Understands that if the member elects to roll over all or any portion of the member's distribution to another employer plan, it is the member's responsibility to verify that the receiving employer plan will accept the rollover and, if applicable, agree to separately account for the pre-tax and post-tax amounts rolled over and the related subsequent earnings on the amounts;
 - j. Understands that if the member elects to roll over all or any portion of the member's distribution to an individual retirement account, it is the member's responsibility to separately account for pre-tax and post-tax amounts; and

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- k. Understands that if the member elects a rollover to another employer plan or individual retirement account, any portion of the distribution not designated for roll over will be paid directly to the member and any taxable amounts will be subject to applicable state and federal tax withholding;
 - l. Understands that the member is not considered terminated and cannot withdraw the member's ASRS contribution if the member was called to active military service and is not currently performing services for an Employer;
 - m. Understands that any person who knowingly makes any false statement with an intent to defraud the ASRS is guilty of a Class 6 felony in accordance with A.R.S. § 38-793.
- 6. Specify that:
 - a. The entire amount of the distribution be paid directly to the member;
 - b. The entire amount of the distribution be rolled over to an eligible retirement plan, or
 - c. An identified amount of the distribution be rolled over to an eligible retirement plan and the remaining amount be paid directly to the member; and
- 7. If the member selects all or a portion of the withdrawal be rolled over to an eligible retirement plan, specify:
 - a. The type of eligible retirement plan; and
 - b. The name and mailing address of the eligible retirement plan.
- E. If ASRS has received contributions for the member within six months immediately preceding the date the member submitted the request to ASRS each Employer shall complete an Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership form electronically that includes the following information:
 - 1. The member's full name;
 - 2. The member's Social Security number or U.S. Tax Identification number;
 - 3. The member's termination date;
 - 4. The member's final pay period ending date;
 - 5. The final amount of contributions, including any adjustments or corrections, but not including any long-term disability contributions;
 - 6. The Employer's name and telephone number;
 - 7. The Employer Number;
 - 8. The name and title of the authorized Employer representative;
 - 9. Certification by the authorized Employer representative that:
 - a. The member Terminated Employment and is neither under contract nor bound by any verbal or written agreement for employment with the Employer;
 - b. There is no agreement to re-employ the member;
 - c. Any person who knowingly makes any false statement or who falsifies any record of the retirement plan with an intent to defraud the plan, is guilty of a Class 6 felony according to A.R.S. § 38-793; and
 - d. The authorized Employer representative certifies that they are the Employer user named on the Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership form and their title and contact information is current and correct.
- F. If the member has attained a required beginning distribution date as of the date the member submitted the request to ASRS, the most recent Employer shall complete an Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership form electronically that includes the information contained in subsection (E).
- G. If the member requests a return of contributions and a Warrant is distributed during the fiscal year that the member began membership in the ASRS, no interest is paid to the account of the member.
- H. If the member requests a return of contributions after the first fiscal year of membership, the ASRS shall credit interest at the rate specified in Column 3 of the table in R2-8-118(A) to the account of the member as of June 30 of each year, on the basis of the balance in the account of the member as of the previous June 30. The ASRS shall credit interest for a partial fiscal year of membership in the ASRS on the previous June 30 balance based on the number of days of membership up to and including the day the ASRS issues the Warrant divided by the total number days in the fiscal year. Contributions made after the previous June 30 are returned without interest.
- I. Upon submitting to the ASRS the completed and accurate Application for Withdrawal of Contributions and Termination of Membership form and, if applicable, after the ASRS has received any Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership forms, a member is entitled to payment of the amount due to the member as specified in subsection (G) or (H) unless ASRS has received a DRO before the ASRS returns the contributions as specified by the member.
- J. A member may cancel an Application for Withdrawal of Contributions and Termination of Membership form at any time before the return of contributions is disbursed by submitting written notice to ASRS to cancel the request.
- K. If an Application for Withdrawal of Contributions and Termination of Membership form is completed through the member's secure ASRS account, the secure login and successful submission of the knowledge based answers shall serve as the member's notarized signature required under subsection (D)(5).

Historical Note

Former Rule, Social Security Regulation 1; Amended effective Dec. 20, 1979 (Supp. 79-6). Former Section R2-8-15 renumbered as Section R2-8-115 without change effective May 21, 1982 (Supp. 82-3). Amended by final rulemaking at 11 A.A.R. 1416, effective April 5, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 644, effective February 7, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 79, effective March 6, 2016 (Supp. 16-1). Amended by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3). Amended by final rulemaking at 28 A.A.R. 1746 (July 22, 2022), effective September 4, 2022 (Supp. 22-3).

R2-8-116. Alternate Contribution Rate

- A. For purposes of this Section, the following definitions apply:
 - 1. "ACR" means an alternate contribution rate pursuant to A.R.S. § 38-766.02, the resulting amount of which is not deducted from the employee's compensation.
 - 2. "Class of positions" means all employment positions of the employer that perform the same, or substantially similar, function or duties, for the employer as determined by the ASRS in subsection (B).
 - 3. "Compensation" has the same meaning as A.R.S. § 38-711(7) and does not include ACR amounts.

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

Historical Note

Former Rule, Retirement System Regulation 2; Former Section R2-8-16 renumbered as Section R2-8-116 without change effective May 21, 1982 (Supp. 82-3). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 22 A.A.R. 1341, effective July 4, 2016 (Supp. 16-2). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2).

R2-8-117. Return to Work After Retirement

- A. Unless otherwise specified, in this Section:
 1. "Commencing employment" means the date a retired member who is not independently contracted or leased from a third party pursuant to R2-8-116(A)(4) renders services directly to an Employer for which the retired member is entitled to be paid.
 2. "Returns to work" means the member retired from the ASRS prior to Commencing Employment with an Employer.
- B. Pursuant to A.R.S. § 38-766.01(C), a retired member who returns to work directly with an Employer shall submit a Working After Retirement form to each of the retired member's current Employers through the retired member's secure website account within 30 days of the retired member Commencing Employment with an Employer.
- C. Pursuant to A.R.S. § 38-766.02(E), within 14 days of receipt of a Working After Retirement form, an Employer shall verify the retired member's employment information and submit the verified Working After Retirement form to the ASRS through the Employer's secure website account for each retired member who returns to work with the Employer.
- D. After a retired member returns to work, the Employer shall submit a verified Working After Retirement form to the ASRS

through the Employer's secure website account within 30 days of a change in the actual hours or intent of each retired member's employment that results in:

1. The member's number of hours worked per week increasing from less than 20 hours per week to 20 or more hours per week; or
 2. The member's number of weeks worked in a fiscal year increasing from less than 20 weeks per fiscal year to 20 or more weeks per fiscal year.
- E. The Working After Retirement form shall contain the following information:
 1. The retired member's Social Security number or U.S. Tax Identification number;
 2. The retired member's full name;
 3. The date the member retired;
 4. Whether the retired member terminated employment, and if so, the date the retired member terminated employment;
 5. The first date of Commencing Employment upon the retired member's return to work;
 6. The intent of the retired member's employment reflected as:
 - a. The anticipated number of hours the retired member is engaged to work per week and the anticipated number of weeks the retired member is engaged to work per fiscal year; or
 - b. The actual number of hours the retired member works for an Employer per week and the actual number of weeks the retired member works for an Employer in a fiscal year.
 7. Acknowledgement by the retired member that the retired member has read the Return to Work information on the ASRS website and intends to submit the Working After Retirement form to the Employer and submit any additional Working After Retirement forms to the Employer as required.
 - F. Upon discovering that the retired member's employment violates A.R.S. §§ 38-766 or 38-766.01, the ASRS shall send the retired member a Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form.
 - G. By the due date specified on the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form, the retired member shall return the completed form and any supporting documentation to the ASRS indicating the action the retired member will take to correct the violation of A.R.S. §§ 38-766 or 38-766.01.
 - H. If the member does not submit the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form pursuant to subsection (G), the ASRS shall suspend the retired member's retirement benefits from the date on the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form.
 - I. If the ASRS suspends the retired member's retirement benefits pursuant to subsection (H), the ASRS shall reinstate the retired member's retirement benefits upon notice from the Employer that all violations pursuant to subsection (F) have been corrected.
 - J. Notwithstanding any other Section, a member who meets the required minimum distributions age according to A.R.S. § 38-775, may not elect to suspend the member's retirement benefit.

Historical Note

Former Rule, Retirement System Regulation 3; Former Section R2-8-17 renumbered as Section R2-8-117 without change effective May 21, 1982 (Supp. 82-3). Section repealed by final rulemaking at 11 A.A.R. 2640, effective

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June 30, 2005 (Supp. 05-2). New Section made by final rulemaking at 23 A.A.R. 209, effective March 5, 2017 (Supp. 17-1). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1). Amended by final rulemaking at 28 A.A.R. 1255 (June 10, 2022), effective July 17, 2022 (Supp. 22-2).

R2-8-118. Application of Interest Rates

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

Effective Date of Interest Rate Change	Assumed Actuarial Investment Earnings Rate	Interest Rate Used to Determine Return of Contributions Upon Termination of Membership by Separation from Service by Other Than Retirement or Death
7-1-1953	2.50%	2.50%
7-1-1959	3.00%	3.00%
7-1-1966	3.75%	3.75%
7-1-1969	4.25%	4.25%
7-1-1971	4.75%	4.75%
7-1-1975	5.50%	5.50%
7-1-1976	6.00%	5.50%
7-1-1981	7.00%	5.50%
7-1-1982	7.00%	7.00%
7-1-1984	8.00%	8.00%
7-1-2005	8.00%	4.00%
7-1-2013	8.00%	2.00%
7-1-2018	7.50%	2.00%
7-1-2022	7.00%	2.00%

- B. At the beginning of each fiscal year, interest is credited to the retirement account of each member on the June 30 that marks the end of the fiscal year based on the balance in the member's account as of the previous June 30. The balance on which interest is credited includes:
1. Employer and employee contributions;
 2. Voluntary additional contributions made by members pursuant to A.R.S. §§ 38-742, 38-743, 38-744, and 38-745, if applicable;
 3. Amounts credited by transfer under 2 A.A.C. 8, Article 11; and
 4. Interest credited in previous years.
- C. Notwithstanding subsection (B), the retirement account of each member stops accruing interest the last full month prior to the member's retirement date.

Historical Note

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

Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1). Amended by final rulemaking at 28 A.A.R. 1481 (June 24, 2022), with an immediate effective date of June 6, 2022 (Supp. 22-2).

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

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

R2-8-120. Repealed**Historical Note**

Former Rule, Social Security Regulation 6; Amended effective June 19, 1975 (Supp. 75-1). Amended effective July 13, 1979 (Supp. 79-4). Former Section R2-8-20 renumbered and amended as Section R2-8-120 effective May 21, 1982 (Supp. 82-3). Repealed effective July 24, 1985 (Supp. 85-4). New Section made by final rulemaking at 20 A.A.R. 2236, effective October 4, 2014 (Supp. 14-3). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Repealed by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

R2-8-121. Employer Payments for Ineligible Contributions; Unfunded Liability Invoice

- A. Upon calculating an unfunded liability amount under A.R.S. § 38-748, the ASRS shall send an Unfunded Liability Invoice to the Employer through the Employer's secure ASRS account.
- B. An Employer that owes an unfunded liability amount to the ASRS pursuant to A.R.S. § 38-748, shall remit full payment of the unfunded liability amount within 90 days of being notified of the unfunded liability pursuant to subsection (A).
- C. Pursuant to A.R.S. § 38-735(C), if the ASRS does not receive full payment from the Employer of the unfunded liability amount within 90 days of being notified of the unfunded liability amount, the unpaid portion of the unfunded liability amount shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A).
- D. The ASRS may collect any unfunded liability and interest amount pursuant to A.R.S. §§ 38-723 and 38-735(C).

Historical Note

Former Rule, Retirement System Regulation 7; Amended effective April 15, 1980 (Supp. 80-2). Former Section R2-8-21 renumbered as Section R2-8-121 without change effective May 21, 1982 (Supp. 82-3). Amended subsection (A) effective May 30, 1985 (Supp. 85-3). Section repealed by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (05-1). New Section made by final rulemaking at 27 A.A.R. 458, effective May 2, 2021 (Supp. 21-1).

R2-8-122. Remittance of Contributions

- A. Each Employer shall remit the amount of employee member contributions to the ASRS not later than 14 days after the last day of each payroll period. Payments of employee member contributions not received in the offices of the ASRS by the

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14th day after the last day of the applicable payroll period shall become delinquent after that date and shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A) per annum from and after the date of delinquency until payment is received by the ASRS.

- B. Each Employer shall remit the amount of employer contributions to the ASRS not later than 14 days after the last day of each payroll period. Payments of employer contributions not received in the offices of the ASRS by the 14th day after the last day of the applicable payroll period shall become delinquent after that date and shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A) per annum from and after the date of delinquency until payment is received by the ASRS.
- C. Each Employer shall remit contributions pursuant to this Section based on the contribution rate in effect on the pay period end date.
- D. Each Employer shall certify on each payroll that each employee included on that payroll has met the requirements for active member eligibility and that all contributions to be remitted are for eligible compensation under A.R.S. § 38-711.
- E. If an Employer improperly certifies that an employee has met the requirements for active member eligibility and that all contributions remitted for the employee are eligible for compensation under subsection (D), the ASRS may charge the employer an unfunded liability amount under A.R.S. § 38-748.

Historical Note

Former Rule, Retirement System Regulation 8; Amended effective Dec. 8, 1978 (Supp. 78-6). Former Section R2-8-22 renumbered as Section R2-8-122 without change effective May 21, 1982 (Supp. 82-3). Amended by final rulemaking at 22 A.A.R. 79, effective March 6, 2016 (Supp. 16-1). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2). Amended by final rulemaking at 26 A.A.R. 371, effective April 11, 2020 (Supp. 20-1). Section amended by final rulemaking at 27 A.A.R. 458, effective May 2, 2021 (Supp. 21-1).

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

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

Historical Note

Adopted effective July 1, 1975 (Supp. 75-1). Amended effective June 23, 1976 (Supp. 76-3). Amended effective December 20, 1977 (Supp. 77-6). Former Section R2-8-23 renumbered and amended as Section R2-8-123 effective May 21, 1982 (Supp. 82-3). Emergency amendments effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency amend-

ments adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent amendments adopted effective December 22, 1993 (Supp. 93-4). Emergency amendments adopted effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Permanent amendments adopted effective September 12, 1997 (Supp. 97-3). Amended by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 1006, effective February 24, 2003 for a period of 180 days (Supp. 03-1). Emergency rulemaking renewed at 9 A.A.R. 3963, effective August 21, 2003 for a period of 180 days (Supp. 03-3). Amended by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Amended by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 20 A.A.R. 3043, effective January 3, 2015 (Supp. 14-4). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4).

Table 1. Expired**Historical Note**

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

Table 2. Expired**Historical Note**

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

Table 3. Repealed

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Historical Note

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

Table 3A. Expired**Historical Note**

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

Table 3B. Expired**Historical Note**

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

Table 4. Expired**Historical Note**

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

Table 4A. Repealed**Historical Note**

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

(Supp. 04-2). Table repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Table 4B. Repealed**Historical Note**

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

Table 4C. Repealed**Historical Note**

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

Table 5. Expired**Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Table 5 repealed, new Table 5 adopted by emergency action effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Table 5 repealed, new Table 5 adopted by regular rulemaking action effective September 12, 1997 (Supp. 97-3). Table 5 repealed; new Table 5 renumbered from Table 6 and amended by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed; new Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Former Table 5 renumbered to Table 6; new Table 5 made by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

Table 6. Expired**Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Table repealed, new Table adopted effective September 12, 1997 (Supp. 97-3). Former Table 6 renumbered to Table 5; new Table 6 renumbered from Table 7 and amended by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed; new Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Former Table 6 renumbered to Table 7; new Table 6 renumbered from Table 5 and amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-

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

Table 7. Expired**Historical Note**

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

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

- A. The following definitions apply to this Section unless otherwise specified:
1. "Compensation" means the same as in A.R.S. § 38-711(7).
 2. "Termination Incentive Program" means the same as in A.R.S. § 38-749(D)(2).
- B. An Employer that intends to implement a Termination Incentive Program shall provide the following information to the ASRS through the Employer's secure ASRS account:
1. Within 90 days before implementation of the program, a complete description of the program terms and conditions, including the program contract, understanding, or agreement; and
 2. Within 90 days before implementation of the program, the following information for each member who may be eligible to participate in the program:
 - a. The member's full name;
 - b. The member's date of birth; and
 - c. The member's current Compensation;
- C. The ASRS may use the information provided by the Employer pursuant to subsection (B) and the information on file with the ASRS to determine an estimated unfunded liability amount in consultation with the ASRS actuary, which may result from the implementation of the Employer's Termination Incentive Program.
- D. If the ASRS determines an estimated unfunded liability amount pursuant to subsection (C), the ASRS may send a Notice of Estimated Liability to the Employer through the Employer's secure ASRS account, in order to notify the Employer of the estimated unfunded liability amount the Employer may owe to the ASRS as a result of implementing the Termination Incentive Program identified under subsection (B). An Employer may owe the ASRS more or less than the estimated unfunded liability amount based on actual employee participation in the Employer's Termination Incentive Program pursuant to subsection (F).
- E. Within 30 days of termination of employment of each member who participated in a Termination Incentive Program identified under subsection (B), the Employer shall provide the following information to the ASRS through the Employer's secure ASRS account:

1. The member's full name;
 2. The member's date of birth;
 3. The member's Compensation at termination;
 4. The date the member terminated employment; and
 5. The amount and type of any additional pay the member received, or was entitled to receive, from the Employer as a result of participating in the Employer's Termination Incentive Program.
- F. Upon receipt of all the information identified in subsection (E) and in consultation with the ASRS actuary, the ASRS shall calculate the actual unfunded liability amount which resulted from the implementation of the Employer's Termination Incentive Program.
- G. If the ASRS calculates an unfunded liability of less than \$0.00 for any member who participated in the Employer's Termination Incentive Program, the amount will be applied against the aggregate unfunded liability of the Employer.
- H. Upon calculating the unfunded liability pursuant to subsections (F) and (G), the ASRS shall send the Employer a Termination Incentive Program Liability Invoice through the Employer's secure ASRS account.
- I. An Employer that owes an unfunded liability amount to the ASRS pursuant to A.R.S. § 38-749, shall remit full payment of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice.
- J. Pursuant to A.R.S. § 38-735(C), if the ASRS does not receive full payment from the Employer of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice, the unpaid portion of the unfunded liability amount shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A).
- K. The ASRS may collect any unfunded liability amount pursuant to A.R.S. §§ 38-723 and 38-735(C).

Historical Note

Adopted as an emergency effective August 25, 1975 (Supp. 75-1). Former Section R2-8-24 renumbered as Section R2-8-124 without change effective May 21, 1982 (Supp. 82-3). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1). New Section made by final rulemaking at 23 A.A.R. 2743, effective January 1, 2018 (Supp. 17-3). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2).

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

- A. The following definitions apply to this Section unless otherwise specified:
1. "Average monthly compensation" means the same as in A.R.S. § 38-711(5).
 2. "Baseline salary" means a member's Average Monthly Compensation during the 12 consecutive months in which the member received Compensation immediately preceding the first month of Compensation used to calculate the member's retirement benefit. The Baseline Salary shall include only Compensation from the Same Employer that paid the Compensation used in the calculation of a member's retirement benefit. If the member has less than 12 consecutive months in which the member received Compensation immediately preceding the first month of Compensation used to calculate the member's retirement benefit, then the ASRS will calculate the member's Baseline Salary as the total of the 12 months of Compensation the member received:

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- a. Starting with the first month of Compensation the member received in the 12 months immediately preceding the member's Average Monthly Compensation, or within the Average Monthly Compensation; and
- b. Ending with the 12th month of Compensation the member received after the first month of Compensation used in subsection (A)(2)(a).
3. "Compensation" means the same as in A.R.S. § 38-711(7).
4. "Job reclassification" means a change in the classification of an employment position made by the Employer when it finds the duties and responsibilities of the position have changed significantly, materially, and permanently from when the position was last classified.
5. "Promotion" means, excluding a Salary Regrade or Job Reclassification, the act of advancing an employee to a higher salary or higher rank within the organization, which is characterized by:
 - a. A change in the employee's primary job responsibilities; and
 - b. A pay increase that is supported by a standard salary administration practice that is documented by the Employer; and
 - c. A competitive selection process or a noncompetitive selection process supported by a standard hiring practice that is documented by the Employer.
6. "Salary regrade" means a change in the salary scale of an employment position made by the Employer in order to align the position's salary scale with market factors and/or the Employer's current salary practices.
7. "Same employer" means the Employer has the same ownership as another Employer, except that for purposes of this Section, each agency, board, commission, and department of the State of Arizona shall be considered a separate Employer.
8. "Termination Incentive Program" means the same as in A.R.S. § 38-749(D)(1).
- B. Upon a member's retirement on or after January 1, 2018, the ASRS shall compare the member's Baseline Salary to the Average Monthly Compensation for each consecutive 12 months of Compensation used to calculate the member's retirement benefit in order to determine whether an Employer utilized a Termination Incentive Program as defined in A.R.S. § 38-749(D)(1). This subsection only applies to members who earned the Compensation used to calculate the member's Baseline Salary, on or after July 1, 2005.
- C. Upon determining that a Termination Incentive Program exists under subsection (B), the ASRS shall send a Request for Documentation to the Employer through the Employer's secure ASRS account, in order to notify the Employer that the ASRS has identified a Termination Incentive Program for a particular member and the Employer may be required to pay the ASRS for the unfunded liability resulting from the Termination Incentive Program, unless the Employer can prove the increase in the member's salary was the result of a Promotion.
- D. Within 90 days of the date on the Request for Documentation, the Employer shall respond to the Request for Documentation by:
 1. Submitting documentation through the Employer's secure ASRS account that shows the member's increase in Compensation was the result of a Promotion; or
 2. Acknowledging in writing that the increase in the member's salary was not the result of a Promotion.
- E. Pursuant to subsection (D), the Employer bears the burden of producing evidence that a Promotion has occurred as defined in subsection (A)(5).
- F. The ASRS shall use any evidence the Employer submits to the ASRS pursuant to subsection (D) to determine whether a Promotion occurred.
- G. If the Employer does not respond to the Request for Documentation within 90 days of the date on the Request for Documentation, the ASRS shall determine that the increase in the member's salary was not the result of a Promotion.
- H. If the ASRS determines that the increase in the member's salary was not the result of a Promotion pursuant to subsections (F) or (G), the ASRS shall calculate the unfunded liability amount pursuant to subsection (I).
- I. In consultation with the ASRS actuary, the ASRS shall use a determination under subsection (B) to calculate the unfunded liability resulting from the implementation of the Employer's Termination Incentive Program.
- J. Upon calculating an unfunded liability amount pursuant to subsection (I), the ASRS shall send a Termination Incentive Program Liability Invoice to the Employer through the Employer's secure ASRS account, in order to notify the Employer of the unfunded liability amount the Employer shall owe to the ASRS as a result of implementing the Termination Incentive Program identified under subsection (B).
- K. An Employer that owes an unfunded liability amount to the ASRS pursuant to A.R.S. § 38-749, shall remit full payment of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice.
- L. Pursuant to A.R.S. § 38-735(C), if the ASRS does not receive full payment from the Employer of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice, the unpaid portion of the unfunded liability amount shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A).
- M. The ASRS may collect any unfunded liability amount pursuant to A.R.S. §§ 38-723 and 38-735(C).

Historical Note

Adopted as an emergency effective July 30, 1975 (Supp. 75-1). Former Section R2-8-25 renumbered as Section R2-8-125 without change effective May 21, 1982 (Supp. 82-3). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1). New Section made by final rulemaking at 23 A.A.R. 2743, effective January 1, 2018 (Supp. 17-3). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2).

R2-8-126. Retirement Application

- A. For the purposes of this Section, the following definitions apply, unless stated otherwise:
 1. "Acceptable documentation" means any written request containing all the accurate, required information, dates, and signatures necessary to process the request.
 2. "Acceptable form" means any ASRS form request containing all the accurate, required information, dates, and signatures necessary to process the form request.
 3. "Applicable retirement date" means the later of:
 - a. The date a member retires from the ASRS for the first time; or
 - b. The date a member re-retires from the ASRS after returning to active membership.
 4. "Conservator" means the same as in A.R.S. § 14-7651.

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5. "Joint and survivor retirement benefit option" means an optional form of retirement benefits described in A.R.S. § 38-760(B)(1).
 6. "Legal documentation" means:
 - a. One document issued from a United States government entity; or
 - b. Two documents issued from one or more federal, state, local, sovereign, medical, or religious institution.
 7. "LTD" means the same as in R2-8-301.
 8. "Irrevocable PDA" means the same as in R2-8-501.
 9. "On File" means the same as in R2-8-115.
 10. "Original retirement date" means the later of:
 - a. The date a member retires from the ASRS for the first time; or
 - b. The date a member re-retires from the ASRS after returning to active membership for 60 consecutive months or more according to A.R.S. § 38-766(C).
 11. "Period certain and life annuity retirement benefit option" means an optional form of retirement benefits described in A.R.S. § 38-760(B)(2).
 12. "Spouse" means the individual to whom a member is married under Arizona law.
 13. "Straight life annuity" means the same as monthly life annuity according to A.R.S. § 38-757.
- B.** A member may retire from the ASRS by submitting a Retirement Application to the ASRS that contains the following information:
1. The member's full name;
 2. The member's Social Security number or U.S. Tax Identification number;
 3. The member's marital status, if not On File with ASRS;
 4. The member's current mailing address; if not On File with ASRS;
 5. The member's date of birth, if not On File with ASRS;
 6. A retirement date according to A.R.S. § 38-764(A);
 7. The retirement option the member is electing;
 8. If the member is electing to roll over a lump sum distribution amount to another retirement account, then:
 - a. The type of account and account number, if applicable, to which the member is electing to roll over the lump sum distribution; and
 - b. The name and address of the financial institution of the account to which the member is electing to roll over the lump sum distribution;
 9. The following information for each primary beneficiary, unless the member is receiving a mandatory lump sum distribution under subsection (M):
 - a. The beneficiary's full name;
 - b. The beneficiary's Social Security number, if the beneficiary is a U.S. citizen;
 - c. The beneficiary's date of birth;
 - d. The beneficiary's relationship to the member; and
 - e. The percent of benefit the beneficiary may receive upon death of the member, if the member is designating more than one beneficiary.
 10. Whether the member is electing the Optional Health Insurance Premium Benefit;
 11. The following spousal consent information, if the member is married and is electing a retirement option other than a Joint and Survivor Retirement Benefit Option with at least 50% of the retirement benefit designated to the member's spouse:
 - a. Whether the member's spouse consents to the member making a beneficiary election that provides the member's spouse with less than 50% of the member's account balance;
 - b. Whether the member's spouse consents to the member electing a retirement option other than a Joint and Survivor Retirement Benefit Option;
 - c. The member's spouse's full name; and
 - d. The member's spouse's notarized signature;
 12. Whether the member is electing to receive a partial lump sum distribution according to A.R.S. § 38-760 and if so:
 - a. How many months of annuity, up to 36 months, the member is electing to receive as a partial lump sum;
 - b. Whether the member is electing to directly receive the partial lump sum distribution reduced by applicable tax withholding amounts;
 - c. Whether the member is electing to roll over all or a portion of the partial lump sum distribution amount to one other retirement account; and
 - d. Whether the member is electing to use the partial lump sum distribution to purchase service credit with ASRS based on a service purchase request dated before January 6, 2013;
 13. Acknowledgement of the following statements of understanding:
 - a. The member is aware of the member's LTD stop-payment date and any disability benefits the member is receiving shall cease upon the retirement date the member elects according to subsection (B)(6);
 - b. The member understands that if an overpayment exists, ASRS shall collect the remaining overpayment amount according to 2 A.A.C. 8, Article 8 and all repayment plans previously established with ASRS LTD claims administrator shall cease;
 - c. The member understands that if the member is submitting written notice of a changed retirement date, benefit option, or partial lump sum increment selection, ASRS shall distribute the member's benefit as of the later of:
 - i. The date ASRS receives the most recent Acceptable Documentation; or
 - ii. The retirement date contained in the most recent Acceptable Documentation.
 - d. The member has received the Special Tax Notice Regarding Plan Payments;
 - e. The member has received the Return to Work information and will comply with the laws and rules governing the member's return to work;
 - f. The member authorizes ASRS and the banking institution identified in subsection (W) to debit the member's account for the purposes of correcting errors and returning any payments inadvertently made after the member's death;
 - g. The member understands that the member may have a one-time option to rescind a Joint and Survivor Retirement Benefit Option or a Period Certain and Life Annuity Retirement Benefit Option according to R2-8-130;
 - h. The member understands that any person who knowingly makes any false statement with the intent to defraud ASRS is guilty of a Class 6 felony in accordance with A.R.S. § 38-793; and

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- i. The member acknowledges that the member has complied with A.R.S. §§ 38-755 and 38-776 regarding spousal consent; and
 - 14. The member's notarized signature.
- C. If a Retirement Application is completed through the member's secure ASRS account, the member's notarized signature is not required under subsection (B)(14).
- D. If the retirement date the member elects according to subsection (B)(6) is not allowed, the ASRS shall change the retirement date to the earliest eligible date according to A.R.S. 38-764(A), unless the member is not eligible to retire.
- E. A member who elects to roll over all or a portion of the partial lump sum distribution amount according to subsection (B)(12)(c), shall submit the following written information to the ASRS:
 - 1. The type of account and account number to which the member is electing to roll over;
 - 2. The name and address of the financial institution of the account to which the member is electing to roll over; and
 - 3. If the member is electing to roll over a portion of the partial lump sum distribution, then the amount the member is electing to roll over.
- F. If the member elects to roll over all or a portion of their lump sum or partial lump sum distribution, the ASRS shall only roll over the distribution to one retirement account.
- G. Any portion of the partial lump sum distribution that is not rolled over to another retirement account according to subsection (B) shall be distributed directly to the member.
- H. If the member elects to use the partial lump sum distribution to purchase service credit according to subsection (B)(12)(d) the member shall submit the following written information to the ASRS:
 - 1. The number of the service purchase invoice;
 - 2. Whether the member is electing to apply the partial lump sum distribution to all eligible service on that invoice;
 - 3. If the member is not electing to apply the partial lump sum distribution to all eligible service on that invoice, then:
 - a. The amount of the partial lump sum distribution to be applied to that invoice; or
 - b. The number of years on that invoice the member is electing to purchase with the partial lump sum distribution;
 - 4. If the member is electing to make a payment on that service purchase invoice with after-tax payments, a rollover, or termination pay according to A.R.S. § 38-747;
 - 5. Whether the member is electing to authorize the ASRS to increase the number of months of annuity, not to exceed 36 months, to purchase the eligible service on that service purchase invoice, if the member elected an insufficient number of months of annuity to receive as a partial lump sum according to subsection (G) to complete the service purchase invoice;
 - 6. If the member does not have eligible service to purchase on that invoice, whether the member is electing to cancel the member's election to receive a partial lump sum distribution.
- I. A member who elects to receive a partial lump sum distribution shall receive an actuarially reduced annuity retirement benefit according to A.R.S. § 38-760.
- J. ASRS shall disburse any partial lump sum amount that is not applied to a service purchase invoice according to subsection (G) directly to the member after withholding applicable taxes.
- K. After submitting a Retirement Application according to subsection (B), a member may make changes to the member's Retirement Application by submitting written notice to the ASRS of the specific changes according to A.R.S. § 38-764(H).
- L. If ASRS has received contributions for the member within the three years immediately preceding the member's retirement date, the ASRS shall send a New Retirement Ending Payroll Verification form to the Employer. If ASRS has received contributions for the member within the six months immediately preceding the member's retirement date and the member shall receive a one-time lump sum payment according to subsection (P), the ASRS shall send a New Retirement Ending Payroll Verification form to the Employer.
- M. If the member has reached the age for minimum required distribution according to A.R.S. § 38-775(H)(4), the ASRS shall send a New Retirement Ending Payroll Verification form to the member's most recent Employer.
- N. The Employer shall submit the completed New Retirement Ending Payroll Verification form to ASRS with the following information:
 - 1. The member's Termination date or last day of ASRS membership with that Employer, if applicable;
 - 2. The member's total salary paid during their last fiscal year;
 - 3. The member's compensation for the last pay period;
 - 4. The name and title of the authorized Employer representative;
 - 5. Certification by the authorized Employer representative that:
 - a. Any person who knowingly makes any false statement or who falsifies any record of the retirement plan with an intent to defraud the plan, is guilty of a Class 6 felony according to A.R.S. § 38-793; and
 - b. The authorized Employer representative certifies that they are the Employer user named on the New Retirement Ending Payroll Verification form and their title and contact information is current and correct.
- O. The ASRS shall cancel a member's Retirement Application if ASRS does not receive all forms and information required under this Section within six months immediately after the member's retirement date.
- P. As authorized under A.R.S. § 38-764(F), if a member's Straight Life Annuity, after any applicable early retirement reduction factor, is less than a monthly amount of \$100, the ASRS shall not pay the annuity. Instead, the ASRS shall make a one-time mandatory lump sum payment in the amount determined by using appropriate actuarial assumptions.
- Q. For purposes of calculating a member's retirement benefit according to A.R.S. §§ 38-758 and 38-759, ASRS shall calculate age to the nearest day as of the member's retirement date.
- R. Based on the retirement option the member elects according to A.R.S. § 38-760, the ASRS shall calculate a member's actuarially reduced benefits, based on the attained age of the member, and if necessary, the attained age of the contingent annuitant as of the date of the member's retirement as follows:
 - 1. For a partial lump sum retirement benefit option, ASRS shall calculate age to the nearest day as of the member's retirement date;
 - 2. For a Joint and Survivor Retirement Benefit Option, ASRS shall calculate age to the nearest day as of the member's retirement date; and

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3. For a mandatory lump sum payment according to subsection (O) or a Period Certain and Life Annuity Retirement Benefit Option, ASRS shall calculate age to the nearest full month in addition to calculating age according to subsection (P) as necessary.
- S. If the ASRS is unable to verify the age of the member or a contingent annuitant, the member or contingent annuitant shall provide Legal Documentation showing the member's or contingent annuitant's age.
- T. If a member does not retire by the date minimum distribution payments are required according to A.R.S. §§ 38-759 and 38-775, the required minimum distribution payments will accrue interest at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A) and in effect on the date the required minimum distribution payments should have begun.
- U. The ASRS shall distribute any required minimum distribution payments with interest according to subsection (T) with the member's first finalized benefits payment.
- V. If a member submits a retirement application after the member's minimum required distribution date, the ASRS shall determine that the member's Applicable Retirement Date is the date the required minimum distribution payments should have begun.
- W. Notwithstanding any other Section, an inactive member who does not have contributions related to compensation is not eligible for retirement.
- X. The ASRS shall issue a debit benefit card, if the annuitant does not provide the following direct deposit information through the annuitant's secure ASRS account or by a notarized Direct Deposit form:
 1. The member's full name;
 2. The member's bank account routing number;
 3. The member's bank account number; and
 4. The type of the account.
- Y. The ASRS shall disburse benefits payments according to subsection (R), only retroactive to the later date specified in A.R.S. § 38-759(B).
- Z. ASRS shall not issue additional estimate checks to a member whose retirement is canceled.

Historical Note

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

December 3, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3). Amended by final rulemaking at 28 A.A.R. 1746 (July 22, 2022), effective September 4, 2022 (Supp. 22-3).

R2-8-127. Re-Retirement Application

- A. The definitions in R2-8-126 apply to this Section.
- B. If a member has previously retired from ASRS, the member may re-retire from ASRS by submitting a Re-Retirement Application to the ASRS that contains:
 1. The information identified in R2-8-126(B)(1) through (B)(8);
 2. The retirement option the member is electing, if the member suspended the member's annuity from the member's previous retirement from ASRS and returned to work for 60 consecutive months or more according to A.R.S. § 38-766(C);
 3. The information identified in R2-8-126(B)(11);
 4. Whether the member is electing the Optional Health Insurance Premium Benefit, if the member suspended the member's annuity from the member's previous retirement from ASRS and returned to work for 60 consecutive months or more according to A.R.S. § 38-766(C);
 5. The information identified in R2-8-126(B)(13), if the member suspended the member's annuity from the member's previous retirement from ASRS and returned to work for 60 consecutive months or more according to A.R.S. § 38-766(C);
 6. Acknowledgement of the following statements of understanding:
 - a. The member's signature confirms the member's intent to re-retire and applies to all the sections included in the Re-Retirement Application.
 - b. The member understands that as a re-retiree, the member must keep the same retirement option and beneficiary the member elected when the member previously retired from ASRS, unless the member returned to active membership for 60 consecutive months or more according to A.R.S. § 38-766(C);
 - c. The member may change the member's beneficiary after re-retiring and changing the beneficiary may change the member's monthly annuity;
 - d. The member has complied with A.R.S. §§ 38-755 and 38-766 regarding spousal consent;
 - e. The member certifies that the member has read and understands the instructions and Special Tax Notice Regarding Plan Payments;
 - f. The member authorizes ASRS and the banking institution the member listed for direct deposit to debit the member's account for the purpose of correcting errors and returning any payments inadvertently paid after the member's death;
 - g. The member understands that any person who knowingly makes any false statement with the intent to defraud ASRS is guilty of a Class 6 felony in accordance with A.R.S. § 38-793; and
 - h. The member understands that if an overpayment exists, the ASRS shall collect the remaining overpayment amount according to 2 A.A.C. 8, Article 8 and all repayment plans previously established with the ASRS LTD claims administrator shall cease.
 7. The member's notarized signature.
- C. If the retirement date the member elects according to R2-8-126(B)(6) is not allowed, the ASRS shall change the retire-

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ment date to the earliest eligible date according to A.R.S. 38-764(A), unless the member is not eligible to retire.

Historical Note

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

R2-8-128. Joint and Survivor Retirement Benefit Options

- A. The definitions in R2-8-126 apply to this Section.
- B. A member who is ten years and one day, or more, older than the member's non-spouse contingent annuitant is not eligible to elect a 100% Joint and Survivor Retirement Benefit Option.
- C. A member who is 24 years and one day, or more, older than the member's non-spouse contingent annuitant is not eligible to elect a 66 2/3% Joint and Survivor Retirement Benefit Option.
- D. For members whose Original Retirement Date is on or after March 6, 2016, notwithstanding subsection (B), a member who is ten years and one day, or more, older than the member's ex-spouse contingent annuitant is eligible to participate in a 100% Joint and Survivor Retirement Benefit Option, if:
 - 1. The member elected the ex-spouse as the contingent annuitant prior to divorce from the ex-spouse; and
 - 2. The member submits a DRO to ASRS which requires the ex-spouse to remain as the contingent annuitant on the member's account.
- E. For members whose Original Retirement Date is on or after March 6, 2016, notwithstanding subsection (C), a member who is 24 years and one day, or more, older than the member's ex-spouse contingent annuitant is eligible to participate in a 66 2/3% Joint and Survivor Retirement Benefit Option, if:
 - 1. The member elected the ex-spouse as the contingent annuitant prior to divorce from the ex-spouse; and
 - 2. The member submits a DRO to the ASRS which requires the ex-spouse to remain as the contingent annuitant on the member's account.
- F. Notwithstanding any other Section, for purposes of determining whether a member is eligible to participate in a Joint and Survivor Retirement Benefit Option, the ASRS shall calculate the difference in a member's age and the contingent annuitant's age based on the birthdates of the member and the contingent annuitant. For purposes of this Section, a contingent annuitant must be a living person.

Historical Note

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).
Amended by final rulemaking at 28 A.A.R. 1746 (July 22, 2022), effective September 4, 2022 (Supp. 22-3).

R2-8-129. Period Certain and Life Annuity Retirement Options

- A. The definitions in R2-8-126 apply to this Section.
- B. An individual who is 104 years of age or older at the time of retirement is not eligible to elect a Period Certain and Life Annuity Retirement Benefit Option.
- C. An individual who is 93 years of age or older at the time of retirement is not eligible to elect a Period Certain and Life Annuity Retirement Benefit Option with ten years certain or 15 years certain.
- D. An individual who is 85 years of age or older at the time of retirement is not eligible to elect a Period Certain and Life Annuity Retirement Benefit Option with 15 years certain.
- E. The ASRS shall calculate the period certain term as beginning on the first day of the first full calendar month following the member's Applicable Retirement Date.

- F. Notwithstanding subsection (E), the ASRS shall calculate the period certain term as beginning on the member's Applicable Retirement Date if the member's Applicable Retirement Date is the first day of the month.

Historical Note

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

R2-8-130. Rescind or Revert Retirement Election; Change of Contingent Annuitant

- A. The definitions in R2-8-126 apply to this Section.
- B. According to A.R.S. § 38-760(B)(2), for a member whose Original Retirement Date is after August 9, 2001, upon the expiration of a member's period certain term the ASRS shall rescind the member's election and the ASRS shall provide the member a Straight Life Annuity retirement benefit subject to any retirement reductions applicable at the member's Original Retirement Date.
- C. According to A.R.S. § 38-760(B)(2), a member whose Original Retirement Date is after August 9, 2001 and before July 1, 2008 and who elected a Period Certain and Life Annuity Retirement Benefit Option, may rescind the election and elect to receive a Straight Life Annuity retirement benefit prior to the expiration of the member's period certain term.
- D. According to A.R.S. § 38-760(B)(1), a member whose Original Retirement Date is before July 1, 2008 and who elected a Joint and Survivor Retirement Benefit Option may rescind the election and elect to receive a Straight Life Annuity retirement benefit prior to the member's death.
- E. A member whose Original Retirement Date is on or after July 1, 2008 and who elected a Period Certain and Life Annuity Retirement Benefit Option may exercise a one-time election to rescind the election and elect to receive a Straight Life Annuity retirement benefit prior to the expiration of the member's period certain term if the member provides proof to ASRS of the death of the primary beneficiary or a DRO showing that the primary beneficiary has ceased to be a primary beneficiary.
- F. A member whose Original Retirement Date is on or after July 1, 2008 and who elected a Joint and Survivor Retirement Benefit Option may exercise a one-time election to rescind the election and elect to receive a Straight Life Annuity retirement benefit prior to the death of the member if the member provides proof to ASRS of the death of the contingent annuitant a DRO showing that the contingent annuitant has ceased to be a contingent annuitant.
- G. A member who elected to rescind a Period Certain and Life Annuity Retirement Benefit Option according to subsection (C) may elect to revert to the Period Certain and Life Annuity Retirement Benefit Option by submitting an Application to Rescind, Revert or Change Contingent Annuitant as specified in subsection (M).
- H. A member who elected to rescind a Joint and Survivor Retirement Benefit Option according to subsection (D) may elect to revert to the Joint and Survivor Retirement Benefit Option by submitting an Application to Rescind, Revert or Change Contingent Annuitant as specified in subsection (M).
- I. A member may only revert to the same Period Certain and Life Annuity Retirement Benefit Option the member rescinded according to subsection (C) prior to the expiration of the period certain term the member elected at the member's most recent retirement.
- J. A member who rescinds their election according to subsections (E) or (F) is not eligible to revert to a Period Certain and

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Life Annuity Retirement Benefit Option or a Joint and Survivor Retirement Benefit Option.

- K.** Notwithstanding any other provision, the time period of a Period Certain and Life Annuity Retirement Benefit Option shall be continuous from the member's retirement date until the term expires regardless of whether the member rescinds or reverts to another retirement option.
- L.** A member who wants to rescind or revert a retirement election according to subsections (C) through (H) shall ensure ASRS receives an Application to Rescind, Revert or Change Contingent Annuitant at least one day prior to the member's death.
- M.** In order to rescind, revert, or change a contingent annuitant, the member shall submit an Application to Rescind, Revert or Change Contingent Annuitant with the following information:
 - 1. The member's full name;
 - 2. The member's Social Security number or U.S. Tax Identification number;
 - 3. The member's marital status, if not On File with ASRS;
 - 4. Whether the member is electing to rescind, revert, or change a contingent annuitant;
 - 5. The member's notarized signature acknowledging the following statements of understanding:
 - a.** For rescinding a retirement election:
 - i. By this action, and the member's signature, the member is aware that the member's designated beneficiary or contingent annuitant will not continue with monthly benefits after the member's death;
 - ii. The member is aware that a certified copy of the member's designated beneficiary's or contingent annuitant's death certificate or a DRO is required if the member retired or re-retired on or after July 1, 2008;
 - iii. At the time of the member's death, if the ASRS has not disbursed the total employee contributions on the member's account, plus interest at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A) through the month prior to the member's retirement date, the balance will be payable in a lump sum to the beneficiary named on the member's most recent Acceptable Form.
 - b.** For changing a contingent annuitant or beneficiary:
 - i. For a Joint and Survivor Retirement Benefit Option, by this action, and the member's signature, the contingent annuitant named on the member's most recent Acceptable Form will receive the previously elected percentage amount of the member's monthly benefit for their lifetime following the member's death;
 - ii. For a Joint and Survivor Retirement Benefit Option, the member is aware that a copy of the contingent annuitant's Legal Documentation is required and the member's benefit will be recalculated based on the member's age and the age of the member's new contingent annuitant as of the effective date of the member's request according to this Section;
 - iii. For a Joint and Survivor Retirement Benefit Option, the member is in compliance with the age difference limitations in R2-8-128; and
 - iv. For a Period Certain and Life Annuity Retirement Benefit Option, by this action, and the member's signature, the beneficiary named on the member's most recent Acceptable Form will receive the remaining term of monthly payments.
- c.** For reverting to a previously elected retirement benefit option according to A.R.S. § 38-760:
 - i. For a Joint and Survivor Retirement Benefit Option, by this action, and the member's signature, the contingent annuitant named the member's most recent Acceptable Form will receive the previously elected percentage amount of the member's monthly benefit for their lifetime following the member's death;
 - ii. For a Joint and Survivor Retirement Benefit Option, the member is aware that a copy of Legal Documentation showing the contingent annuitant's date of birth is required and the member's benefit will be recalculated based on the member's age and the age of the member's contingent annuitant as of the effective date of the member's request according to this Section;
 - iii. For a Joint and Survivor Retirement Benefit Option, the member is in compliance with the age difference limitations in R2-8-128; and
 - iv. For a Period Certain and Life Annuity Retirement Benefit Option, by this action, and the member's signature, the beneficiary named on the member's most recent Acceptable Form will receive the remaining term of monthly payments.
- 6. If the member is electing to change a contingent annuitant, the following information for the new contingent annuitant:
 - a.** Full name;
 - b.** Social Security number, if the contingent annuitant is a U.S. citizen;
 - c.** Date of birth; and
 - d.** Legal relationship to the member.
- 7. If the member is married, whether the member's spouse consents to the following with the spouse's notarized signature:
 - a.** The member making a beneficiary designation that provides the member's spouse with less than 50% of the member's account balance;
 - b.** The member electing a retirement option other than a Joint and Survivor Retirement Benefit Option; or
 - c.** The member changing or ending the spouse's contingent annuitant status.
- 8. Whether the spouse's consent is not required because:
 - a.** The spouse predeceased the member and if so, provide a copy of the spouse's death certificate; or
 - b.** The member is divorced and if so, provide a DRO.
- N.** If the ASRS is unable to verify the age of the member or a contingent annuitant, the member or contingent annuitant shall provide Legal Documentation showing the member's or contingent annuitant's age.
- O.** The effective date of the member's request according to this Section is the date on which ASRS receives the Application to Rescind, Revert or Change Contingent Annuitant.
- P.** According to A.R.S. § 38-760(B)(2), a member whose Original Retirement Date is on or after July 1, 2008 and who elects a Period Certain and Life Annuity Retirement Benefit Option, may rescind the election according to subsection (E) and elect to receive a Straight Life Annuity prior to the expiration of the member's period certain term if one or more of the member's

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primary beneficiaries dies or ceases to be a beneficiary according to the terms of a DRO.

- Q.** The ASRS shall cancel a member's Application to Rescind, Revert, or Change Contingent Annuitant if ASRS does not receive all forms and information required under this Section within six months immediately after the ASRS receives the application.

Historical Note

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).
Amended by final rulemaking at 28 A.A.R. 1746 (July 22, 2022), effective September 4, 2022 (Supp. 22-3).

R2-8-131. Designating a Beneficiary; Spousal Consent to Beneficiary Designation

- A.** The definitions in R2-8-126 apply to this Section.
- B.** In order to designate a beneficiary, a member shall submit an Acceptable Form containing the following information:
1. The Member's full name and one or more of the following information:
 - a. The Member's Social Security number or U.S. Tax Identification number; or
 - b. The Member's address; or
 - c. The Member's date of birth;
 2. The following information for the beneficiary:
 - a. The full name of the person or entity the member is designating as beneficiary;
 - b. Whether the beneficiary is being designated as primary or secondary beneficiary;
 - c. The percentage of the benefit the member is allocating to the beneficiary; and
 3. The member's notarized signature.
- C.** If a change in a designated beneficiary is completed through the member's secure ASRS account, the member's notarized signature is not required under subsection (B)(3).
- D.** If a member submits an Acceptable Form designating a beneficiary without indicating the percentage of the benefit the member is allocating to the beneficiary, the ASRS shall determine that each beneficiary is designated to receive an equal amount of the benefit.
- E.** Effective July 1, 2013, a married member:
1. Who is not retired shall name and maintain the member's current spouse as primary beneficiary of at least 50% of the member's retirement account unless:
 - a. Naming or maintaining the current spouse as beneficiary violates another law, existing contract, or court order; or
 - b. The spouse consents to an alternate beneficiary;
 2. Who retires shall choose a Joint and Survivor Retirement Benefit Option and name the member's current spouse as contingent annuitant unless:
 - a. Naming or maintaining the current spouse as contingent annuitant violates another law, existing contract, or court order; or
 - b. The spouse consents to an alternate contingent annuitant; or
 - c. The spouse consents to an alternate annuity option under A.R.S. §§ 38-757 or 38-760.
- F.** The ASRS shall honor a beneficiary designation last made or a retirement election submitted before July 1, 2013, even if the beneficiary designation or retirement election fails to comply with subsection (E).
- G.** Subsection (E) does not apply to a member who is receiving a mandatory lump sum distribution according to A.R.S. § 38-764.
- H.** Subsection (E) does not apply to a member who submits a Spousal Consent Exception form that contains the member's notarized signature to the ASRS affirming under penalty of perjury that the member's spouse's consent is not required because of one of the reasons specified in A.R.S. § 38-776(C).
- I.** In order to change a beneficiary designation, a member shall submit the information contained in subsection (B) and:
1. A married member who changes a beneficiary designation on or after July 1, 2013, shall ensure the new beneficiary designation is consistent with subsection (E); or
 2. A married member who retired before July 1, 2013, and who wishes to change the contingent annuitant or beneficiary, shall ensure that the new designation is consistent with subsection (E).
- J.** A married member who re-retires according to A.R.S. § 38-766:
1. Within less than 60 consecutive months of active membership from the member's previous retirement date, is not eligible to elect a different annuity option or different beneficiary than the member elected at the time of the previous retirement; or
 2. At least 60 consecutive months of active membership after the member's previous retirement date, may elect a different annuity option and different beneficiary than the member elected at the time of the previous retirement, and the election shall comply with subsection (E).
- K.** If a married member submits a retirement application that fails to comply with subsection (E), the member shall submit a new retirement application or written notice of new retirement elections that comply with subsection (E) within six months of the member's Original Retirement Date. The member's new Original Retirement Date is the date ASRS receives the new application or written notice unless the member elects a later date according to A.R.S. § 38-764.
- L.** If a married member made a beneficiary designation on or after July 1, 2013 that is not consistent with the requirements specified in subsection (E), the ASRS shall, at the time of the member's death:
1. Notify both the spouse and designated beneficiary and:
 - a. Provide the spouse with an opportunity to waive the right under subsection (E); and
 - b. Provide the designated beneficiary with an opportunity to provide documentation that revokes the spouse's right under subsection (E); and
 2. Designate 50% of the member's retirement benefit to the spouse if neither the spouse nor designated beneficiary respond to notification according to subsection (L)(1) within 30 days after notification.
- M.** If a married member designated a beneficiary before July 1, 2013 that does not comply with subsection (E), upon the death of the member, the member's spouse may submit written notice to the ASRS prior to disbursement of the member's account with the following information:
1. The member's full name;
 2. The member's Social Security number or U.S. Tax Identification number;
 3. The spouse's assertion to the spouse's right to community property;
 4. An original or copy of the marriage certificate; and
 5. An original or certified copy of the member's death certificate.

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- N. If a spouse submits written notice according to subsection (M), the ASRS shall designate the spouse as beneficiary of a percentage of the member's account according to A.R.S. §§ 25-211 and 25-214 and notify the member's designated beneficiary of the spouse's assertion.
- O. The ASRS shall determine a spouse's percentage of the member's account according to subsection (L) based on the amount of service credit the member acquired during the marriage divided by the total amount of service credit the member acquired, multiplied by 50%.
- P. If a beneficiary is notified of a spouse's assertion according to subsection (N), then before ASRS disburses a survivor benefit, the beneficiary may notify ASRS of the beneficiary's intent to appeal the spouse's right to a survivor benefit.
- Q. Within 30 days, a beneficiary who has notified ASRS of the beneficiary's intent to appeal a survivor benefit disbursement according to subsection (P), shall submit an appeal to ASRS according to 2 A.A.C. 8, Article 4.
- R. A DRO may supersede the requirements in subsection (B).
- S. To consent to an alternative retirement benefit option or beneficiary designation, a member's spouse shall complete and have notarized a Spousal Consent form containing the following information:
1. Member's full name;
 2. Member's Social Security number or U.S. Tax Identification number;
 3. Whether the member's spouse is consenting to one or more of the following:
 - a. The member making a beneficiary designation that provides the spouse with less than 50% of the member's account balance;
 - b. The member electing a retirement option other than a Joint and Survivor Retirement Benefit Option;
 - c. The member naming a contingent annuitant other than the spouse; and
 - d. The spouse's notarized signature.
- T. A member's spouse may revoke the spouse's consent to an alternative retirement benefit option or beneficiary designation by sending written notice to ASRS with the following information:
1. The member's full name;
 2. The member's Social Security number or U.S. Tax Identification number;
 3. The spouse's full name;
 4. The spouse's dated signature indicating the spouse is revoking all previous Spousal Consent forms.
- U. A spouse who is revoking a Spousal Consent form shall ensure the written notice is received no later than the earlier of one day before the member dies or ASRS disburses a retirement benefit to the member.
- C. If the beneficiary elects to receive the survivor benefit as monthly income for life according to A.R.S. § 38-762(C), the ASRS shall calculate the benefits effective date as of the day after the member's death and the ASRS shall pay interest up to the benefits effective date.
- D. According to A.R.S. § 38-763, if the member elected a Period Certain and Life Annuity Retirement Benefit Option and deceases prior to the expiration of the period certain term, the member's beneficiary may elect to complete the remaining period certain term or the beneficiary may elect to receive a lump sum distribution which is the greater of:
1. The present value of the benefits based on the remaining period certain term; or
 2. The member's ASRS account balance plus interest at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A) through the month prior to the member's retirement date, reduced by all retirement benefits due to the member.
- E. Notwithstanding subsection (D), a beneficiary is not eligible to elect to complete the remaining period certain term if the period certain term has expired.
- F. If the beneficiary elects to complete the remaining period certain term or elects to receive a lump sum that is the present value of the benefits based on the remaining period certain term according to subsection (D), the ASRS shall not pay interest.
- G. If a member's beneficiary or contingent annuitant does not want to receive a survivor benefit according to 26 U.S.C. § 2518, within nine months after the member's death, the beneficiary or contingent annuitant may submit a written request to the ASRS with the following information for the beneficiary or contingent annuitant:
1. Full name;
 2. Social Security number if the beneficiary or contingent annuitant is a U.S. citizen;
 3. Address; and
 4. Notarized signature acknowledging the following statements:
 - a. The beneficiary or contingent annuitant is aware that, as a beneficiary or contingent annuitant of the member, the beneficiary or contingent annuitant is entitled to a survivor benefit in the amount specified by the ASRS;
 - b. The beneficiary is renouncing a portion or all of the beneficiary's rights to the member's benefit;
 - c. The contingent annuitant is renouncing all of the contingent annuitant's rights to the member's benefit;
 - d. The beneficiary understands that by renouncing rights to the member's benefit, the portion that the beneficiary is renouncing will be paid to any other survivor on the member's account, or if there is no other designated survivor, the benefit will be paid to the member's estate; and
 - e. The contingent annuitant understands that by renouncing rights to the member's benefit, the ASRS shall pay the member's ASRS account balance plus interest at the Assumed Actuarial Interest and Investment Return Rate specified in R2-8-118(A) through the month prior to the member's retirement date, reduced by all retirement benefits due to the member, to any other survivor on the member's account, or if there is no other designated survivor, to the member's estate.

Historical Note

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).
Amended by final rulemaking at 28 A.A.R. 1746 (July 22, 2022), effective September 4, 2022 (Supp. 22-3).

R2-8-132. Survivor Benefit Options

- A. The definitions in R2-8-126 apply to this Section.
- B. If the beneficiary is eligible to elect the survivor benefit as monthly income for life according to A.R.S. § 38-762(C), the ASRS shall calculate the benefits based on the attained age of the beneficiary, calculated to the nearest full month, as of the date of the member's death.

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- H. According to 26 U.S.C. § 2518, a minor beneficiary's or contingent annuitant's survivor benefit cannot be renounced.

Historical Note

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

R2-8-133. Survivor Benefit Applications

- A. The definitions in R2-8-126 apply to this Section.
- B. The ASRS shall not distribute a survivor benefit until a claimant notifies the ASRS of a member's death by telephone or submission of a death certificate, unless the member elected a Joint and Survivor Benefit Option upon retirement.
- C. Upon notification of the death of a member, the ASRS shall distribute the survivor benefits according to the most recent, Acceptable Form that is On File with the ASRS that was received at least one day prior to the date of the member's death, unless otherwise provided by law.
- D. The designated beneficiary or other person specified in A.R.S. § 38-762(E) shall provide the following:
1. An original certified death certificate or a certified copy of a court order that establishes the member's death;
 2. If the claimant is not a designated beneficiary, but is a person specified in A.R.S. § 38-762(E), a copy of a document issued from a federal, state, local, sovereign, or medical institution showing the claimant's relationship to the deceased member;
 3. A certified copy of the court order of appointment as administrator, if applicable; and
 4. Except if the deceased member was retired and elected the joint and survivor option, complete and have notarized an Application for Survivor Benefits, provided by the ASRS that includes:
 - a. The deceased member's full name,
 - b. The deceased member's Social Security number or U.S. Tax Identification number,
 - c. The benefit the designated beneficiary or other person specified in A.R.S. § 38-762(E) is electing;
 - d. If the designated beneficiary or other person specified in A.R.S. § 38-762(E) is electing to roll over a benefit, the following information:
 - i. The claimant's full name;
 - ii. The name of the institution to which the claimant is electing to roll over;
 - iii. The address of the institution to which the claimant is electing to roll over;
 - iv. The full name of the authorized representative of the institution to which the claimant is electing to roll over;
 - v. The signature of the authorized representative of the institution to which the claimant is electing to roll over;
 - e. If the beneficiary is electing to have any of the survivor benefits directly deposited into a bank account, the following information:
 - i. Whether the bank account is a checking or savings account;
 - ii. The name of the banking institution to which the benefit is being sent;
 - iii. The routing number;
 - iv. The account number; and
 - f. The following information for the designated beneficiary or other person specified in A.R.S. § 38-762(E):
 - i. Full name;
 - ii. Mailing address, if not On File with ASRS;
 - iii. Date of birth, if applicable; and
 - iv. Social Security number or U.S. Tax Identification number, if not On File with ASRS.
- g. The following statements of understanding:
- i. The designated beneficiary or other person specified in A.R.S. § 38-762(E) has read and understands the Special Tax Notice Regarding Plan Payments they received with this application;
 - ii. The designated beneficiary or other person specified in A.R.S. § 38-762(E) authorizes the ASRS to make payments as indicated above and agree on behalf of themselves and their heirs that such payments shall be a complete discharge of the claim and shall constitute a release of the ASRS from any further obligation on account of the benefit;
 - iii. The designated beneficiary or other person specified in A.R.S. § 38-762(E) authorizes the ASRS and the Banking Institution listed above to debit their account for the purposes of correcting errors and returning any payments inadvertently made after their death;
 - iv. Under penalties of perjury, the designated beneficiary or other person specified in A.R.S. § 38-762(E) certifies that:
 - (1) The Social Security number or U.S. Tax Identification number shown on this application is correct;
 - (2) They are not subject to backup withholding because:
 - (a) They are exempt from backup withholding, or
 - (b) They have not been notified by the Internal Revenue Service that they are subject to backup withholding as a result of a failure to report all interest or dividends, or
 - (c) The Internal Revenue Service has notified them that they are no longer subject to backup withholding; and
 - (3) They are a legal resident of the United States, unless they are an estate or trust.
 - v. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands their right to a 30-day notice period to consider a rollover or a cash distribution and they elect to waive the notice period by their election for payment on this application;
 - vi. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over all or any portion of their distribution to another eligible retirement plan, it is their responsibility to verify that the receiving plan will accept the rollover and, if applicable, agree to separately account for the taxable and nontaxable amounts rolled over and the related subsequent earnings on such amounts;
 - vii. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over all or any portion of their distribution to an IRA plan, it is their responsibility to verify that the receiving IRA institu-

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- tion will accept the rollover and, if applicable, it is their responsibility to separately account for taxable and nontaxable amounts;
- viii. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over to another eligible retirement plan, any portion of the distribution not designated for a rollover will be paid directly to them and any taxable amounts will be subject to federal and state income tax withholding;
 - ix. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over to an inherited IRA plan, any portion of the distribution not designated for a rollover will be paid directly to them and any taxable amounts will be subject to federal and state income tax withholding.
 - xi. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over to an inherited IRA plan, they may be required to receive a minimum distribution and they certify that the date of birth shown on this form is correct.
5. For a member who elected a Joint and Survivor Retirement Benefit Option, a contingent annuitant shall submit a Joint and Survivor Certification form containing:
- a. The following information for the member:
 - i. Full name;
 - ii. Social Security number or U.S. Tax Identification number;
 - iii. Date of death; and
 - b. The following information for the beneficiary:
 - i. Legal relationship to the member;
 - ii. Full name;
 - iii. Social Security number or United States Tax Identification number, if not On File with ASRS;
 - iv. Mailing address, if not On File with ASRS;
 - v. Date of birth, if not On File with ASRS;
 - vi. If the contingent annuitant is electing to have any of the survivor benefits directly deposited into a bank account, the following information:
 - (1) Whether the bank account is a checking or savings account;
 - (2) The name of the banking institution to which the benefit is being sent;
 - (3) The routing number;
 - (4) The account number; and
 - c. The following statements of understanding:
 - i. The contingent annuitant has read and understands the Special Tax Notice Regarding Plan Payments they received with the Joint and Survivor Certification form;
 - ii. The contingent annuitant authorizes the ASRS to make payments as indicated above and agree on behalf of themselves and their heirs that such payments shall be a complete discharge of the claim and shall constitute a release of the ASRS from any further obligation on account of the benefit; and
 - iii. The contingent annuitant authorizes the ASRS and the Banking Institution listed above to debit their account for the purposes of correcting errors and returning any payments inadvertently made after their death.
- d. The contingent annuitant's notarized signature.
- E. Notwithstanding R2-8-132(H), if the beneficiary or contingent annuitant is a minor as of the date of the member's death, the beneficiary or contingent annuitant may submit a written request with the information contained in R2-8-132(G)(1) through (4) within nine months after the minor attains 18 years of age.
 - F. For a member who deceases prior to the member's retirement date, if there is no designation of beneficiary or if the designated beneficiary predeceases the member, the ASRS shall pay a survivor benefit as specified in A.R.S. § 38-762(E).
 - G. The ASRS shall begin disbursing a survivor benefit to a contingent annuitant according to A.R.S. § 38-760(B)(1) upon notification and verification of the member's death by a third party.
 - H. The ASRS shall suspend a survivor benefit for a contingent annuitant unless the contingent annuitant provides the information in subsection (D) within two months of the ASRS disbursing a survivor benefit.
 - I. If the member is domiciled in Arizona, according to A.R.S. § 14-3971, and there is no designated beneficiary, the ASRS shall distribute the balance of a member's account to a claimant if the claimant submits an Affidavit for Collection of Personal Property to ASRS with the following:
 - 1. The claimant's name;
 - 2. The claimant's Social Security number or U.S. Tax Identification number;
 - 3. The claimant's mailing address;
 - 4. The member's name;
 - 5. The member's Social Security number or U.S. Tax Identification number;
 - 6. The date of the member's death;
 - 7. The state and county where the member died;
 - 8. Statements indicating:
 - a. According to A.R.S. § 14-3971(B)(2)(a), no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction and the value of the member's entire estate, less liens and encumbrances, does not exceed the amount in A.R.S. § 14-3971 as valued as of the date of the member's death;
 - b. According to A.R.S. § 14-3971(B)(2)(b), the personal representative has been discharged, or more than a year has elapsed since a closing statement has been filed and the value of the member's entire estate, less liens and encumbrances, does not exceed the amount in A.R.S. § 14-3971 as valued as of the date the ASRS receives the Affidavit for Collection of Personal Property;
 - c. The claimant is the successor of the member and is entitled to the member's personal property because:
 - i. The claimant is named in the member's will; or
 - ii. The member did not have a will and the claimant is entitled to the member's personal property by right of intestate succession according to A.R.S. § 14-2103;
 - d. If the claimant is entitled to the member's personal property according to subsection (I)(8)(c)(i), then a copy of the member's will;
 - e. If the claimant is entitled to the member's personal property according to subsection (I)(8)(c)(ii), then

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- the relationship between the member and the claimant and whether there are other surviving heirs;
- f. If there are other surviving heirs, then the name and relationship of each surviving heir;
 - g. A statement indicating the claimant is making the Affidavit for Collection of Personal Property according to A.R.S. § 14-3971 for the purpose of making a claim to the member's ASRS account; and
 - h. The claimant's notarized signature.
- J.** If the member is not domiciled in Arizona and there is no designated beneficiary, the ASRS shall distribute the balance of a member's account to a claimant if the claimant submits legal documentation to claim the member's ASRS account that complies with the statutory requirements of the state in which the member was domiciled at the time of the member's death.
- K.** Notwithstanding any other provision, if the amount of the survivor benefit as valued at the date of disbursement is less than \$10,000 per annum, the ASRS shall not distribute a survivor benefit to a minor beneficiary unless the minor beneficiary's legal guardian submits the following written information:
1. The member's full name;
 2. The member's Social Security number or U.S. Tax Identification number;
 3. The minor beneficiary's full name;
 4. The minor beneficiary's Social Security number or U.S. Tax Identification number;
 5. The full name of the minor beneficiary's legal guardian;
 6. The minor beneficiary's legal guardian's address, if not On File with ASRS; and
 7. The minor beneficiary's legal guardian's signature certifying the minor beneficiary's legal guardian has care and custody of the minor beneficiary.
- L.** Notwithstanding any other provision, if the amount of the survivor benefit as valued at the date of disbursement is \$10,000 or more per annum, the ASRS shall not distribute a survivor benefit to a minor beneficiary unless the minor beneficiary's conservator submits proof of court-appointed fiduciary responsibility for the minor beneficiary.
- M.** The ASRS shall remit payment to the minor beneficiary according to subsection (K) by sending the minor beneficiary's conservator a check, if the document providing proof of the court-appointed fiduciary responsibility requires payment to be made to a restricted or secure account.
- N.** If a person claims that a beneficiary or claimant is not entitled to a survivor benefit, then before ASRS disburses a survivor benefit, the person may notify ASRS of the person's intent to appeal the beneficiary's or claimant's right to a survivor benefit.
- O.** Within 30 days, a person who has notified ASRS of the person's intent to appeal a survivor benefit disbursement according to subsection (N), shall submit an appeal to ASRS according to 2 A.A.C. 8, Article 4.
- P.** If the ASRS receives documentation from, or confirmed by, a law enforcement agency, that a beneficiary or claimant may be guilty of the felonious and intentional killing of the member, the ASRS shall not distribute any benefits to the beneficiary or claimant that may be guilty of the felonious and intentional killing of the member until the matter has been adjudicated.
- Q.** If the member's estate has an appointed personal representative, the member's estate shall submit a court document identifying the personal representative for the member's estate before ASRS may distribute a survivor benefit.

- R.** If the member's estate is closed, the person claiming a right to the member's ASRS account shall provide a court document proving the estate is closed.
- S.** If the survivor receives a monthly annuity and does not provide the direct deposit information according to subsection (D)(4)(e) or (D)(5)(b)(vi), ASRS shall issue a debit benefit card.

Historical Note

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

Table 1. Repealed**Historical Note**

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

Table 2. Repealed**Historical Note**

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

Table 3. Repealed**Historical Note**

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

Table 4. Repealed**Historical Note**

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

Table 5. Repealed**Historical Note**

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

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valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 6. Repealed**Historical Note**

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

Table 7. Repealed**Historical Note**

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

Table 8. Repealed**Historical Note**

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

Table 9. Repealed**Historical Note**

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

Table 10. Repealed**Historical Note**

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

Table 11. Repealed**Historical Note**

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

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

Exhibit A. Repealed**Historical Note**

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

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

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

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

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

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

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

Exhibit C. Repealed**Historical Note**

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

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Historical Note

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The following definitions apply to this Article unless otherwise specified:

1. "Coverage" means a medical and/or dental insurance plan a retired member, Disabled member, or beneficiary obtains through the ASRS or an Employer.
2. "Contingent annuitant" means the same as in A.R.S. § 38-711(8) and the person is eligible for Coverage.
3. "Disabled" means the member has a disability and is receiving long-term disability benefits pursuant to A.R.S. § 38-797 et seq.
4. "Family calculation" means the family Coverage premium described in A.R.S. § 38-783(B).
5. "Joint & survivor" means the annuity option described in A.R.S. § 38-760(B)(1).
6. "Net premium" means the amount of the Coverage premium reduced by the amount of the Premium Benefit provided by the ASRS.
7. "On file" means the same as in R2-8-115.

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8. "Original retirement date" means the same as in R2-8-126.
9. "Optional premium benefit" means the election, upon retirement, to have the Premium Benefit paid on behalf of the member's Contingent Annuitant upon death of the member pursuant to A.R.S. § 38-783.
10. "Period-certain" means the annuity option described in A.R.S. § 38-760(B)(2).
11. "Premium benefit" means the amount the ASRS provides on behalf of a retired member or Disabled member in order to offset the Coverage premium of the retired or Disabled member pursuant to A.R.S. § 38-783.
12. "Single calculation" means the single Coverage premium calculation described in A.R.S. § 38-783(A).
13. "Subsidized" means the same as in A.R.S. § 38-783(M)(4).

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 34, effective May 31, 2015 (Supp. 16-4). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

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

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

- b. One Family Calculation of the Premium Benefit described in R2-8-204(B).

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

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Amended by emergency rulemaking at 10 A.A.R. 4259, effective September 30, 2004 (Supp. 04-3). Amended by final rulemaking at 10 A.A.R. 4346, effective October 5, 2004 (Supp. 04-3). Section amended and Table 1 repealed by final rulemaking at 13 A.A.R. 4581, effective February 2, 2008 (Supp. 07-4). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

R2-8-203. Payment of Premium Benefit

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

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2. Remit payment of the Premium Benefit to the Arizona Department of Administration.
- E. If a Disabled member who is eligible to receive a Premium benefit pursuant to R2-8-202 maintains Coverage with the Arizona Department of Administration, the ASRS shall remit the Premium Benefit to the Arizona Department of Administration, unless the Disabled member is participating in the Six-Month Reimbursement Program pursuant to R2-8-206.
- F. If a Disabled member who is eligible to receive a Premium Benefit pursuant to R2-8-202 maintains Coverage with the ASRS, the ASRS shall remit the Premium Benefit to the Disabled member's insurance company and the Disabled member shall be responsible for remitting the Net Premium to the Disabled member's insurance company.
- G. If a retired member or Disabled member who is eligible to receive a Premium Benefit pursuant to R2-8-202 maintains Coverage with an Employer other than the ASRS or the Arizona Department of Administration, the ASRS shall remit the Premium Benefit to the retired member's or Disabled member's Employer, unless the retired member or Disabled member is participating in the Six-Month Reimbursement Program pursuant to R2-8-206.
- H. If a retired member or Disabled member is eligible to receive a Premium Benefit pursuant to R2-8-202, the ASRS shall provide the lesser of the following for any one retired member or Disabled member:
 1. The actual cost of the Coverage premium; or
 2. The greatest Premium Benefit calculation for which the retired member or Disabled member is eligible pursuant to R2-8-202.
- I. If a retired member is eligible to receive a Premium Benefit pursuant to R2-8-202 and the member retires from the ASRS in addition to retiring from another State retirement system or plan described in A.R.S. § 38-921, each month, the ASRS shall remit any Premium Benefit for which the retired member is eligible under this Article to the other State retirement system or plan from which the member retired.

Historical Note

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

R2-8-204. Premium Benefit Calculation

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

- D. Notwithstanding R2-8-203(H), if a Contingent Annuitant is a retired member, the Contingent Annuitant may be entitled to receive more than one Premium Benefit.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

R2-8-205. Premium Benefit Documentation

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

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

R2-8-206. Six-Month Reimbursement Program

- A. For a retired member or Disabled member who is eligible for a Premium Benefit pursuant to R2-8-202(A)(4) or (B), the

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ASRS shall remit the Premium Benefit to the retired member or Disabled member pursuant to subsection (B).

- B. Pursuant to subsection (A), the ASRS shall remit the Premium Benefit to the retired member or Disabled member every six months, payable in July and January. For purposes of this Section, the Premium Benefit shall be the aggregate amounts of the Premium Benefit the retired member or Disabled member is entitled to receive during the previous six months.
- C. In order to receive a Premium Benefit payment pursuant to subsection (B), a retired member or Disabled member shall submit to the ASRS the Reimbursement of Medical and/or Dental Cost (Six-Month Reimbursement Program) form after the last day of the last month for which the retired member or Disabled member is seeking reimbursement.
- D. The Reimbursement of Medical and/or Dental Cost (Six-Month Reimbursement Program) form that a retired member or Disabled member submits pursuant to subsection (C) shall include the following information:
 - 1. The retired member's or Disabled member's Social Security number or U.S. Tax Identification number;
 - 2. The retired member's or Disabled member's full name;
 - 3. The retired member's or Disabled member's mailing address and phone number;
 - 4. The retired member's or Disabled member's date of birth;
 - 5. The retired member's or Disabled member's status with the ASRS;
 - 6. The retired member's or Disabled member's status with the retired member's or Disabled member's Employer;
 - 7. The following Coverage information for the Coverage policy holder:
 - a. First and last names;
 - b. Social Security number or U.S. Tax Identification number;
 - c. Date of birth;
 - d. Effective date of Coverage;
 - 8. The following information for each dependent enrolled in, or to be enrolled in, Coverage:
 - a. First and last name;
 - b. Social Security number or U.S. Tax Identification number;
 - c. Date of birth;
 - d. Effective date of Coverage;
 - 9. Six-month reimbursement totals identified by:
 - a. The month and year the premium is due for Coverage;
 - b. The total medical plan premium per month;
 - c. The total dental plan premium per month;
 - d. The employee's out-of-pocket payroll deduction for a medical premium per month;
 - e. The employee's out-of-pocket payroll deduction for a dental premium per month;
 - f. The employee's total out-of-pocket payroll deduction for medical and dental premiums per month;
 - 10. The Employer's name;
 - 11. The Employer's phone number;
 - 12. The Employer's email address;
 - 13. The name of the Employer's representative; and
 - 14. The dated signature of the Employer's representative.

Historical Note

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

2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

R2-8-207. Optional Premium Benefit

- A. A member who retires on or after January 1, 2004 is eligible to elect the Optional Premium Benefit to be effective on the date of the retired member's retirement and may designate a Contingent Annuitant to receive the Optional Premium Benefit upon the death of the retired member if:
 - 1. The retired member elects a retirement option under A.R.S. § 38-760; and
 - 2. The retired member elects to maintain Coverage.
- B. A retired member who returns to active membership for 60 consecutive months or more before retiring again, may elect or re-elect the Optional Premium Benefit pursuant to subsection (A).
- C. A retired member who does not return to active membership for 60 consecutive months or more before retiring again is not eligible to elect the Optional Premium Benefit pursuant to subsection (A) unless the retired member elected the Optional Premium Benefit to be effective on the date of the retired member's Original Retirement Date.
- D. In order to elect, re-elect, or terminate the Optional Premium Benefit pursuant to subsection (A), the retired member shall submit to the ASRS the Optional Premium Benefit Program Election or Termination form containing the following information:
 - 1. The retired member's Social Security number or U.S. Tax Identification number;
 - 2. Whether the retired member is electing, declining, or terminating the Optional Premium Benefit;
 - 3. The following information for the Contingent Annuitant if the retired member is electing or re-electing the Optional Premium Benefit:
 - a. The Social Security number or U.S. Tax Identification number;
 - b. The full name; and
 - c. The date of birth, if not On File; and
 - 4. Certification of understanding by the retired member's dated signature of the following statements:
 - a. I have a one-time election at the time of retirement for this benefit, and have a retirement date on or after January 1, 2004;
 - b. I must elect a Joint & Survivor or Period-Certain annuity option;
 - c. If I elect to participate, my Contingent Annuitant must be either participating or eligible to participate in my retiree health care plan at the time of my death;
 - d. I must provide proof of birth date for my Contingent Annuitant;
 - e. The Premium Benefit will be actuarially reduced for the remainder of my benefit and my Contingent Annuitant's benefit as long as the Optional Premium Benefit is elected; and
 - f. I may rescind the election at any time and be eligible for the unreduced Premium Benefit payable as provided by law.
- E. In order to elect or re-elect the Optional Premium Benefit, a member shall submit the Optional Premium Benefit Program Election or Termination form to the ASRS prior to the member's Original Retirement Date.

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- F. A Contingent Annuitant the retired member designates to receive the Optional Premium Benefit upon the retired member's death is eligible to receive a Premium Benefit if:
1. The retired member designates the Contingent Annuitant as the primary beneficiary on the member's retirement account;
 2. The Contingent Annuitant is enrolled in a Coverage plan at the time of the member's death or the Contingent Annuitant enrolls in a Coverage plan within six months of the retired member's death pursuant to A.R.S. § 38-782(A); and
 3. The Contingent Annuitant is eligible to receive at least one monthly payment.
- G. Upon the death of a retired member who elected the Optional Premium Benefit pursuant to subsection (A), the ASRS shall provide the Optional Premium Benefit on behalf of the retired member's Contingent Annuitant who is eligible to receive the Optional Premium Benefit pursuant to subsection (F).
- H. Notwithstanding subsection (G), the amount of the Optional Premium Benefit the ASRS provides on behalf of a Contingent Annuitant shall not exceed the actual amount of the Coverage premium.
- I. Unless otherwise indicated by law, the Optional Premium Benefit shall not terminate upon the death of the retired member if a Contingent Annuitant is eligible for the Optional Premium Benefit pursuant to subsection (F).

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 34, effective May 31, 2015 (Supp. 16-4). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

ARTICLE 3. LONG-TERM DISABILITY**R2-8-301. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Attending Physician" means a provider:
 - a. Who is a qualified medical provider or other legally qualified practitioner of a healing art that the claims administrator recognizes or is required by law to recognize;
 - b. Whose medical training and clinical experience are qualified to treat the member's disabling condition;
 - c. Whose diagnosis and treatment is consistent with the diagnosis of the disabling condition, according to guidelines established by medical, research, and rehabilitative organizations;
 - d. Who is licensed to practice in the jurisdiction where care is being given;
 - e. Who is practicing within the scope of the license; and
 - f. Who is not related to the member by blood or marriage.
2. "Direct Care" means the member is actively receiving treatment from a provider for the member's disability at least once per calendar year.
3. "Estimated Social Security disability income amount" means the same as in R2-8-801(1).
4. "Legal proceeding" means an appeal of an appealable agency decision at the Office of Administrative Hearings

pursuant to A.R.S. § 41-1092 et seq. or an appeal of a Social Security determination at the Social Security Administration, or any other review by a formal body, which determines the rights and responsibilities of the member or survivor.

5. "LTD" means the Long-Term Disability program described in A.R.S. § 38-797 et seq.
6. "LTD benefit" means the amount of funds the member receives from the ASRS or the ASRS contracted LTD claims administrator, for the period of time a member has an eligible disability as described in A.R.S. § 38-797.07(A)(11).
7. "LTD contribution" means the amount of funds the member remits to the ASRS from the member's compensation as payment for the LTD program.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3). Numbering corrected and subsection reference under the "Estimated Social Security disability income amount" definition corrected (Supp. 23-2).

R2-8-302. Application for Long-Term Disability Benefit

- A. In order to claim an LTD benefit, a disabled member shall submit to the disabled member's Employer all the completed forms prescribed by the ASRS contracted LTD claims administrator within 12 months of the date the disabled member became disabled.
- B. Pursuant to A.R.S. § 38-797.07(D), in order to continue receiving an LTD benefit, a disabled member shall submit documentation regarding the disabled member's ongoing disability and occupation as required by the ASRS contracted LTD claims administrator to determine the disabled member's continuing eligibility for an LTD benefit.
- C. Pursuant to A.R.S. § 38-797.07(11), in order to submit an application for an LTD benefit, a member must provide objective medical evidence from an Attending Physician.
- D. Pursuant to A.R.S. § 38-797.07(7)(b)(i), in order to continue receiving an LTD benefit, the disabled member must be under the Direct Care of a doctor.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3).

R2-8-303. Long-Term Disability Calculation

- A. The ASRS contracted LTD claims administrator shall calculate an LTD benefit for a member using the member's monthly compensation as described in A.R.S. § 38-797(11).
- B. For a member whose monthly compensation is \$0 as of the date of disability, the ASRS shall pay a monthly benefit of \$50 unless the benefit is reduced pursuant to R2-8-807 or required to be reduced pursuant to A.R.S. § 38-797.07(A)(2).
- C. The ASRS shall reduce a member's LTD benefit in accordance with A.R.S. § 38-797.07(A).
- D. Notwithstanding any other section, a member who became disabled on or after August 27, 2019, shall not receive a benefit under this article that would increase the member's monthly compensation after disability to an amount that exceeds 100% of the member's monthly compensation before disability.

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Historical Note

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3). Amended by final rulemaking at 27 A.A.R. 89, effective March 9, 2021 (Supp. 21-1).

R2-8-304. Payment of Long-Term Disability Benefit

- A. The ASRS contracted LTD claims administrator shall begin providing an LTD benefit to an eligible disabled member no sooner than six months after the date the disabled member became disabled.
- B. Notwithstanding subsection (A), the ASRS contracted LTD claims administrator may begin providing an LTD benefit to an eligible disabled member sooner than six months if the disability is related to the member's disability that occurred within six months immediately preceding the disability.
- C. The ASRS contracted LTD claims administrator may provide an eligible disabled member's LTD benefit to a third party pursuant to A.R.S. § 38-797.09.
- D. Notwithstanding any other Section, a member may receive Long-Term disability benefits for no more than 12 months after the member receives a required minimum distribution of the member's retirement benefit pursuant to A.R.S. § 38-775.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3). Amended by final rulemaking at 28 A.A.R. 1255 (June 10, 2022), effective July 17, 2022 (Supp. 22-2).

R2-8-305. Social Security Disability Appeal

- A. Upon request by the ASRS contracted LTD claims administrator, a member who claims an LTD benefit pursuant to R2-8-302(A) shall submit a Social Security disability income application as prescribed by the ASRS contracted LTD claims administrator.
- B. In order to continue receiving an LTD benefit, a member whose application for Social Security disability income has been denied or terminated must appeal the most recent determination of denial or termination through a hearing before an administrative law judge pursuant to A.R.S. § 38-797.07(A)(10)(a) until the ASRS contracted LTD claims administrator or the Social Security Claims Administrator determines the member is not eligible for a Social Security benefit.
- C. Within 10 days after a member receives notice of the status of the member's Social Security disability income application, the member shall notify:
 1. The ASRS of the member's application status by submitting a copy of the notice identifying the status of the member's Social Security disability income application to the ASRS, if the member is not receiving an LTD benefit; or
 2. The ASRS contracted LTD claims administrator of the member's application status by submitting a copy of the notice identifying the status of the member's Social Security disability income application to the ASRS contracted LTD claims administrator, if the member is not receiving an LTD benefit.
- D. A member who disagrees with an LTD determination by the ASRS contracted LTD claims administrator may submit an appeal pursuant to 2 A.A.C. 8, Article 4.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3).

R2-8-306. Approval of Social Security Disability

Upon receipt of a Social Security disability income benefit, a member shall immediately remit to:

1. The ASRS the amount of the Social Security disability income benefit necessary to offset the LTD benefit; or
2. The ASRS contracted LTD claims administrator the amount of the Social Security disability income benefit necessary to offset the LTD benefit.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3).

ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD**R2-8-401. Definitions**

The following definitions apply to this Article, unless otherwise specified:

1. "Appealable agency action" has the same meaning as in A.R.S. § 41-1092.
2. "Board" means, if established, a Committee designated by the Board to take action on appeals as described in A.R.S. § 38-714(E)(1) or, if a Committee is not established, the same as in A.R.S. § 38-711(6).
3. "Final administrative action" has the same meaning as in A.R.S. § 41-1092 and is rendered by the Board.
4. "Health Plan" means an arrangement under which ASRS engages a Health Plan Vendor for coverage for members and their eligible dependents for routine, preventive, and emergency health-care procedures, pharmaceuticals, dental, vision, or other services and benefits funded through an insurance policy in which the Health Plan Vendor processes and pays claims as an insurer, or a self-funded arrangement in which the Health Plan Vendor processes and pays claims using ASRS funds.
5. "Health Plan Vendor" means an entity that enters into a contract with ASRS to provide an insured Health Plan or to administer, process, and pay claims for a Health Plan self-insured by ASRS.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 23 A.A.R. 487, effective April 8, 2017 (Supp. 17-1). Amended by final rulemaking at 23 A.A.R. 2749, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 28 A.A.R. 223 (January 21, 2022), with an immediate effective date of January 5, 2022 (Supp. 22-1).

R2-8-402. General Procedures

In computing any time period, parties shall exclude the day from which the designated time period begins to run. Parties shall include the last day of the period unless it falls on a Saturday, Sunday, or legal holiday. When the time period is 10 days or less, parties shall exclude Saturdays, Sundays, and legal holidays.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1).

R2-8-403. Letters of Appeal; Request for a Hearing of an

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Appealable Agency Action

- A.** After receipt of an agency decision, a person who is not satisfied with the agency decision, may submit a letter of appeal:
 - 1. To the ASRS's vendor for long-term disability benefits, if the appeal relates to a long-term disability decision; or
 - 2. To the ASRS Member Services Division Assistant Director, or such director's designee, if the appeal relates to an agency decision other than a long-term disability decision or Health Plan Vendor decision.
- B.** Upon receipt of a letter of appeal, the long-term disability vendor, or the Member Services Division Assistant Director, or such director's designee, shall send a response letter to the person requesting the appeal notifying the person of:
 - 1. The decision the agency is making in response to the letter of appeal; and
 - 2. The person's right to appeal the agency response by submitting a letter of appeal to the ASRS Director or such director's designee.
- C.** A person who is not satisfied with the agency response pursuant to subsection (B) may submit a letter of appeal to the ASRS Director or such director's designee within 60 days of the date on the agency response letter.
- D.** Within 30 days of the date the ASRS receives a letter of appeal pursuant to subsection (C), the ASRS director or such director's designee shall send a response letter by certified mail to the person requesting the appeal that includes:
 - 1. The agency action the ASRS is taking in response to the letter of appeal; and
 - 2. Notice of Appealable Agency Action, as required pursuant to A.R.S. § 41-1092.03 informing the person requesting the appeal, that the person has a right to appeal the agency action by submitting a Request for Hearing pursuant to subsections (E) and (F).
- E.** For an appealable agency action, a person who is not satisfied with an agency action pursuant to subsection (D) may file a Request for a Hearing, in writing, with the ASRS. The date the Request is filed is established by the ASRS date stamp on the face of the first page of the Request. The Request shall include the following:
 - 1. The name and mailing address of the member, employer, or other person filing the Request;
 - 2. The name and mailing address of the attorney for the person filing the Request, if applicable;
 - 3. A concise statement of the reasons for the appeal.
- F.** The person requesting a hearing shall file the Request for a Hearing with the ASRS within 30 days after receiving a response letter including a Notice of an Appealable Agency Action, pursuant to subsection (E).
- G.** Upon receipt of the Request for a Hearing, the ASRS shall notify the Office of Administrative Hearings as required in A.R.S. § 41-1092.03(B).
- H.** Pursuant to subsection (B):
 - 1. The long-term disability vendor shall send a response letter to the person requesting the appeal within 120 days of the date the long-term disability vendor receives the letter of appeal; and
 - 2. The Member Services Division Assistant Director, or such director's designee, shall send a response letter to the person requesting the appeal within 30 days of the date the ASRS receives the letter of appeal.
- I.** The Board has delegated to each Health Plan Vendor the authority to:
 - 1. Interpret and apply the terms of the Health Plan Vendor's particular Health Plan;

- 2. Determine whether a particular benefit is included in the Health Plan and, if included, the amount of payment to be made under the Health Plan; and
 - 3. Perform a full and fair review of any decision by the Health Plan Vendor regarding benefits included in or payments to be made under the Health Plan if the decision is appealed in accordance with the Health Plan Vendor's specified procedures.
- J.** An individual who is enrolled in a Health Plan made available by ASRS and who wishes to appeal a decision by the Health Plan Vendor shall follow the appeal procedures specified in the applicable Health Plan description.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final rulemaking at 23 A.A.R. 487, effective April 8, 2017 (Supp. 17-1). Amended by final rulemaking at 28 A.A.R. 223 (January 21, 2022), with an immediate effective date of January 5, 2022 (Supp. 22-1).

R2-8-404. Board Decisions on Hearings before the Office of Administrative Hearings

A recommended decision from the Office of Administrative Hearings that is sent to ASRS at least 30 days before the Board's next regular meeting, shall be reviewed by the Board at that meeting. At the meeting, the Board shall render a decision to accept, reject, or modify the findings of fact, conclusions of law and recommendations in whole or in part. If the Board modifies or rejects a recommended decision, the Board shall state the reasons for the modification or rejection. The Board shall deliver the Board's final decision to the Office of Administrative Hearings within five days after the meeting at which the Board made the final decision.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

R2-8-405. Motion for Rehearing Before the Board; Motion for Review of a Final Decision

- A.** Except as provided in subsection (H), within 30 days after service of the final administrative decision, any aggrieved party in an appealable agency action may file with the Board a Motion for Rehearing Before the Board, in writing, specifying the particular grounds for rehearing before the Board.
- B.** Except as provided in subsection (H), within 30 days after service of the final administrative decision, any aggrieved party of an appealable agency action may file with the Board a Motion for Review of a Final Decision, in writing, specifying the particular grounds for reviewing the Board's final administrative decision.
- C.** A party may amend a Motion for Rehearing Before the Board or a Motion for Review of a Final Decision at any time before the Board rules on the motion. A party may file a response within 15 days after the motion or the amended motion is filed. The Board may require the filing of written briefs upon the issues raised in the motion or the amended motion, and may provide for oral argument.
- D.** The Board may grant a Motion for Rehearing Before the Board or a Motion for Review of a Final Decision for any of the following causes that materially affects the moving party's rights:
 - 1. Irregularity in the administrative proceedings of the agency or the hearing officer, or any order or abuse of

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- discretion that deprives the moving party of a fair hearing;
2. Misconduct of the Board, the hearing officer, or the prevailing party;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing;
 5. Excessive or insufficient penalties;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing or during the process of the action; or
 7. That the decision, or findings of fact, is not justified by the evidence or is contrary to law.
- E. The Board may affirm or modify the final administrative decision or grant a rehearing before the Board or review of final administrative decision to all or any of the parties on all or part of the issues for any of the reasons in subsection (C). An order granting a rehearing or review shall specify with particularity the grounds for the order.
- F. Not later than 10 days after the final administrative decision, the Board may, after giving each party notice and an opportunity to be heard, order a rehearing or review of its final administrative decision for any reason for which it might have granted a rehearing or review on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing or review for a reason not stated in the motion. In either case, the order granting a rehearing or review shall specify the grounds on which it is granted.
- G. When a motion for rehearing or review is based upon an affidavit, the affidavit shall be filed with the motion. An opposing party may, within 15 days after filing, file an opposing affidavit. The Board may extend the period for filing an opposing affidavit for not more than 20 days for good cause shown or by written stipulation of the parties. The Board may permit a reply affidavit.
- H. The Board shall rule on the motion within 15 days after the response to the motion is filed or if a response is not filed, within five days of the expiration of the response period.
- I. If the Board makes a specific finding that the immediate effectiveness of a particular decision is necessary for the preservation of the public peace, health, and safety and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, an application for judicial review of the decision may be made within the time limits permitted for applications for judicial review of the Board's final decisions.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final rulemaking at 23 A.A.R. 487, effective April 8, 2017 (Supp. 17-1).

ARTICLE 5. PURCHASING SERVICE CREDIT**R2-8-501. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Active duty" means full-time duty in a branch of the United States uniformed service, other than Active Reserve Duty.
2. "Active reserve duty" means participating in required meetings and annual training in a Reserve or National Guard branch of the United States uniformed service.
3. "Actuarial present value" means an amount in today's dollars of a member's future retirement benefit calculated using appropriate actuarial assumptions and the:
 - a. Eligible Member's Current Years of Credited Service;
 - b. Eligible Member's age as of the date the Eligible Member submits to the ASRS a request to purchase service pursuant to this Article;
 - c. Amount of Service Credit the member wishes to purchase; and
 - d. Member's current annual compensation.
4. "Authorized representative" means an individual who has been delegated the authority to act on behalf of a Custodian, Trustee, Plan Administrator, or a member, if the member's IRA or 403(b) is not maintained by the member's Employer.
5. "Current years of credited service" means the amount of credited service a member has earned or purchased, and the amount of Service Credit for which an Irrevocable PDA is in effect for which the member has not yet completed payment, but does not include any current requests to purchase Service Credit for which the member has not yet paid.
6. "Custodian" means a financial institution that holds financial assets for guaranteed safekeeping.
7. "Direct rollover" means distribution of Eligible Funds made payable to the ASRS as a contribution for the benefit of an eligible member from a retirement plan listed in A.R.S. § 38-747(H)(2) or (H)(3).
8. "Eligible funds" means payments listed in A.R.S. § 38-747(H)(2) and (H)(3).
9. "Eligible member" means a member who is eligible to purchase service pursuant to A.R.S. §§ 38-742, 38-743, 38-744, or 38-745.
10. "Forfeited service" means credited service for which the ASRS has returned retirement contributions to the member under A.R.S. § 38-740.
11. "IRC" means the same as "Internal Revenue Code" in A.R.S. § 38-711(18).
12. "Irrevocable PDA" means an irrevocable "Payroll Deduction Authorization" contract between an Eligible Member, an Employer, and the ASRS that requires the Employer to withhold payments from an Eligible Member's pay for a specified amount and for a specified number of payments, as provided in A.R.S. § 38-747.
13. "Leave of absence service" means an approved leave of absence without pay as specified in A.R.S. § 38-744.
14. "LTD" means the same as in R2-8-301.
15. "Military Call-up service" means a member is called to Active Duty under A.R.S. § 38-745 in a branch of the United States Uniformed Services.
16. "Military service" means Active Duty or Active Reserve Duty under A.R.S. § 38-745 with any branch of the United States Uniformed Services or the Commissioned Corps of the National Oceanic and Atmospheric Administration.
17. "Military service record" means a United States Uniformed Services or National Oceanic and Atmospheric

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Administration document that provides the following information:

- a. The member's full name;
 - b. The member's Social Security number;
 - c. Type of discharge the member received; and
 - d. Active Duty dates, if applicable; or
 - e. Active Reserve Duty dates, if applicable; and
 - f. Point history for Active Reserve Duty dates, if applicable.
18. "Other public service" means previous employment listed in A.R.S. § 38-743(A).
 19. "PDA pay-off invoice" means written correspondence from the ASRS to an Eligible Member that specifies the amount necessary to be paid by the Eligible Member to complete an Irrevocable PDA to receive the total credited service specified in the Irrevocable PDA.
 20. "Plan administrator" means the person authorized to represent a specific eligible plan as addressed in IRC § 414(g).
 21. "Service credit" means Forfeited Service, Leave of Absence Service, Military Service and Military Call-up Service, and Other Public Service that an Eligible Member may purchase.
 22. "SP invoice" means a written correspondence from the ASRS informing an Eligible Member of the amount of money required to purchase a specified amount of Service Credit.
 23. "Termination pay" means an Employer's payment to the ASRS of an Eligible Member's pay received as a result of terminating employment to purchase Service Credit as specified in A.R.S. § 38-747(B)(2).
 24. "Three full calendar months" means the first day of the first full month through the last day of the third consecutive full month.
 25. "Transfer employment" means to terminate employment with one Employer with which an Eligible Member has an Irrevocable PDA:
 - a. After accepting an offer to work for a new Employer;
 - b. While working as an active member for a different Employer; or
 - c. Before returning to work with any Employer within 120 days of terminating employment.
 26. "Trustee-to-Trustee transfer" means a transfer of assets to the ASRS as authorized in A.R.S. § 38-747(I), from a retirement program from which, at the time of the transfer, a member is not eligible to receive a distribution.
 27. "Uniformed services" means the United States Army, Army Reserve, Army National Guard, Navy, Navy Reserve, Air Force, Air Force Reserve, Air Force National Guard, Marine Corps, Marine Corps Reserve, Coast Guard, Coast Guard Reserve, and the Commissioned Corps of the Public Health Service.
 28. "Window credit" means overpayments made on previously purchased Service Credit by members of the ASRS as provided by Laws 1997, Ch. 280, § 21, and Laws 2003, Ch. 164, § 3.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4). Amended by final rulemaking at 19 A.A.R. 764, effective

June 1, 2013 (Supp. 13-2). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Amended by final rulemaking at 28 A.A.R. 1257 (June 10, 2022), effective July 17, 2022 (Supp. 22-2).

R2-8-502. Request to Purchase Service Credit and Notification of Cost

- A. An Eligible Member may request to purchase Service Credit electronically. The Eligible Member shall verify at the time of request, the following information for the Eligible Member:
 1. Name;
 2. Mailing address;
 3. Date of birth;
 4. Marital status;
 5. Gender;
 6. Primary email address;
 7. Primary phone number; and
 8. Which category of Service Credit the Eligible Member is requesting to purchase.
- B. An Eligible Member who requests to purchase Service Credit pursuant to subsection (A) shall acknowledge the following statements of understanding:
 1. Any person who knowingly makes any false statement or who falsifies or permits to be falsified any record of the retirement plan with an intent to defraud the plan is guilty of a class 6 felony per A.R.S. § 38-793; and
 2. This transaction is subject to audit. If any errors or misrepresentations are discovered as a result of an audit, the Eligible Member's total credited service with the ASRS will be adjusted as necessary and if the Eligible Member is retired, the Eligible Member's retirement benefit will also be adjusted. Any overpayment or overpayments will be refunded. However, if a payment made with a rollover or pre-tax dollars is returned to the Eligible Member, there may be tax consequences as a result of this refund.
- C. Upon receipt of the documentation required by this Article from the Eligible Member and if the Eligible Member's request to purchase Service Credit meets the requirements of this Article, the ASRS shall provide the following to the Eligible Member:
 1. An SP Invoice stating the cost to purchase the amount of Service Credit the member is eligible to purchase;
 2. Instructions for electing method of payment; and
 3. The date payment election is due.
- D. An Eligible Member who requests to purchase Service Credit pursuant to this Section shall elect one or more methods of payment and submit the election to the ASRS by the date payment election is due.
- E. An Eligible Member who elects to purchase Service Credit using after-tax payments shall acknowledge the following information:
 1. After-tax payments must be from the Eligible Member and remitted to the ASRS by the Eligible Member;
 2. After-tax payments cannot be used to purchase political subdivision employment with a United States territory, commonwealth, overseas possession, or insular area; and
 3. If the Eligible Member joined the ASRS on or after July 1, 1999, §§ 415(b) and 415(c) of the IRC limit the after-tax money the Eligible Member can use to purchase Service Credit.

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New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

R2-8-503. Requirements Applicable to All Service Credit Purchases

- A. To purchase Service Credit at the amount provided in an SP Invoice, an Eligible Member shall purchase the Service Credit by check or money order, or request an Irrevocable PDA, Direct Rollover, Trustee-to-Trustee Transfer, or Termination Pay as specified in this Article, by the due date specified by the method of payment the Eligible Member elected.
- B. An Eligible Member may purchase all of the Service Credit or a portion of the Service Credit. If the Eligible Member wishes to purchase only a portion of the Service Credit, the Eligible Member shall specify:
 - 1. Either the number of years or partial years of Service Credit the Eligible Member wishes to purchase; or
 - 2. The cost for the number of years or partial years of Service Credit the Eligible Member wishes to purchase, not exceeding the years or partial years and cost specified on the SP Invoice.
- C. The ASRS shall not consider more than one active request at a time from a member to purchase Service Credit in a single category. The categories are:
 - 1. Leave of Absence Service;
 - 2. Military Service;
 - 3. Forfeited Service; and
 - 4. Other Public Service.
- D. An Eligible Member may cancel an active request by notifying the ASRS in writing.
- E. If an Eligible Member is entitled to a Window Credit, the Eligible Member may apply the Window Credit to purchase Service Credit. To apply a Window Credit to a purchase of Service Credit, the Eligible Member shall make a request to the ASRS in writing by the date payment election is due as specified on the SP Invoice and include the following information:
 - 1. The amount the Eligible Member wants to apply, and
 - 2. The Eligible Member's dated signature.
- F. On or before the due date specified on the SP Invoice, an Eligible Member may request an extension of a due date for purchasing Service Credit.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-504. Service Credit Calculation for Purchasing Service Credit

- A. An Eligible Member who purchases Service Credit shall receive one month of credited service for one or more days of service in a calendar month.

- B. Pursuant to A.R.S. 38-739(B), an Eligible Member who purchases Service Credit shall receive a proportionate amount of credited service based on the length of the Eligible Member's service year.
- C. Notwithstanding any other provision, an Eligible Member whose membership date is on or after July 20, 2011, cannot purchase more than five years of Service Credit for each of the following based on the length of the Eligible Member's service year:
 - 1. Leave of Absence Service;
 - 2. Military Service; and
 - 3. Other Public Service.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-505. Restrictions on Purchasing Overlapping Service Credit

- A. The ASRS shall not permit an Eligible Member to purchase Service Credit that, when added to credited service earned in any plan year, results in more than:
 - 1. One year of credited service in any plan year, or
 - 2. One month of credited service in any one calendar month.
- B. A member may not purchase Service Credit for any period of time for which the member is eligible to receive retirement benefits from another public employee retirement system.
- C. For purposes of this Section, "another public employee retirement system" means any retirement plan providing retirement benefits and maintained by the United States government, a state, territory, commonwealth, overseas possession or insular area of the United States or a political subdivision of a state, territory, commonwealth, overseas possession or insular area of the United States.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Amended by final rulemaking at 28 A.A.R. 1257 (June 10, 2022), effective July 17, 2022 (Supp. 22-2).

R2-8-506. Cost Calculation for Purchasing Service Credit

- A. For Service Credit for Leave of Absence Service, Military Service, and Other Public Service, the ASRS shall calculate, as of the date of the request to purchase Service Credit:
 - 1. The Actuarial Present Value of the future retirement benefit for the Eligible Member including the Service Credit that the Eligible Member requests to purchase, and
 - 2. The Actuarial Present Value of the future retirement benefit for the Eligible Member without the Service Credit that the Eligible Member requests to purchase.
- B. The cost for purchasing the Service Credit that the Eligible Member requests to purchase is the difference between the Actuarial Present Value in subsection (A)(1) and the Actuarial Present Value in subsection (A)(2).

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-507. Required Documentation and Calculations for

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Forfeited Service Credit

- A.** An Eligible Member who requests to purchase Service Credit for Forfeited Service under A.R.S. § 38-742 shall provide the ASRS:
1. The name of an Employer, if known, for which the Eligible Member is requesting to purchase Service Credit for Forfeited Service; and
 2. The year and month the Eligible Member believes the ASRS returned retirement contributions.
- B.** Upon receipt of payment as specified in subsection (D), the ASRS shall apply the Service Credit to the Eligible Member's account based on the most recent Forfeited Service available for purchase.
- C.** Notwithstanding subsection (B), if an Eligible Member has more than one return of contributions pursuant to A.R.S. § 38-740, the Eligible Member may elect to purchase Forfeited Service for any of the return of contributions and the ASRS shall apply the Service Credit to the Eligible Member's account based on the most recent Forfeited Service available for purchase.
- D.** The amount the Eligible Member shall pay to purchase Service Credit for previously Forfeited Service is the amount of retirement contributions that the ASRS issued, plus interest on that amount from the date on the return of retirement contributions check to the date of redeposit at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A).

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

R2-8-508. Required Documentation and Calculations for Leave of Absence Service Credit

- A.** An Eligible Member who requests to purchase Service Credit for Leave of Absence Service under A.R.S. § 38-744 shall provide to the ASRS an Approved Leave of Absence form that includes:
1. The following information completed by the Eligible Member:
 - a. The start date and end date of the approved leave of absence;
 - b. The date the Eligible Member returned to work or a statement of why employment was not resumed;
 - c. The name of the Employer;
 - d. Whether the Eligible Member participated in another public retirement system during this leave of absence; and
 - e. If the Eligible Member participated in another public retirement system during the leave of absence, whether the Eligible Member is receiving a benefit or is eligible to receive a benefit, from the other public retirement system; and
 2. Acknowledgement of the following statements of understanding:
 - a. The Eligible Member understands that up to one year of Service Credit may be purchased for each approved leave of absence, if the Eligible Member returns to work for the Employer that approved the leave of absence unless employment could not be

resumed because of disability or nonavailability of a position;

- b. The Eligible Member authorizes the Employer to provide any necessary personal information to ASRS in order to process this request; and
 - c. The Eligible Member certifies that if the Eligible Member participated in another public retirement system during the approved leave of absence, the Eligible Member is not receiving, and is not eligible to receive, a benefit from the other public retirement system for the time during the approved leave of absence; and
3. The Eligible Member's dated signature.
- B.** Pursuant to A.R.S. § 38-744, a member who participated in another public retirement system during the leave of absence, and is receiving a benefit or is eligible to receive a benefit from the other public retirement system, is not an Eligible Member for purposes of this Section.
- C.** If the information provided by the Eligible Member pursuant to subsection (A) is correct, the Employer shall validate the information and submit the information to the ASRS through the Employer's secure ASRS account. If the information provided by the Eligible Member pursuant to subsection (A) is incorrect, the Employer shall correct the information and submit the information to the ASRS through the Employer's secure ASRS account.
- D.** Upon submitting the information specified in subsection (B), the Employer shall acknowledge the following statements of understanding:
1. The Employer has verified all the dates for the approved leave of absence period are correct; and
 2. The contact individual has the legal power to bind the Employer in transactions with the ASRS.
- E.** The amount the Eligible Member shall pay to purchase Service Credit for an approved leave of absence is determined as provided in R2-8-506.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-509. Required Documentation and Calculations for Military Service Credit

- A.** An Eligible Member who requests to purchase Service Credit for Military Service under A.R.S. § 38-745(A) and (B) shall provide to the ASRS:
1. A copy of the Eligible Member's Military Service Record within 30 days of the Eligible Member's request to purchase Service Credit; and
 2. A Military Service form that contains:
 - a. Whether the Eligible Member is receiving a benefit or is eligible to receive a benefit, from the military.
 - b. The branch of the Uniformed Services the Eligible Member was in;
 - c. Whether the Eligible Member was on Active Duty or Active Reserve Duty;
 - d. The start date and end date of the Eligible Member's Military Service for which the Eligible Member is requesting to purchase Service Credit;
 - e. Acknowledgement that the Eligible Member will submit to the ASRS:

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- i. Proof of honorable separation for each type of Military Service listed on the form; and
 - ii. The Eligible Member's Military Service Record that supports all of the service listed on the form;
 - f. Acknowledgement of the following statements of understanding:
 - i. The Eligible Member understands that the service listed on this form does not include time that the Eligible Member either volunteered or was ordered into Active Duty service as part of a military call-up while employed by an Employer. This service is purchased under Military Call-up Service and requires a Military Call-up form to be completed by the Eligible Member's Employer; and
 - ii. The Eligible Member understands that any time the Eligible Member has listed on this form for Reserve or National Guard time reflects the months that the Eligible Member attended at least one drill or assembly for each month listed.
 - B. The amount the Eligible Member pays to purchase Service Credit for Military Service is determined as provided in R2-8-506.
 - C. The ASRS determines the amount of Service Credit an Eligible Member receives for Active Duty and Active Reserve Duty time by the time listed on the Military Service form, if the service listed is supported by the information contained in the Eligible Member's Military Service Record.
 - D. If the ASRS has not received complete and correct documents pursuant to this Section within 30 days of the request to purchase Service Credit, the ASRS shall cancel the Eligible Member's request to purchase Service Credit.
- Historical Note**
- New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).
- R2-8-510. Required Documentation and Calculations for Military Call-up Service Credit**
- A. An Eligible Member who meets the requirements under A.R.S. § 38-745(D) shall receive up to 60 months of Service Credit, not to exceed 5 years of Service Credit for Military Call-up Service under A.R.S. § 38-745(D) through (K). In order to determine the amount of contributions the Employer owes to purchase Service Credit for Military Call-up Service, the Eligible Member's Employer shall provide to the ASRS a copy of the Eligible Member's Military Service Record and a completed Military Call-up form that includes the following:
 1. The Eligible Member's full name;
 2. The Eligible Member's Social Security number;
 3. The start date of Military Call-up Service;
 4. The end date of Military Call-up Service;
 5. The date the Eligible Member returned to work for the Employer;
 6. The salary for each pay period in each fiscal year while the Eligible Member was on military call-up, including any salary increases the Eligible Member would have received had the Eligible Member not left work due to military call-up;
 7. The name of a contact individual for the Employer, and that individual's business telephone number;
 8. The contact individual's dated signature;
 9. If applicable, the dates that the Eligible Member was hospitalized and released from the hospital as a result of participating in a military call-up.
 10. If applicable, the date the Eligible Member became disabled during or as a result of participating in a military call-up;
 11. If applicable, the date of the Eligible Member's death during or as a result of participating in a military call-up; and
 12. Acknowledgement of the following statements of understanding:
 - a. All the dates and payroll information for the Military Call-up Service are correct;
 - b. The Eligible Member:
 - i. Was honorably separated from Active Duty and returned to the same Employer within 90 days of either discharge from Active Duty or release from service-related hospitalization; or
 - ii. Was disabled and unable to return to work; or
 - iii. Died during or as a result of Active Duty.
 - c. The Employer must pay both the employee and Employer contributions in a lump sum upon the Eligible Member returning to employment, receipt of a declaration of disability, or receipt of a death certificate. These contributions are based on the salary the Eligible Member would have earned if the Eligible Member had not volunteered or been ordered into Active Duty;
 - d. The Eligible Member may receive a maximum of 60 months of Service Credit for Military Call-up Service pursuant to A.R.S. § 38-745; and
 - e. The contact individual has the legal power to bind the Employer in transactions with the ASRS.
 - B. An Employer shall make the request to purchase Service Credit for Military Call-up Service within 30 days after the earlier of the dates listed in A.R.S. § 38-745(E).
 - C. The ASRS calculates the amount the Employer pays to purchase Military Call-up Service pursuant to A.R.S. § 38-745(G) by multiplying the Eligible Member's salary per pay period at the time Active Duty commences, by the contribution rate in effect for the period of Active Duty. Included in the calculation are any salary increases the Eligible Member would have received if the Eligible Member had not left work to participate in a military call-up.
 - D. The ASRS shall send the Employer a statement of cost for purchase of the Service Credit for Military Call-up Service based on the calculation in subsection (C). Within 90 days from the date on the ASRS statement of cost, the Employer shall pay to the ASRS the amount on the statement. If the Employer fails to make full payment within 90 days, interest shall accrue on the unpaid balance at the Assumed Actuarial Investment Earnings Rate in effect on the date of the statement of cost as specified in R2-8-118(A). The ASRS may collect the unpaid balance plus interest pursuant to A.R.S. § 38-735(C).
 - E. If an Employer remits retirement or long-term disability contributions on behalf of an Eligible Member while the Eligible Member is on military call-up, the Employer shall reverse the contributions after the ASRS receives the information in subsection (A).
 - F. If an Employer remits retirement contributions on behalf of an Eligible Member while the Eligible Member is on military

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call-up, and the Eligible Member does not return to the Employer after separation from active Military Service, the ASRS shall apply the retirement contributions to the Eligible Member's credited service.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-511. Required Documentation and Calculations for Other Public Service Credit

- A.** An Eligible Member who requests to purchase Service Credit for Other Public Service under A.R.S. § 38-743 shall provide to the ASRS a completed Other Public Service form, signed and dated by the Eligible Member, that includes the following:
1. The name and mailing address of the Other Public Service employer;
 2. The position the Eligible Member held while working for the Other Public Service employer;
 3. The start date and end date of the Eligible Member's employment with the Other Public Service employer;
 4. The actual months and years the Eligible Member was employed with the Other Public Service employer;
 5. A statement of whether the Eligible Member participated in the Other Public Service employer's retirement plan;
 6. If the Eligible Member participated in the Other Public Service employer's retirement plan, the name of the retirement plan, identifying whichever one of the following applies:
 - a. The approximate date the Eligible Member took a return of retirement contributions;
 - b. The plan is non-contributory and the Eligible Member is not eligible for benefits from the plan; or
 - c. That, if not using all of the retirement contributions as a rollover, the Eligible Member will request a return of retirement contributions and forfeit all rights to any benefits from the plan and provide the ASRS with documentation that the Eligible Member has forfeited all rights to benefits from the plan no later than the due date specified on the SP Invoice; and
 7. Acknowledgement that if an audit determines that the Eligible Member is eligible for a benefit from the Other Public Service employer's retirement plan, the Eligible Member is required to take necessary steps to forfeit the benefit, and if the forfeiture is not completed within 90 days of being notified of the audit results, the Service Credit purchase listed on this application will be revoked and any funds paid to purchase the Service Credit will be refunded to the member.
- B.** The amount the Eligible Member shall pay to purchase Service Credit for Other Public Service is determined as provided in R2-8-506.
- C.** Notwithstanding R2-8-512, the ASRS shall not accept after-tax monies for the purchase of Service Credit for Other Public Service with a territory, commonwealth, overseas possession or insular area pursuant to A.R.S. § 38-743.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December

5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-512. Purchasing Service Credit by Check, Cashier's Check, or Money Order

- A.** An Eligible Member may purchase Service Credit by personal check in the Eligible Member's name, cashier's check, or money order remitted by the Eligible Member.
- B.** By the due date specified by the method of payment the Eligible Member elected, the Eligible Member shall ensure that the ASRS receives a check, cashier's check, or money order made payable to the ASRS in the amount to purchase the requested Service Credit.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-513. Purchasing Service Credit by Irrevocable PDA

- A.** An Eligible Member may purchase Service Credit by Irrevocable PDA.
- B.** If the Eligible Member elects to pay for Service Credit by Irrevocable PDA, the Eligible Member shall elect the terms of the Irrevocable PDA and submit the Irrevocable PDA to the ASRS and the Employer with the following:
1. Acknowledgements:
 - a. This Irrevocable PDA is binding and irrevocable;
 - b. This Irrevocable PDA shall remain in effect until the earlier of:
 - i. The authorized payroll deductions are completed; or
 - ii. The Eligible Member terminates employment.
 - c. The ASRS cannot terminate the Irrevocable PDA due to financial hardship;
 - d. The amount of Irrevocable PDA payments the Eligible Member makes is subject to federal laws;
 - e. The cost to purchase Service Credit by Irrevocable PDA includes an administrative interest charge at the Assumed Actuarial Investment Earnings Rate in effect at the time of the authorization as specified in R2-8-118(A);
 - f. Payments specified in this Irrevocable PDA are in addition to the regular contributions required pursuant to A.R.S. §§ 38-736 and 38-797.05;
 - g. The ASRS shall apply credited service to the Eligible Member's account upon receipt of payments authorized by the Eligible Member under this Irrevocable PDA; and
 - h. The ASRS shall not transfer, refund, or disburse the administrative interest that the ASRS charges pursuant to subsection (B)(1)(e); and
 2. Statements of Understanding:
 - a. It is the Eligible Member's responsibility to ensure the Eligible Member's Employer properly deducts payments and submits contributions as provided by the terms of the Irrevocable PDA;
 - b. Payments specified by the terms of this Irrevocable PDA shall be made directly to the ASRS from the Eligible Member's Employer and the Eligible Member does not have the option of receiving such payments directly from the Employer;

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- c. The Eligible Member's Employer shall make payments pursuant to this Irrevocable PDA after other mandatory deductions are made;
 - d. The Eligible Member's Employer cannot accept an election to change this Irrevocable PDA;
 - e. The Eligible Member has up to 14 days to request the ASRS calculate the remaining balance of this Irrevocable PDA after the earlier of:
 - i. Terminating employment;
 - ii. Terminating LTD without returning to work with an Employer; or
 - iii. The effective ASRS retirement date;
 - f. The Eligible Member must complete a purchase of the remaining balance on this Irrevocable PDA by the due date specified on the PDA Pay-off Invoice;
 - g. It is the Eligible Member's responsibility to notify the ASRS of any changes in the Eligible Member's employment that may affect the status of this Irrevocable PDA;
 - h. If the Eligible Member terminates employment and returns to work with an Employer within 120 days of terminating employment, this Irrevocable PDA must continue with the new Employer pursuant to R2-8-513.01; and
 - i. If the Eligible member terminates employment and does not return to work with an Employer within 120 days of terminating employment, the ASRS shall terminate this Irrevocable PDA pursuant to R2-8-513.01.
- C. By submitting the Irrevocable PDA to the ASRS, the Irrevocable PDA is deemed to be signed by the Eligible Member.
- D. At the time the Eligible Member elects the Irrevocable PDA, the Eligible Member may elect to use Termination Pay towards the balance of the Irrevocable PDA if the Eligible Member terminates employment. If the Eligible Member elects to use Termination Pay, the Eligible Member shall submit the Irrevocable PDA to the ASRS with the following information:
- 1. A statement that the Eligible Member:
 - a. Understands and agrees that the Eligible Member must continue working at least Three Full Calendar Months after the date of submission of the form before Termination Pay may be used on a pre-tax basis;
 - b. Understands that if the Termination Pay exceeds the balance owed on the Irrevocable PDA, the overage will be returned to the Employer to be distributed to the Eligible Member;
 - c. Understands that the election to use Termination Pay is binding and irrevocable;
 - d. The Eligible Member's Termination Pay must be received and processed before the ASRS will accept any other form of payment;
 - e. The Eligible Member's Employer is required to make payment directly to the ASRS after mandatory deductions are made, and the Eligible Member does not have the option of receiving the funds directly from the Employer;
 - f. It is the Eligible Member's responsibility to ensure that the Eligible Member's Employer properly deducts Termination Pay;
 - g. The amount of Termination Pay the Eligible Member elects is irrevocable pursuant to § 414(h)(2) of the IRC;
 - h. If the Eligible Member terminates employment and immediately retires, the Eligible Member's retirement processing may be delayed; and
 - 2. Whether the Eligible Member is electing either all Termination Pay or a specified amount of Termination Pay to be applied to the balance of the Irrevocable PDA.
- E. The ASRS shall:
- 1. Charge interest on the unpaid balance at the Assumed Actuarial Investment Earnings Rate in effect at the time the Eligible Member submitted the request to purchase service as specified in R2-8-118(A);
 - 2. Limit the payroll deduction time period to a maximum of 520 payments; and
 - 3. Require a minimum payment of \$10.00 per payroll period, or payment in an amount to purchase at least .001 years of Service Credit per payroll period, whichever is greater.
- F. The Employer shall implement the payroll deduction on the first pay period after receiving the Irrevocable PDA.
- G. If a deduction is not made under an Irrevocable PDA within six months after the Eligible Member submits the authorization, the authorization lapses and the Eligible Member may make another request, which is recalculated based on the new request date unless the failure to begin deductions is due to an ASRS error.
- H. A period of leave of absence, LTD, or military call-up shall not cancel the Irrevocable PDA. The Employer shall resume deductions immediately upon the Eligible Member's return to that Employer. The period during which the Eligible Member is on leave of absence, on LTD, or leaves work because of a military call-up is not included in the payment time limitation under subsection (D)(2). If the Eligible Member does not return to active working status, whether due to termination of employment or retirement, the Eligible Member may elect to purchase the balance of unpaid service under the Irrevocable PDA at the time of termination or retirement as specified in this Section.
- I. Deductions made pursuant to an Irrevocable PDA continue until the:
- 1. Irrevocable PDA is completed;
 - 2. Eligible Member retires, whether or not the Eligible Member continues employment as allowed in A.R.S. §§ 38-766.01 and 38-764(I);
 - 3. Eligible Member terminates all ASRS employment without transferring employment; or
 - 4. Date of the Eligible Member's death.
- J. If an Eligible Member retires or terminates employment from all Employers without transferring employment as stated in R2-8-513.01 before all deductions are made as authorized by the Irrevocable PDA, the ASRS shall cancel the Eligible Member's Irrevocable PDA unless the Eligible Member notifies the ASRS of the Eligible Member's intent to purchase the remaining amount within 14 days after the earlier of either termination or retirement.
- K. When the Eligible Member notifies the ASRS of retirement or termination from all ASRS employment and requests to pay off the Irrevocable PDA, the ASRS shall send the Eligible Member a PDA Pay-off Invoice through the Eligible Member's secure ASRS account. The ASRS shall calculate the amount owed by the Eligible Member.
- L. By the date payment election is due, the Eligible Member shall ensure that the ASRS receives the information specified in R2-8-502(C).

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- M.** The Eligible Member may purchase the remaining Service Credit by one or more of the following methods by the due date specified on the PDA Pay-off Invoice:
1. By any method specified in R2-8-512;
 2. By making a request to the ASRS for a rollover or transfer under R2-8-514 and completing the rollover or transfer by the due date specified on the PDA Pay-off Invoice; or
 3. By Termination Pay under R2-8-519, if the Eligible Member authorized this option at the time the Eligible Member signed the Irrevocable PDA.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-513.01. Irrevocable PDA and Transfer of Employment to a Different Employer

- A.** If an Eligible Member Transfers Employment, the Eligible Member's new Employer shall continue to make deductions pursuant to an Irrevocable PDA.
- B.** If an Eligible Member terminates employment without having accepted an offer to work with an Employer, the ASRS shall terminate an Irrevocable PDA.
- C.** Notwithstanding subsection (B), if a retirement contribution is due from a new Employer within 120 days from the Eligible Member's termination date with the previous Employer, the ASRS shall determine that the Eligible Member Transferred Employment, unless the Eligible Member notified the ASRS of the termination of employment.
- D.** If an Eligible Member who has elected Termination Pay pursuant to R2-8-513(D) Transfers Employment, the ASRS shall not accept any Termination Pay that the ASRS receives from the Eligible Member's previous Employer.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-513.02. Termination Date

For the purpose of an Irrevocable PDA, the date an Eligible Member is considered terminated from an Employer is:

1. For an Eligible Member terminating employment, the Eligible Member's last pay period end date with that Employer;
2. For an Eligible Member on military call-up who does not return to the same Employer:
 - a. 90 days from the date of separation from military call-up;
 - b. 90 days from the date released from the hospital, if injured while on military call-up; or
 - c. The date the Eligible Member has been hospitalized for two years for injuries sustained as a result of participating in a military call-up.
3. For an Eligible Member on leave of absence without pay who does not return to the same Employer, the date the Employer required the Eligible Member to return to work;

4. For an Eligible Member who is unable to work because of a disability, the later of:
 - a. The date the Eligible Member's request for long-term disability benefits are denied;
 - b. The date the Eligible Member no longer has leave with pay available; or
 - c. For an Eligible Member on long-term disability who does not return to the same Employer or Transfer Employment, the date long-term disability benefits are terminated.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-514. Purchasing Service Credit by Direct Rollover or Trustee-to-Trustee Transfer

- A.** An Eligible Member may purchase Service Credit by Direct Rollover or Trustee-to-Trustee Transfer pursuant to this Article.
- B.** By the due date specified by the method of payment the Eligible Member elected, the Eligible Member shall ensure that the ASRS receives the payment for the service purchase and a completed Direct Rollover/Transfer Certification to Purchase Service Credit form.
- C.** An Eligible Member who chooses to purchase Service Credit shall provide the following to the ASRS:
 1. The name of the financial institution or plan;
 2. Whether the Eligible Member is choosing to rollover/transfer the entire balance of their account and if not, the amount of the rollover/transfer;
 3. Acknowledgement of the following information:
 - a. After-tax funds are only acceptable from 401(a) and 403(b) plans and must be listed separately from the portion that is pre-tax on the payment as after-tax amounts. This information must be provided to the ASRS with the payment.
 - b. The only fund types that the ASRS accepts are:
 - i. 401(a);
 - ii. 401(k) pre-tax only;
 - iii. 403(b);
 - iv. Governmental 457 pre-tax only;
 - v. 403(a) pre-tax only;
 - vi. 408 Traditional IRA pre-tax only;
 - vii. 408(k) SEP IRA pre-tax only;
 - viii. 408(p) Simple IRA pre-tax only and only if the Eligible Member participated for at least 2 years in this plan;
 - c. The ASRS shall not accept the following fund types:
 - i. Roth funds;
 - ii. Funds already distributed to the Eligible Member from a retirement plan listed in subsection (C)(3)(b);
 - iii. Inherited IRA;
 - iv. Coverdale Education Savings Account funds;
 - v. Hardship distributions;
 - vi. Funds not includable in gross income;
 - vii. Funds required under § 401(a)(9) of the IRC because the Eligible Member have attained age 70 1/2;
 - viii. One of a series of substantially equal periodic payments made at least annually for the Eligible Member's life;

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- ix. One of a series of substantially equal periodic payments made for 10 years or more;
 - x. After-tax contributions from any plan other than a 401(a) or 403(b) qualified plan;
 - d. The funds must be sent as a Direct Rollover from a plan listed in subsection (C)(3)(b) and issued to the ASRS for the benefit of the Eligible Member. If the payment is issued to anyone other than the ASRS, including the Eligible Member, then within 60 days of the plan issuing the payment, the Eligible Member must place the payment into a plan specified in subsection (C)(3)(b) to be reissued directly to the ASRS.
 - e. It is the Eligible Member's responsibility to contact the administrator of the plan from which the Direct Rollover will be made and have it initiated. The Eligible Member must also ensure all rollovers are completed by the due date. If the ASRS does not receive payment by the due date, the invoice will expire and the payment will be returned to the Eligible Member.
 - f. If the ASRS accepts a rollover and later determines that it was not eligible, the ASRS will distribute the invalid payment directly to the Eligible Member. Any taxes, penalties, and interest that the IRS, any taxing authority, or financial institution may assess against the Eligible Member due to an invalid payment are solely the Eligible Member's responsibility.
 - g. The plan from which the Eligible Member is rolling over funds must be solely in the Eligible Member's name. The Eligible Member may be a spousal beneficiary of a deceased person or an alternate payee on the plan from which the Eligible Member is rolling over funds.
- D.** An Eligible Member who chooses to purchase Service Credit pursuant to this Section shall submit a Direct Rollover/Transfer Certification to Purchase Service Credit form that includes:
- 1. The Eligible Member's full name;
 - 2. The last 4 digits of the Eligible Member's Social Security number;
 - 3. The Eligible Member's signature certifying that the Eligible Member understands the requirements, limitations, and entitlements for the rollover/transfer that is being used to purchase Service Credit, and has read and understands the Direct Rollover/Transfer Certification to Purchase Service Credit form and any accompanying instructions and information;
 - 4. The Authorized Representative's name and title;
 - 5. The Authorized Representative's telephone number; and
 - 6. Certification by the Authorized Representative's dated signature that:
 - a. The plan is either:
 - i. A qualified pension, profit sharing, or 401(k) plan described in IRC § 401(a), or a qualified annuity plan described in IRC § 403(a);
 - ii. A deferred compensation plan described in IRC § 457(b) maintained by a state of the United States, a political subdivision of a state of the United States, or an agency or instrumentality of a state of the United States;
 - iii. An annuity contract described in IRC § 403(b); or
 - iv. An IRA described in A.R.S. § 38-747(H)(3);
 - b. The rollover/transfer specified on the form from which the pre-tax funds are being rolled over or transferred is intended to satisfy the requirements of the applicable Section of the IRC;
 - c. The Authorized Representative is not aware of any plan provision or any other reason that would cause the plan/IRA not to satisfy the applicable Section of the IRC; and
 - d. The funds will be sent to the ASRS as a direct plan rollover, IRA rollover, or a Trustee-to-Trustee Transfer.
- E.** The Eligible Member shall contact the Plan Administrator to have the funds distributed and transferred to the ASRS. Unless the ASRS receives a check for the correct amount from the plan and all documents required by this Article by the due date specified by the method of payment the Eligible Member elected, the ASRS shall cancel the request to purchase Service Credit.
- F.** The Eligible Member shall ensure that the ASRS receives a check from the plan, made payable to the ASRS, for an amount that does not exceed the amount specified on the SP Invoice.
- G.** If the payment from the eligible plan exceeds the amount specified on the SP Invoice, the ASRS shall return the entire payment to the Eligible Member.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Citations to subsection (C)(3)(b) corrected in subsections (C)(3)(c)(ii) and (C)(3)(d) (Supp. 20-1).

R2-8-515. Repealed**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Repealed by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-516. Expired**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 3195, effective October 11, 2016 (Supp. 16-3).

R2-8-517. Expired**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 3195, effective October 11, 2016 (Supp. 16-3).

R2-8-518. Repealed

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Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Repealed by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4).

R2-8-519. Purchasing Service Credit by Termination Pay

- A. To purchase Service Credit using Termination Pay, an Eligible Member shall elect to use Termination Pay by the date payment election is due.
- B. An Eligible Member who elects to use Termination Pay pursuant to this Section, shall provide the ASRS with the Eligible Member's anticipated termination date which cannot be more than six months from the date the ASRS issues the SP Invoice and must be at least Three Full Calendar Months after the date the Eligible Member elects and submits Termination Pay as a method of payment.
- C. An Eligible Member who elects to use Termination Pay pursuant to this Section, shall provide the ASRS with a Termination Pay Authorization for the Purchase of Service Credit form with the following information:
 1. The name of the Employer that will be submitting the Termination Pay to the ASRS;
 2. Whether the Eligible Member elects to use all Termination Pay or a specific amount of Termination Pay;
 3. Signature of the Eligible Member, certifying that the Eligible Member understands that:
 - a. The Eligible Member is required to continue working at least Three Full Calendar Months after the date the Eligible Member submits the Termination Pay Authorization for the Purchase of Service Credit form before Termination Pay may be used on a pre-tax basis;
 - b. If the Eligible Member terminates employment more than six months after the date on the SP Invoice, the Eligible Member may purchase the Service Credit at a newly calculated rate and possibly at a higher cost;
 - c. The terms elected in the Termination Pay Authorization for the Purchase of Service Credit form are binding and irrevocable;
 - d. The Eligible Member's Employer is required to make payment directly to the ASRS after mandatory deductions are made, and the Eligible Member does not have the option of receiving the funds directly from the Employer;
 - e. The Eligible Member's Termination Pay must be received and processed before the ASRS will accept any other form of payment;
 - f. It is the Eligible Member's responsibility to ensure that the Eligible Member's Employer properly deducts Termination Pay, as provided in the Termination Pay Authorization for the Purchase of Service Credit form; and
 - g. The amount of Termination Pay the Eligible Member elects is irrevocable pursuant to § 414(h)(2) of the IRC;
 - h. If the Termination Pay exceeds the balance due on the SP Invoice, the ASRS will return the difference to the Eligible Member's Employer to be distributed to the Eligible Member;
 - i. If the Eligible Member terminates employment and immediately retires, the Eligible Member's retirement processing may be delayed; and

- j. The ASRS will send a notification to the Eligible Member's Employer two weeks prior to the Eligible Member's termination date, as indicated on the Termination Pay Authorization form, to notify the Employer that the Eligible Member's Termination Pay must be sent directly to the ASRS.

- D. The ASRS shall not apply Termination Pay to an SP Invoice covered by an Irrevocable PDA in effect at the time of termination, unless the Eligible Member elected the Termination Pay pursuant to R2-8-513(D) at the time the member authorized the Irrevocable PDA.
- E. If an Eligible Member elects to use Termination Pay to purchase Service Credit, the ASRS shall not apply any other form of payment to the Service Credit purchase until the ASRS receives the Termination Pay.
- F. Notwithstanding any other Section, if an Eligible Member dies prior to terminating employment, the ASRS shall not accept Termination Pay.
- G. If an Eligible Member Transfers Employment, the ASRS shall not accept Termination Pay from the Eligible Member's previous Employer.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-520. Termination of Employment and Request Return of Retirement Contributions or Death of Member While Purchasing Service Credit by an Irrevocable PDA

- A. If an Eligible Member terminates employment without transferring employment as specified in R2-8-513.01 while purchasing Service Credit by an Irrevocable PDA and requests return of retirement contributions pursuant to A.R.S. § 38-740, the ASRS shall return any principal payments made for the purchase of Service Credit including interest earned on those principal payments at the interest rate specified in R2-8-118(A), column 3.
- B. If an Eligible Member dies while purchasing Service Credit, the ASRS shall credit the Eligible Member's account with:
 1. The Service Credit for which the ASRS received payment pursuant to a PDA before the Eligible Member's death;
 2. The principal payments made by the Eligible Member; and
 3. Interest earned on payment through the date of distribution at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A).
- C. If an Eligible Member dies while purchasing Service Credit, the ASRS shall not permit the survivor or an estate to purchase the remaining balance.
- D. The ASRS shall not transfer, disburse, or refund the administrative interest the ASRS charged as part of an Irrevocable PDA as specified in R2-8-513.
- E. The ASRS shall not credit a member's account with the administrative interest the ASRS charged as part of an Irrevocable PDA as specified in R2-8-513.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December

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5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-521. Adjustment of Errors

- A. If the ASRS determines an error has been made in the information provided by the member or in the calculations made by the ASRS, the ASRS shall make an adjustment to the member's account and return ineligible payments, if any.
- B. The ASRS shall notify the member in writing of any adjustments.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

ARTICLE 6. PUBLIC PARTICIPATION IN RULEMAKING**R2-8-601. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Rulemaking record" means a file the ASRS maintains as specified in A.R.S. § 41-1029.
2. "Oral proceeding" means a public gathering the ASRS holds for the purpose of receiving comment and answering questions about a proposed rule as specified in A.R.S. § 41-1023.
3. "Presiding officer" means an individual selected by the ASRS Director to oversee oral proceedings.
4. "Substantive policy statement" means the same as in A.R.S. § 41-1001(22).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4).

R2-8-602. Reviewing Agency Rulemaking Record and Directory of Substantive Policy Statements

Except on a state holiday, a person may review a rulemaking record or the directory of substantive policy statements at the Phoenix office of the ASRS, Monday through Friday, from 8:00 a.m. until 5:00 p.m.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

R2-8-603. Petition for Rulemaking

- A. A person submitting a petition to the ASRS to make or amend a rule under A.R.S. § 41-1033 shall include the following in the petition:
 1. The name and current address of the person submitting the petition;
 2. An identification of the rule to be made or amended;
 3. The suggested language of the rule;
 4. The reason why a new rule should be made or a current rule should be amended with supporting information, including:
 - a. An identification of the persons who would be affected by the rule and how the persons would be affected; and
 - b. If applicable, statistical data with references to attached exhibits;

5. The signature of the person submitting the petition; and
6. The date the person signs the petition.

- B. The ASRS shall send a written notice of the ASRS's decision regarding the Petition for Rulemaking to the person within 60 days of receipt of the petition.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

R2-8-604. Review of a Rule, Agency Practice, or Substantive Policy Statement

- A. A person submitting a petition to the ASRS under A.R.S. § 41-1033 requesting that the ASRS review an agency practice or substantive policy statement that the person alleges constitutes a rule shall include the following in the petition:
 1. The name and current address of the person submitting the petition,
 2. The reason the person alleges that the agency practice or substantive policy statement constitutes a rule,
 3. The signature of the person submitting the petition, and
 4. The date the person signs the petition.
- B. The person who submits a petition under subsection (A) shall attach a copy of the substantive policy statement or a description of the agency practice to the petition.
- C. The ASRS shall send a written notice of the ASRS's decision regarding the petition to the person within 60 days of receipt of the petition.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

R2-8-605. Objection to Rule Based Upon Economic, Small Business and Consumer Impact

- A. A person submitting an objection to a rule based upon the economic, small business and consumer impact under A.R.S. § 41-1056.01 shall include the following in the objection:
 1. The name and current address of the person submitting the objection;
 2. Identification of the rule;
 3. Either evidence that the actual economic, small business and consumer impact:
 - a. Significantly exceeded the impact estimated in the economic, small business and consumer impact statement submitted during the making of the rule with supporting information attached as exhibits; or
 - b. Was not estimated in the economic, small business and consumer impact statement submitted during the making of the rule and that actual impact imposes a significant burden on persons subject to the rule with supporting information attached as exhibits; or
 - c. Reflects that the ASRS did not select the alternative that imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.
 4. The signature of the person submitting the objection; and
 5. The date the person signs the objection.
- B. The ASRS shall respond to the objection as specified in A.R.S. § 41-1056.01(C).

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Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

R2-8-606. Oral Proceedings

- A.** A person requesting an oral proceeding under A.R.S. § 41-1023(C) shall submit a written request to the ASRS that includes:
1. The name and current address of the person making the request;
 2. If applicable, the name of the public or private organization, partnership, corporation or association, or the name of the governmental entity the person represents; and
 3. Reference to the proposed rule including, if known, the date and issue of the Arizona Administrative Register in which the Notice of Proposed Rulemaking was published.
- B.** The ASRS shall record an oral proceeding by either electronic or stenographic means and any CDs, cassette tapes, transcripts, lists, speaker slips, and written comments received shall become part of the official record.
- C.** A presiding officer shall perform the following acts on behalf of the ASRS when conducting an oral proceeding as prescribed under A.R.S. § 41-1023:
1. Provide a method for a person who attends the oral proceeding to voluntarily note the person's attendance;
 2. Provide a Request to Present Oral Comment form that includes space for:
 - a. The name of the person submitting the Request to Present Oral Comment form,
 - b. The entity the person represents, if applicable, and
 - c. The rule on which the person wishes to comment or about which the person has a question;
 3. Open the proceeding by identifying the rules to be considered, the location, date, time, purpose of the proceeding, and the agenda;
 4. Explain the background and general content of the proposed rulemaking;
 5. Provide for public comment as specified in A.R.S. § 41-1023(D); and
 6. Close the oral proceeding by announcing the location where written public comments are to be sent and specifying the close of record date and time.
- D.** A presiding officer may limit comments to a reasonable time period, as determined by the presiding officer. Oral comments may be limited to prevent undue repetition.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

R2-8-607. Petition for Delayed Effective Date

- A.** A person who wishes to delay the effective date of a rule under A.R.S. § 41-1032 shall file a petition with the ASRS prior to the proposed rule's close of record date. The petition shall contain the:
1. Name and current address of the person submitting the petition;
 2. Identification of the proposed rule;
 3. Need for the delay, specifying the undue hardship or other adverse impact that may result if the request for a delayed effective date is not granted;

4. Reason why the public interest will not be harmed by the delayed effective date;
5. Signature of the person submitting the petition; and
6. Date the person signs the petition.

- B.** The ASRS shall send a written notice of the ASRS's decision to the person within 30 days of receipt of the Petition for Delayed Effective Date.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

ARTICLE 7. CONTRIBUTIONS NOT WITHHELD**R2-8-701. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "218 agreement" means a written agreement between the state, political subdivision, or political subdivision entity and the Social Security Administration, under the provisions of § 218 of the Social Security Act, to provide Social Security and Medicare or Medicare-only coverage to employees of the state, political subdivision, or political subdivision entity.
2. "Documentation" means a pay stub, completed W-2 form, completed Verification of Contributions Not Withheld form, Employer letter or spreadsheet, completed State Personnel Action Request Form, Social Security Earnings Report, employment contract, payroll record, timesheet, or other Employer-provided form that includes:
 - a. Whether the employee was covered under the Employer's 218 Agreement prior to July 24, 2014,
 - b. The number of hours the member worked or was Engaged to Work for the Employer per pay period, and
 - c. The amount and type of compensation earned by the member within each pay period.
3. "Eligible service" means employment with an Employer:
 - a. That is no more than 15 years before the date the ASRS receives written credible evidence that less than the correct amount of contributions were paid into the ASRS or the ASRS otherwise determines that less than the correct amount of contributions were made as specified in A.R.S. § 38-738(C); and
 - b. In which the member was Engaged to Work for an Employer.
4. "Engaged to Work" means the same as in R2-8-1001.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Amended by final expedited rulemaking at 28 A.A.R. 1366 (June 10, 2022), with an immediate effective date of May 18, 2022 (Supp. 22-2).

R2-8-702. General Information

- A.** The Employer shall pay the Employer's portion of the contributions the ASRS determines is owed under R2-8-706 whether or not the member pays the member's portion of the contributions.

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- B. The person who initiates the claim that contributions were not withheld for Eligible Service has the burden to prove a contribution error was made.
- C. The ASRS shall not waive payment of contributions or interest owed under this Article.
- D. If a member is not able to establish eligibility for purchasing service credit pursuant to this Article, the member may be eligible to purchase service pursuant to A.R.S. § 38-743 and Article 5 of this Chapter.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4).
Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-703. Employer's Discovery of Error

If an Employer determines that any amount of contributions have not been withheld for a member for a period of Eligible Service, the Employer shall notify the ASRS by submitting through the Employer's secure ASRS account a Verification of Contributions Not Withheld form with the following information:

1. The member's full name;
2. The member's Social Security number;
3. The range of dates that any contribution was not withheld;
4. The member's position title during the date range listed in subsection (3);
5. The amount and type of compensation the member was entitled to receive, and the number of hours the member worked for the Employer per pay period for each fiscal year;
6. The member's hire date;
7. Whether the member was Engaged to Work for the Employer;
8. Whether the position was covered under the Employer's 218 Agreement for periods prior to July 24, 2014; and
9. The dated signature of the Employer's authorized agent certifying:
 - a. All the dates and salary information is correct;
 - b. The person submitting this form has the legal power to enter into binding transactions with the ASRS;
 - c. Acknowledgement the Employer will receive an invoice for the contributions owed for Eligible Service only, as well as the accumulated interest on the contributions that were not withheld for both the member and Employer contributions; and
 - d. Acknowledgement the member will receive an invoice for their contributions owed.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4).
Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-704. Member's Discovery of Error

- A. If a member believes that an Employer has not withheld contributions for the member for a period of Eligible Service, the member shall:
 1. Notify the member's Employer that the Employer has not withheld contributions correctly by contacting the Employer directly; or
 2. Submit to the ASRS a Contributions Not Withheld Request form through the member's secure ASRS account with the following:
 - a. The name of the Employer that should have remitted contributions;
 - b. The range of dates that any contribution was not withheld;
 - c. The member's position title during the date range listed in subsection (A)(2)(b);
 - d. Whether the member was Engaged to Work for the Employer; and
 - e. Dated signature of the member certifying the member understands:
 - i. The ASRS will be providing the member's Social Security number to the Employer for verification; and
 - ii. If the member's Employer cannot verify this request, it is the member's responsibility to provide Documentation of Eligible Service.

- B. If the information provided by the eligible member pursuant to subsection (A) is correct, the Employer shall validate the information and submit the information to the ASRS through the Employer's secure ASRS account. If the information provided by the eligible member pursuant to subsection (A) is incorrect, the Employer shall either correct the information and submit the corrected information to the ASRS through the Employer's secure ASRS account, along with the information identified in R2-8-703 or cancel the request by notifying the member through ASRS secure messaging the reason the request was canceled.
- C. If the Employer refuses to fill out the Verification of Contributions Not Withheld form, or if the member disputes the information the Employer completes on the form, the member shall provide the ASRS with the Documentation the member believes supports the allegation that contributions should have been withheld.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Section amended by final rulemaking at 22 A.A.R. 3326, effective January 1, 2017 (Supp. 16-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Amended by final expedited rulemaking at 28 A.A.R. 1366 (June 10, 2022), with an immediate effective date of May 18, 2022 (Supp. 22-2).

R2-8-705. ASRS' Discovery of Error

If the ASRS determines, as specified in A.R.S. § 38-738(B)(7), that all contributions have not been withheld for a member for a period of Eligible Service, the ASRS shall notify the Employer in writing and shall request the Employer submit through the Employer's secure ASRS account a Verification of Contributions Not Withheld form pursuant to R2-8-703.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4).
Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-706. Determination of Contributions Not Withheld

- A. Upon receipt of the information listed in R2-8-703, R2-8-704, or R2-8-705, the ASRS shall review the information to determine whether or not member contributions should have been withheld by the Employer, the length of time those contributions should have been withheld, and the amount of contributions that should have been withheld.

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- B.** Except for a member who met the requirements to be an active member while simultaneously contributing to another retirement plan listed in subsection (B)(2), for purposes of this Article, the ASRS shall determine that contributions should not have been withheld for the period of service in question if:
1. An Employer remits an accurate ACR amount pursuant to R2-8-116; or
 2. The employee participates in:
 - a. Another Arizona retirement plan listed in A.R.S. Title 38, Chapter 5, Articles 3, 4, or 6; or
 - b. In an optional retirement plan listed in A.R.S. Title 15, Chapter 12, Article 3 or A.R.S. Title 15, Chapter 13, Article 2.
- C.** Except for returning to work under A.R.S. § 38-766.01, the presence of a contract between a member and the Employer does not alter the contribution requirements of A.R.S. §§ 38-736 and 38-737.
- D.** If there is any discrepancy between the Documentation provided by the Employer and the Documentation provided by the member, a document used in the usual course of business prepared at the time in question is controlling.
- E.** The ASRS shall provide to each, Employer and the member, an invoice with the following:
1. The amount of Eligible Service for which contributions were not withheld,
 2. The dollar amount of the contributions to be paid to the ASRS by the Employer,
 3. The interest on the Employer contributions and member contributions to be paid to the ASRS by the Employer pursuant to A.R.S. § 38-738,
 4. The amount of the delinquent interest late charge to be paid to the ASRS by the Employer pursuant to A.R.S. § 38-735, and
 5. The dollar amount of contributions to be paid to the ASRS by the member.
- F.** The ASRS shall send the member an invoice according to subsection (E) after the Employer has remitted the full amount due to be paid by the Employer.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Section amended by final rulemaking at 22 A.A.R. 3326, effective January 1, 2017 (Supp. 16-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Amended by final expedited rulemaking at 28 A.A.R. 1366 (June 10, 2022), with an immediate effective date of May 18, 2022 (Supp. 22-2).

R2-8-707. Submission of Payment

- A.** Within 90 days from the date on the statement invoice identified in R2-8-706(E), the Employer shall pay to the ASRS the amount due to be paid by the Employer. An Employer who makes payment under A.R.S. § 38-738(B)(3) is not liable for additional interest that may accrue as a result of a member's failure to remit payment required by A.R.S. § 38-738(B)(1). If the ASRS does not receive full payment of the Employer's amount due within 90 days after the ASRS notifies the Employer of the amount due, the full amount due will accrue interest as provided in A.R.S. § 38-738. The ASRS may collect the unpaid balance plus interest pursuant to A.R.S. § 38-735(C).
- B.** The member shall make payment to the ASRS pursuant to A.R.S. § 38-738 by the due date specified on the member's invoice identified in R2-8-706(E).

- C.** If the ASRS does not receive full payment of the member's amount due by the due date specified on the member's invoice identified in R2-8-706(E), the full amount due will accrue interest, as provided in A.R.S. § 38-738.
- D.** A member does not receive service credit or credit for salary until both the Employer and member portions of the contributions and all interest has been paid pursuant to A.R.S. § 38-738.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Amended by final expedited rulemaking at 28 A.A.R. 1366 (June 10, 2022), with an immediate effective date of May 18, 2022 (Supp. 22-2).

R2-8-708. Expired**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 2982, effective September 15, 2016 (Supp. 16-3).

R2-8-709. Repealed**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Repealed by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

ARTICLE 8. RECOVERY OF OVERPAYMENTS**R2-8-801. Definitions**

For purposes of this Article, the following definitions apply, unless specified otherwise:

1. "Estimated Social Security disability income amount" and "Revised Social Security disability income amount" mean the amount of funds the ASRS is entitled to collect pursuant to R2-8-802.
2. "LTD" means long-term disability program as described in A.R.S. § 38-797 et seq.
3. "LTD benefit" means the same as in R2-8-301.
4. "Overpayment" means:
 - a. Any funds the ASRS distributes in excess of the amount to which the recipient is legally entitled; and
 - b. Any estimated social security disability income amount or revised social security disability income amount the ASRS is entitled to collect pursuant to A.R.S. § 38-765.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 28 A.A.R. 1746 (July 22, 2022), effective September 4, 2022 (Supp. 22-3).

R2-8-802. Estimated Social Security Disability Income Amount and Revised Social Security Disability Income Amount

- A.** The ASRS contracted LTD claims administrator shall determine a member's estimated Social Security disability income amount as follows:
1. Prior to the death, retirement, or forfeiture of a member, the estimated Social Security disability income amount shall be equal to the member's full monthly LTD benefit

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reduced by \$50 per month pursuant to A.R.S. § 38-797.07(A)(9); and

2. Upon the member's death, retirement, or forfeiture, the estimated Social Security disability income amount shall be equal to the total amount of the member's LTD benefit, reduced by \$50 per month pursuant to A.R.S. § 38-797.07(A)(9).
- B. A member or survivor who disputes the estimated Social Security disability income amount based on the conclusions of a legal proceeding may request a revised Social Security disability income amount by submitting supporting documentation from the legal proceeding to the ASRS contracted LTD claims administrator within 30 days of the date of conclusion of the legal proceeding.
- C. Pursuant to subsection (B), the ASRS or the ASRS contracted LTD claims administrator shall determine whether the estimated Social Security disability income amount needs to be revised based on the conclusions of the legal proceeding.
- D. If the ASRS or the ASRS contracted LTD claims administrator determines the estimated Social Security disability income amount was inaccurate, the ASRS or the ASRS contracted LTD claims administrator shall calculate a revised Social Security disability income amount based on the supporting documentation provided by the member or survivor pursuant to subsection (B).
- E. Pursuant to subsection (B), if the revised Social Security disability amount is less than the amount of the estimated Social Security disability benefit, the ASRS or the ASRS contracted LTD claims administrator shall:
 1. Refund a portion of the amount of the estimated Social Security disability benefit that the ASRS retained upon forfeiture of the member in order to offset the difference between the estimated Social Security disability income amount and the revised Social Security disability income amount, or
 2. Adjust the member's retirement benefits or the survivor's benefits to offset the difference between the estimated Social Security disability income amount and the revised Social Security disability income amount.
- F. If a member or survivor is not satisfied with the determination on the request for a revised Social Security disability income amount, the member or survivor may appeal the determination pursuant to 2 A.A.C. 8, Article 4.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

R2-8-803. Reimbursement of Overpayments

- A. Upon the ASRS discovering that it has made an overpayment to an Employer, member, survivor, or alternate payee, the ASRS shall send a letter to notify the necessary person that an overpayment was provided and the person shall reimburse the ASRS in the amount of the overpayment.
- B. A person, other than Employer, who reimburses the ASRS for an overpayment shall do so by remitting a check or money order, made payable to the ASRS, by the due date specified in the letter providing notice of the overpayment.
- C. An Employer that reimburses the ASRS for an overpayment shall do so by remitting payment through the Employer's secure ASRS account, or by check or money order made payable to the ASRS, by the due date specified in the letter providing notice of the overpayment.
- D. If the ASRS is unable to collect the amount of an overpayment by reducing future payments to Employers, members, survi-

vors, or alternate payees as provided in this Article, the ASRS shall allow the appropriate person to reimburse the ASRS for the amount of the overpayment by making payments over the course of as many months as the number of months in which an overpayment was made by the ASRS, not to exceed 36 months.

- E. A person may request to reimburse the amount of the overpayment to the ASRS sooner than provided in this Article.
- F. If an Employer, member, survivor, or alternate payee does not repay the amount of an overpayment pursuant to this Article, the ASRS may reduce a Health Insurance Premium Benefit that is paid pursuant to Article 2.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).
Amended by final rulemaking at 28 A.A.R. 1261 (June 10, 2022), effective July 17, 2022 (Supp. 22-2).

R2-8-804. Collection of Overpayments from Forfeiture

- A. Unless a member cancels a forfeiture request by submitting written notice to the ASRS within 30 days of the request to forfeit, the ASRS shall reduce a member's refund amount in order to offset the member's overpayment amount pursuant to subsection (B).
- B. The ASRS shall reduce the member's refund amount by the amount of any overpayment and the ASRS shall:
 1. Pursue collection of any remaining overpayment amount pursuant to this Article; and
 2. Distribute the remaining refund amount to the member pursuant to R2-8-115.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

R2-8-805. Collection of Overpayments from Retirement Benefit

- A. Notwithstanding A.R.S. § 38-768, the ASRS may reduce a person's benefit pursuant to this Section.
- B. Upon retirement, the ASRS shall reduce the amount of a member's retirement benefit by the amount of any overpayments that have not been reimbursed to the ASRS, pursuant to R2-8-803 as follows:
 1. If the member elects to receive a lump sum or partial lump sum benefit, the amount of the lump sum or partial lump sum shall be reduced by the amount of the overpayment to no less than \$5.00 and the ASRS shall pursue overpayment collections for any remaining overpayment amount pursuant to this Article;
 2. If the member elects to receive retirement benefits as a monthly annuity and the amount of the overpayment is equal to or less than the amount of the member's first annuity disbursement minus \$5.00, the ASRS shall reduce the amount of the first annuity disbursement by the amount of any overpayment to no less than \$5.00;
 3. If the member elects to receive retirement benefits as a monthly annuity and the amount of the overpayment exceeds the amount of the member's first annuity disbursement plus \$5.00, the ASRS shall reduce the amount of the first annuity disbursement by the amount of the overpayment to no less than \$5.00 and pursue collection pursuant to subsection (C).
- C. The ASRS shall reduce a member's or alternate payee's monthly annuity as follows in order to offset any overpay-

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ments which have not been reimbursed or collected pursuant to this Article:

1. The ASRS shall reduce the member's monthly annuity by up to 10% for 36 months, if the amount of the overpayment can be collected by the ASRS within that time.
2. If the amount of the overpayment cannot be collected pursuant to subsection (C)(1), the ASRS will notify the member that the member must make payment arrangements within 60 days of the date on the notice. If the member does not make payment arrangements within 60 days of the date on the notice, the ASRS shall actuarially reduce the amount of the member's monthly annuity.

- D. Notwithstanding subsection (B), the ASRS shall not reduce a member's or alternate payee's monthly annuity by an estimated Social Security disability income amount while the member is pursuing a Social Security disability income determination pursuant to R2-8-305, if the member submits documentation to the ASRS every six months informing the ASRS of the status of the member's Social Security disability income request until a determination is made regarding the amount of Social Security disability income.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

R2-8-806. Collection of Overpayments from Survivor Benefit

- A. Notwithstanding A.R.S. § 38-768, the ASRS may reduce a person's benefit pursuant to this Section.
- B. If a member, survivor, or alternate payee does not repay the amount of an overpayment pursuant to this Article, the ASRS shall reduce the necessary person's amount of benefits pursuant to subsection (C).
- C. The ASRS shall collect the amount of any remaining overpayment by reducing the necessary person's monthly annuity over the same number of months in which the overpayment was made, up to 3 months for each month an overpayment was made by the ASRS.
- D. If the ASRS is unable to collect the amount of any overpayment pursuant to subsection (C), the ASRS shall pursue collection of any remaining overpayment amount pursuant to this Article.
- E. Notwithstanding subsection (C), the ASRS shall not reduce a survivor's monthly annuity by an estimated Social Security disability income amount while the survivor is pursuing a Social Security disability income determination on behalf of the member pursuant to R2-8-305, if the survivor submits documentation to the ASRS every six months informing the ASRS of the status of the member's Social Security disability income request until a determination is made regarding the amount of Social Security disability income to which the member was entitled.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

R2-8-807. Collection of Overpayments from LTD Benefit

Upon disability of the member, the ASRS shall reduce the amount of the disabled member's LTD benefit by the amount of any overpayment the member received from the ASRS and has not reimbursed pursuant to this Section.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3).

R2-8-808. Collection of Overpayments by the Attorney General

If an Employer, member, survivor, or alternate payee does not reimburse the ASRS for an overpayment pursuant to R2-8-803, the ASRS may submit the overpayment amount for collection by the Arizona Attorney General's Office.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

Amended by final rulemaking at 28 A.A.R. 1261 (June 10, 2022), effective July 17, 2022 (Supp. 22-2).

R2-8-809. Collection of Overpayments by the Arizona Department of Revenue

If an Employer, member, survivor, or alternate payee does not reimburse the ASRS for an overpayment pursuant to R2-8-803, the ASRS may submit the overpayment amount for collection by the Arizona Department of Revenue.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

Amended by final rulemaking at 28 A.A.R. 1261 (June 10, 2022), effective July 17, 2022 (Supp. 22-2).

R2-8-810. Collection of Overpayments by Garnishment or Levy

Pursuant to A.R.S. § 38-723, the ASRS may collect the amount of any overpayment that has not been reimbursed or collected pursuant to this Article by garnishing wages and/or placing a levy on the appropriate person's bank account.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

ARTICLE 9. COMPENSATION**R2-8-901. Definitions**

"Services rendered" means the duties which a member performs for an Employer as required by the member's employment with the Employer.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2). New Section made by final rulemaking at 27 A.A.R. 91, effective March 9, 2021 (Supp. 21-1).

R2-8-902. Remitting Contributions

Pursuant to A.R.S. §§ 38-736, 38-737, and 38-797.05, an Employer shall remit contributions to the ASRS through the Employer's secure ASRS account for any payment the Employer provides to the member that is eligible to be included as compensation under this Section.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2). New Section made

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by final rulemaking at 27 A.A.R. 91, effective March 9, 2021 (Supp. 21-1).

R2-8-903. Accrual of Credited Service

- A. A member shall accrue service credits pursuant A.R.S. § 38-739 for each month in which the Employer's pay period ends and for which contributions have been remitted to the ASRS, except for pay the member receives from the Employer for services rendered in a prior pay period for which contributions were remitted pursuant to R2-8-902.
- B. Regardless of whether the member meets membership requirements with more than one Employer, a member may not earn more than one month of service credit in a calendar month and not more than one year of service credit during a fiscal year.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2). New Section made by final rulemaking at 27 A.A.R. 91, effective March 9, 2021 (Supp. 21-1).

R2-8-904. Compensation from An Additional Employer

- A. For purposes of remitting contributions pursuant to R2-8-902, compensation includes pay the member receives from an additional Employer if:
1. The member meets membership pursuant to A.R.S. § 38-711 with at least one Employer;
 2. The member was employed with the additional Employer and did not meet membership with the additional Employer pursuant to A.R.S. § 38-711 between January 1, 2005 through December 31, 2009;
 3. The member resumed or continued employment with the additional Employer and did not meet membership with the additional Employer prior to January 1, 2012; and
 4. The member does not leave employment with an Employer or the additional Employer in an unpaid status for more than 30 consecutive days during the member's service year.
- B. For purposes of calculating average monthly compensation according to A.R.S. § 38-711, compensation includes the pay identified in subsection (A).
- C. Notwithstanding any other subsection, for a member whose membership began after December 31, 2009, compensation includes pay the member receives from an additional Employer if the member meets membership pursuant to A.R.S. § 38-711 with the additional Employer.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2). New Section made by final rulemaking at 27 A.A.R. 91, effective March 9, 2021 (Supp. 21-1).

R2-8-905. Expired**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2).

ARTICLE 10. MEMBERSHIP**R2-8-1001. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "218 Agreement" means the same as in R2-8-701.
2. "218 Resolution" means written authorization for a potential Employer to provide Social Security and Medicare or Medicare-only coverage to employees under the provisions of § 218 of the Social Security Act.
3. "Acceptable Documentation" means the same as in R2-8-115.
4. "Designated Employer Administrator" means an individual designated by the Employer and who has authorized access to the Employer's secure ASRS account in order to fulfill the Employer's responsibilities.
5. "Engaged To Work" means the earlier of:
 - a. The date the employee begins rendering services for the Employer and the Employer intends the employee to work for at least 20 hours a week for at least 20 weeks in a fiscal year or;
 - b. The week an employee renders services to an Employer for at least 20 hours a week for at least 20 weeks in a fiscal year.
6. "Leasing An Employee From A Third Party" means the same as "Leased from a third party" in R2-8-116.
7. "State Social Security Administrator" means the ASRS staff designated by the Board to approve 218 Agreements.
8. "Week" means 12:00 a.m. on Sunday through 11:59 p.m. on the following Saturday.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

R2-8-1002. Employee Membership

- A. For purposes of active member eligibility, an employee of an Employer becomes a member of the ASRS pursuant to A.R.S. § 38-711(23) when the employee is Engaged To Work for the Employer.
- B. If the Employer does not provide an accurate date for which an employee was Engaged To Work pursuant to subsection (A), the ASRS shall determine that an employee's membership effective date will be the member's hire date, if provided by the Employer and within 30 days of the first pay period end date after the hire date, for which the Employer was required to submit contributions.
- C. If the Employer does not provide a hire date pursuant to subsection (B), the effective date is the first pay period end date of contributions received for that member.
- D. Unless a member terminates employment or retires from the ASRS, for purposes of determining active member eligibility, a member will continue to be an active member for the remainder of a fiscal year in which the employee met the requirements to be an active member in the ASRS with that Employer pursuant to A.R.S. § 38-711.
- E. Within 30 days of employment, an employee who is eligible for ASRS membership pursuant to A.R.S. § 38-711(23) shall create a secure ASRS account and submit to the ASRS through the employee's secure ASRS account the following information:
1. The Employee's full name;
 2. The Employee's Social Security number;
 3. The Employee's date of birth;
 4. The Employee's gender;
 5. The Employee's marital status;
 6. The Employee's primary phone number;

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7. The Employee's personal email address;
 8. The Employee's current mailing address; and
 9. The Employee's designated beneficiary.
- F.** Within 30 days of a change in the member's name, the member shall submit to the ASRS through the member's secure ASRS account a Change of Name form that contains:
1. The member's full name that is on file with the ASRS;
 2. The member's Social Security number;
 3. The member's current mailing address;
 4. The member's date of birth;
 5. The member's personal email address;
 6. The member's primary phone number;
 7. The member's gender;
 8. The member's marital status;
 9. The member's retired, active, inactive, or LTD status with the ASRS;
 10. The member's new full name;
 11. The type of legal document establishing the member's new name;
 12. A copy of the legal document establishing the member's new name; and
 13. The member's dated signature.
- G.** Within 30 days of a change in the member's contact information, the member shall notify the ASRS of the change.
- H.** If an employee of an Employer meets the requirements of A.R.S. § 38-727(A)(8), the employee may elect to not participate in the ASRS.
- I.** Within 30 days after employment, an Employer whose employee is 65 years of age or older as of the date of employment and who has elected not to participate in the ASRS pursuant to subsection (H), shall submit to the ASRS through the Employer's secure ASRS account a 65+ Membership Waiver form that contains:
1. The employee's full name;
 2. The employee's Social Security number;
 3. The employee's current mailing address;
 4. The employee's date of birth;
 5. The employee's dated signature acknowledging the following statements:
 - a. The employee is electing to waive any rights to ASRS membership and the employee will not be eligible for any retirement, disability, or health insurance benefits offered by the ASRS;
 - b. The employee is not a member of the ASRS as of the date of employment; and
 - c. The employee understands that this election is irrevocable for the remainder of the employee's employment with that Employer and the time the employee works under this election is not eligible for purchase in the ASRS;
 6. The Employer's name;
 7. The date employee's employment began; and
 8. The name and dated signature of the Employer's representative.
- J.** A corrected and completed 65+ Membership Waiver form must be resubmitted to the ASRS pursuant to subsection (I) within 14 days of the date the ASRS notifies the employee that the 65+ Membership Waiver form is incorrect or incomplete.
- Historical Note**
- New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).
- R2-8-1003. Charter School Employer Membership**
- A.** Pursuant to A.R.S. § 15-187(C), a charter school in Arizona is considered a political subdivision that is eligible to participate in the ASRS if the charter school is sponsored by:
1. A state university;
 2. A community college district;
 3. A group of community college districts;
 4. The state board of education; or
 5. The state board for charter schools.
- B.** In order to participate as an Employer in the ASRS, a charter school shall notify the ASRS in writing of the charter school's intent to join the ASRS and provide:
1. A copy of the current and active Charter Contract, including any amendments, which is approved by the entity sponsoring the charter school pursuant to subsection (A);
 2. Documentation showing the name and location of all schools authorized by the Charter Contract identified in subsection (B)(1); and
 3. Documentation showing the charter school board's approval to pursue ASRS membership and complete ASRS requirements for membership.
- C.** Upon receipt of the information contained in subsection (B), the ASRS shall determine if the charter school is eligible to participate in the ASRS. If the charter school is not eligible to participate in the ASRS, the ASRS shall send the charter school a notice of ineligibility. If the charter school is eligible to participate, the ASRS shall provide the charter school a Potential New Employer Letter.
- D.** In order to participate as an Employer in the ASRS, an eligible charter school shall submit to the ASRS the following original documents by the due date listed on the Potential New Employer Letter:
1. The current retirement plan or a statement signed by the designated authorized agent for the charter school acknowledging there is no current retirement plan.
 2. Two ASRS Agreements showing:
 - a. The legal name and current mailing address of the charter school as sponsored pursuant to subsection (A);
 - b. What amount of prior service the charter school shall purchase for employees pursuant to R2-8-1006;
 - c. The approximate number of employees that will become members upon the effective date of the ASRS Agreement;
 - d. The name, title, email address, and telephone number of the designated authorized agent for the charter school;
 - e. The designated authorized agent is authorized and directed to conduct all negotiations, conclude all arrangements, and sign all documents necessary to administer the supplemental ASRS retirement plan pursuant to A.R.S. Title 38, Chapter 5, Articles 2 and 2.1; and
 - f. The ASRS Agreement is binding and irrevocable;
 - g. The effective date of the ASRS Agreement;
 - h. The charter school agrees to be bound by the provisions of A.R.S. Title 38, Chapter 5, Article 2 and Article 2.1 unless otherwise indicated by law; and
 - i. The dated signature of the designated authorized agent for the charter school.
 3. Two ASRS Resolutions showing:
 - a. The legal name of the charter school as sponsored pursuant to subsection (A);

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- b. The charter school is adopting a supplemental ASRS retirement plan pursuant to A.R.S. § 38-729;
 - c. The charter school agrees to be bound by the provisions of A.R.S. Title 38, Chapter 5, Article 2 and Article 2.1 unless otherwise indicated by law;
 - d. The designated authorized agent for the charter school;
 - e. The designated authorized agent is authorized and directed to conduct all negotiations, conclude all arrangements, and sign all documents necessary to administer the supplemental ASRS retirement plan pursuant to A.R.S. Title 38, Chapter 5, Articles 2 and 2.1; and
 - f. The dated and notarized signature of the designated authorized agent.
4. Two 218 Agreements either electing or declining coverage. If the charter school is electing coverage pursuant to a 218 Agreement, the 218 Agreement must be completed and approved by the Social Security Administration prior to joining the ASRS.
 5. Two 218 Resolutions, if the charter school is electing coverage pursuant to subsection (D)(4). The 218 Resolutions must be completed and approved by the Social Security Administration prior to joining the ASRS.
- E.** Upon receipt of Acceptable Documentation identified in subsection (D), the ASRS may approve the charter school's request for membership pursuant to A.R.S. § 38-729. If the request to join the ASRS is approved, the state Social Security administrator shall sign the 218 Agreements and the ASRS Director shall sign the ASRS Agreements before the ASRS shall send one of each of the original documents identified in subsection (D) to the charter school.
- F.** Any charter school that is established under the charter contract of a participating charter school shall participate in the ASRS.
- Historical Note**
- New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).
- R2-8-1004. Other Political Subdivision and Political Subdivision Entity Employer Membership**
- A.** A political subdivision or political subdivision entity, other than a charter school, may be eligible to participate in the ASRS pursuant to A.R.S. §§ 38-711 and 38-729 if it notifies the ASRS in writing of the political subdivision's or political subdivision entity's intent to join the ASRS and provides to the ASRS:
1. A copy of the current legal authority establishing the political subdivision or political subdivision entity;
 2. Documentation showing the name and location of the political subdivision or political subdivision entity; and
 3. Documentation showing the political subdivision or political subdivision entity has taken the necessary legal action to be eligible to participate pursuant to A.R.S. § 38-729.
- B.** Upon receipt of the information contained in subsection (C), the ASRS shall determine if the political subdivision or political subdivision entity is eligible to participate in the ASRS. If the political subdivision or political subdivision entity is not eligible to participate in the ASRS, the ASRS shall send the political subdivision or political subdivision entity a notice of ineligibility. If the political subdivision or political subdivision entity is eligible to participate, the ASRS shall provide the political subdivision or political subdivision entity a Potential New Employer Letter.
- C.** In order to participate as an Employer in the ASRS, an eligible political subdivision or political subdivision entity shall submit to the ASRS the following original documents by the due date listed on the Potential New Employer Letter:
1. The current retirement plan or a statement signed by the designated authorized agent for the political subdivision or political subdivision entity acknowledging there is no current retirement plan.
 2. Two ASRS Agreements showing:
 - a. The legal name and current mailing address of the political subdivision or political subdivision entity;
 - b. What amount of prior service the political subdivision or political subdivision entity shall purchase for employees pursuant to R2-8-1006;
 - c. The approximate number of employees that will become members upon the effective date of the ASRS Agreement;
 - d. The name, title, email address, and telephone number of the designated authorized agent for the political subdivision or political subdivision entity;
 - e. The designated authorized agent is authorized and directed to conduct all negotiations, conclude all arrangements, and sign all documents necessary to administer the supplemental ASRS retirement plan pursuant to A.R.S. Title 38, Chapter 5, Articles 2 and 2.1; and
 - f. The ASRS Agreement is binding and irrevocable;
 - g. The effective date of the ASRS Agreement;
 - h. The political subdivision or political subdivision entity agrees to be bound by the provisions of A.R.S. Title 38, Chapter 5, Article 2 and Article 2.1 unless otherwise indicated by law; and
 - i. The dated signature of the designated authorized agent for the political subdivision or political subdivision entity.
 3. Two ASRS Resolutions showing:
 - a. The legal name of the political subdivision or political subdivision entity;
 - b. The political subdivision or political subdivision entity is adopting a supplemental ASRS retirement plan pursuant to A.R.S. § 38-729;
 - c. The political subdivision or political subdivision entity agrees to be bound by the provisions of A.R.S. Title 38, Chapter 5, Article 2 and Article 2.1 unless otherwise indicated by law;
 - d. The designated authorized agent for the political subdivision or political subdivision entity;
 - e. The designated authorized agent is authorized and directed to conduct all negotiations, conclude all arrangements, and sign all documents necessary to administer the supplemental ASRS retirement plan pursuant to A.R.S. Title 38, Chapter 5, Articles 2 and 2.1; and
 - f. The dated and notarized signature of the designated authorized agent.
 4. Two 218 Agreements either electing or declining coverage. If the political subdivision or political subdivision entity is electing coverage pursuant to a 218 Agreement, the 218 Agreement must be completed and approved by the Social Security Administration prior to joining the ASRS.

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5. Two 218 Resolutions, if the political subdivision or political subdivision entity is electing coverage pursuant to subsection (C)(4). The 218 Resolutions must be completed and approved by the Social Security Administration prior to joining the ASRS.
- D. Upon receipt of Acceptable Documentation identified in subsection (B), the ASRS may approve the political subdivision's or political subdivision entity's request for membership pursuant to A.R.S. § 38-729. If the request to join the ASRS is approved, the state Social Security administrator shall sign the 218 Agreements and the ASRS Director shall sign the ASRS Agreements before the ASRS shall send one of each of the original documents identified in subsection (B) to the political subdivision or political subdivision entity.
5. The phone number of the individual the Employer is designating as the Employer's Designated Employer Administrator;
6. The email address of the individual the Employer is designating as the Employer's Designated Employer Administrator;
7. The dated signature of the individual the Employer is designating as the Employer's Designated Employer Administrator.
- F. An Employer's Designated Employer Administrator shall establish a new Employer's Designated Employer Administrator as needed through the Employer's secure ASRS account.
- G. Within 30 days of an Employer no longer having an Employer's Designated Employer Administrator, the Employer shall submit in writing an initial online authorization and designation form pursuant to subsection (E).
- H. Within 30 days of change in the Employer's address, the Employer shall notify the ASRS of the change through the Employer's secure ASRS account.
- I. Within 10 days of any change in the name or ownership of the Employer, the Employer shall provide written notice of the change to the ASRS through the Employer's secure ASRS account by providing the Employer's previous account information and the changes to that information.
- J. Within 30 days of any change in the character of an Employer's organizational structure, the Employer shall send to the ASRS through the Employer's secure ASRS account, written notice of the previous organizational structure and the effective changes to the Employer's organizational structure.
- K. Within 30 days of Leasing An Employee From A Third Party, an Employer shall submit the following information:
 1. The employee's full name;
 2. The number of hours per week the employee works for the Employer;
 3. The title of the employee's position;
 4. A copy of the agreement showing the Employer Leasing An Employee From A Third Party; and
 5. Whether the employee is retired from the ASRS.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

R2-8-1005. Employer Reporting

- A. An Employer shall submit contribution information and contribution payments pursuant to A.R.S. § 38-735, through the Employer's secure ASRS account.
- B. Within 14 days of receiving the information contained in subsection R2-8-1002(E)(1) through (E)(3), the Employer shall:
 1. Verify the information the employee provided;
 2. Confirm the employee meets membership requirements pursuant to A.R.S. § 38-711; and
 3. Submit the verified information to the ASRS through the Employer's secure ASRS account.
- C. For an Employer whose employee elects to participate in an Optional Retirement Plan in lieu of the ASRS pursuant to A.R.S. §15-1628, within 30 days of electing to participate in an Optional Retirement Plan, the Employer shall submit to the ASRS through the Employer's secure ASRS account the:
 1. Employee's full name;
 2. Employee's Social Security number;
 3. Date of the employee's employment; and
 4. Date of the employee's Optional Retirement Plan election.
- D. For an Employer who has submitted information pursuant to subsection (C), within 30 days of that employee terminating employment with that Employer, the Employer shall notify the ASRS through the Employer's secure ASRS account of the employee's termination date.
- E. Within 14 days before the effective date of joining the ASRS, an Employer shall submit an initial online authorization and designation form in writing to the ASRS with the following information:
 1. The Employer's name;
 2. The following information for the person authorized by the Employer to approve the Employer's Designated Employer Administrator:
 - a. The person's full name;
 - b. The person's title;
 - c. The person's phone number;
 - d. The person's email address;
 - e. The person's dated signature affirming that person has the authority to approve the Employer's Designated Employer Administrator;
 3. The full name of the individual the Employer is designating as the Employer's Designated Employer Administrator;
 4. The title of the individual the Employer is designating as the Employer's Designated Employer Administrator;

Historical Note

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

R2-8-1006. Prior Service Purchase Cost for New Employers

- A. Pursuant to A.R.S. § 38-729, upon the effective date of joining the ASRS, an Employer may elect to purchase service credit for a period of employment prior to the effective date of joining the ASRS for employees Engaged To Work for the Employer on the effective date of joining the ASRS who are members of the ASRS as of the effective date of joining the ASRS.
- B. The ASRS may provide to a potential Employer an estimated cost to purchase service credit pursuant to this Section. In order for the ASRS to estimate the cost to purchase service pursuant to this Section, a potential Employer shall provide the following information to the ASRS for each employee of the potential Employer who is Engaged To Work for the potential Employer and for whom the potential Employer intends to purchase service credit pursuant to this Section:
 1. The employee's full name;
 2. The employee's date of birth;
 3. The employee's Social Security number;
 4. The employee's current salary; and
 5. The date the employee began employment with the potential Employer.

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- C. An Employer who elects to purchase service credit pursuant to this Section shall submit the following information for each member for which the Employer is purchasing service credit:
1. Member's full name;
 2. Member's date of birth;
 3. Member's Social Security number;
 4. Member's date of employment;
 5. Documentation showing the Member is Engaged To Work for the Employer as of the effective date of joining the ASRS;
 6. Member's current salary as of the effective date of joining the ASRS; and
 7. The number of years the Employer is electing to purchase for the member pursuant to this Section or the dollar amount the Employer is electing to pay to purchase service for the member pursuant to this Section.
- D. The cost to purchase service credit pursuant to this Section shall be determined using an actuarial present value calculation.
- E. An Employer who elects to purchase service credit pursuant to this Section shall submit payment for the full cost of the service purchase to the ASRS within 90 days of the date of notification by the ASRS.
- F. If an Employer who elects to purchase service credit pursuant to this Section does not submit payment for the full cost of the service purchase within 90 days of the date of notification, the Employer is not eligible to purchase service credit pursuant to this Section.
- G. An employer may not purchase service credit pursuant to this Section for a time period for which the employee is eligible to receive retirement benefits from another public employee retirement system.
- H. For purposes of this Section, "another public employee retirement system" means the same as in R2-8-505.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4). Amended by final rulemaking at 28 A.A.R. 1257 (June 10, 2022), effective July 17, 2022 (Supp. 22-2).

ARTICLE 11. TRANSFER OF SERVICE CREDIT**R2-8-1101. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Actuarial present value" means an amount in today's dollars of a member's future retirement benefit calculated using appropriate actuarial assumptions and the:
 - a. Member's Current Years of Credited Service;
 - b. Member's age as of the date the Member submits to the ASRS a request to transfer service credit pursuant to this Article; and
 - c. Member's most recent annual compensation.
2. "Current years of credited service" means:
 - a. For Transfer In Service, the amount of credited service a member has earned or purchased, and the amount of service credit for which an Irrevocable PDA is in effect for which the member has not yet completed payment, but does not include any current requests to purchase service credit for which the member has not yet paid; and
 - b. For transferring service credit to the Other Retirement Plan, the amount of credited service a member has earned or purchased, but does not include service credit for which the member has not yet paid.
3. "Irrevocable PDA" means the same as in R2-8-501.
4. "Funded Actuarial Present Value" means the Actuarial Present Value reduced to the extent funded on market value basis as of the most recent actuarial evaluation of the ASRS.
5. "Member's accumulated contribution account balance" means the sum of all the member's retirement contributions and any principal payments made for:
 - a. The purchase of service credit;
 - b. Contributions not withheld; and
 - c. Previous transfers of service credit.
6. "Other retirement plan" means the state retirement plans specified in A.R.S. § 38-921, other than the ASRS, or a retirement plan of a charter city as specified in A.R.S. § 38-730.
7. "Other Retirement Plan's cost" means the amount determined by the ASRS pursuant to R2-8-1102(D).
8. "Other public service" means the same as in R2-8-501.
9. "Transfer in service" means credited service with the Other Retirement Plan that a member is eligible to transfer to the ASRS pursuant to A.R.S. §§ 38-730 and 38-921.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-1102. Required Documentation and Calculations for Transfer In Service Credit

- A. A member who is eligible to Transfer In Service credit, may request to transfer service credit by providing a Transfer In form to the ASRS with the following:
1. The name of the Other Retirement Plan;
 2. The date the member either terminated employment with an employer of the Other Retirement Plan or ceased to participate in the Other Retirement Plan;
 3. The date the member began employment with the employer through which the member was participating in the Other Retirement Plan;
 4. The number of years the member participated in the Other Retirement Plan;
 5. Acknowledgement the member agrees that:
 - a. Knowingly making a false statement or falsifying or permitting falsification of any record of the ASRS with an intent to defraud ASRS is a Class 6 felony, pursuant to A.R.S. § 38-793; and
 - b. The Transfer In Service credit transaction is subject to audit and if any errors are discovered, the ASRS shall adjust a member's account, or if the member is already retired, adjustments to the member's account may affect the member's retirement benefit.
- B. Upon receipt of the information specified in subsection (A), the ASRS shall submit the information to the Other Retirement Plan and request:
1. The Other Retirement Plan's Funded Actuarial Present Value pursuant to A.R.S. §§ 38-730 and 38-922;
 2. The Member's Accumulated Contribution Account Balance in the Other Retirement Plan;
 3. The amount of service credit the member has accumulated in the Other Retirement Plan; and
 4. The start date and end date for the member's participation in the Other Retirement Plan.
- C. Upon receipt of the information specified in subsection (B), the ASRS shall calculate the Actuarial Present Value as speci-

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fied in R2-8-506 necessary to transfer full service credit to the ASRS.

D. The ASRS shall calculate the Other Retirement Plan's Cost as follows:

1. If the ASRS Actuarial Present Value is greater than the Other Retirement Plan's Funded Actuarial Present Value, then the Other Retirement Plan's Cost is the greater of:
 - a. The Other Retirement Plan's Funded Actuarial Present Value; or
 - b. The Member's Accumulated Contribution Account Balance in the Other Retirement Plan;
2. If the ASRS Actuarial Present Value is less than or equal to the Other Retirement Plan's Funded Actuarial Present Value, then the Other Retirement Plan's Cost is the greater of:
 - a. The ASRS Actuarial Present Value; or
 - b. The Member's Accumulated Contribution Account Balance in the Other Retirement Plan.

E. The ASRS shall compare the Other Retirement Plan's Cost to the ASRS Actuarial Present Value calculated pursuant to subsection (C) and:

1. If the Other Retirement Plan's Cost is less than the ASRS Actuarial Present Value, then the member may elect to transfer service credit to the ASRS and:
 - a. Pay the difference between the Other Retirement Plan's Cost and the ASRS Actuarial Present Value; or
 - b. Accept a proportionately reduced amount of service credit;
2. If the Other Retirement Plan's Cost is greater than or equal to the ASRS Actuarial Present Value, then the member may elect to transfer the service to the ASRS pursuant to subsection (F).

F. Upon completion of the comparison specified in subsections (D) and (E), the ASRS shall send the member a transfer in invoice notifying the member of the member's options to complete the transfer of service credit through the member's secure ASRS account.

G. The member may elect to complete a transfer of service credit pursuant to this Section by submitting the member's election by the election due date specified on the transfer in invoice.

H. Upon receipt of the member's election to complete a transfer of service credit, the ASRS shall send the transfer in invoice to the Other Retirement Plan and the Other Retirement Plan shall make payment to the ASRS by submitting a check made payable to the ASRS for the Other Retirement Plan's Cost specified on the transfer in invoice by the payment due date specified on the transfer in invoice.

I. If a member elects to pay the total difference between the ASRS Actuarial Present Value and the Other Retirement Plan's Cost pursuant to R2-8-1102(E), the member shall elect the method of payment by the payment due date specified on the transfer in invoice.

J. A member may elect to pay the total difference between the ASRS Actuarial Present Value and the Other Retirement Plan's Cost pursuant to R2-8-1102(E) by any one or more methods specified in R2-8-512, R2-8-513, R2-8-514, or R2-8-519.

K. For a member who elects to accept a proportionately reduced amount of service pursuant to subsection (E)(1)(b), the ASRS shall calculate the proportionately reduced amount of service credit based on the member's service credits in the Other Retirement Plan multiplied by the ratio of the Other Retirement Plan's Cost to the ASRS Actuarial Present Value.

L. The member shall submit payment to transfer service credit pursuant to this Section by the payment due date specified on the transfer in invoice.

M. If the member does not submit payment for the total difference in the calculations pursuant to R2-8-1102(E) by the payment due date specified on the transfer in invoice, the member may be eligible to purchase the remaining service credit as Other Public Service, and the member is not eligible to purchase the remaining service credit based on the cost specified in the transfer in invoice.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-1103. Transferring Service to Other Retirement Plans

A. Upon receipt of a request to transfer a member's service credit from the ASRS to the Other Retirement Plan, the ASRS shall calculate:

1. The ASRS Funded Actuarial Present Value pursuant to A.R.S. §§ 38-730 and 38-922; and
2. The Member's Accumulated Contribution Account Balance in the ASRS.

B. Upon completing the calculations specified in subsection (A), the ASRS shall submit the calculations and member information to the Other Retirement Plan with a due date for the Other Retirement Plan to submit a fund request to the ASRS pursuant to subsection (C).

C. If a member elects to transfer service credit to the Other Retirement Plan, the member shall ensure that the Other Retirement Plan submits a fund request on the Other Retirement Plan's letterhead by the due date specified in subsection (B) to the ASRS with the following information:

1. The member's full name;
2. The last four digits of the member's Social Security number;
3. The name of the Other Retirement Plan; and
4. The Actuarial Present Value necessary to transfer full service credit to the Other Retirement Plan.

D. Upon receipt of the information specified in subsection (C), the ASRS shall compare the calculations specified in subsection (A) to the Other Retirement Plan's Actuarial Present Value specified in subsection (C) and transfer funds as follows:

1. If the Other Retirement Plan's Actuarial Present Value specified in subsection (C) is greater than the ASRS Funded Actuarial Present Value specified in subsection (A), then the ASRS shall transfer the greater of:
 - a. The ASRS Funded Actuarial Present Value specified in subsection (A); or
 - b. The Member's Accumulated Contribution Account Balance in the ASRS.
2. If the Other Retirement Plan's Actuarial Present Value specified in subsection (C) is less than or equal to the ASRS Funded Actuarial Present Value, then the ASRS shall transfer the greater of:
 - a. The Other Retirement Plan's Actuarial Present Value specified in subsection (C); or
 - b. The Member's Accumulated Contribution Account Balance in the ASRS.

E. Transferring service credit to the Other Retirement Plan pursuant to this Section constitutes a withdrawal from ASRS membership and results in a forfeiture of all other benefits under ASRS.

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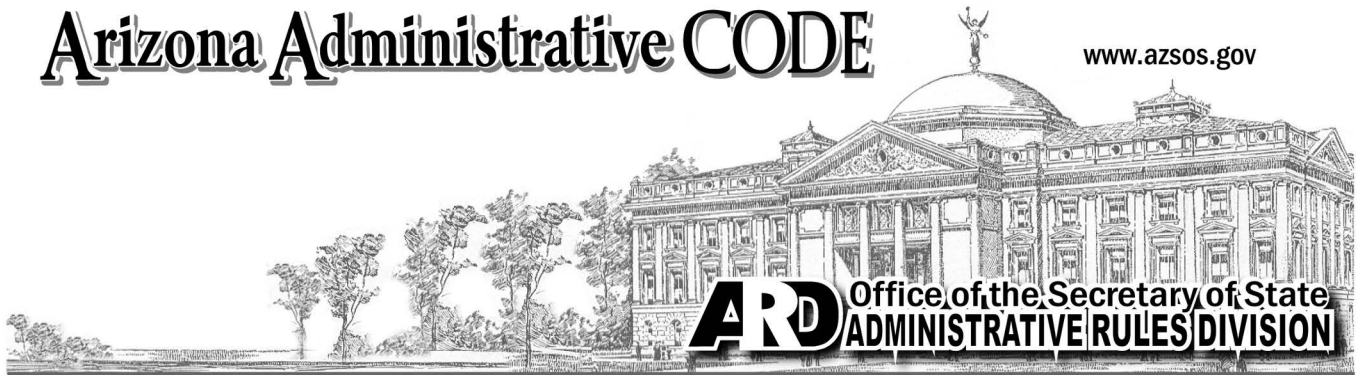
- F. Notwithstanding subsection (E), pursuant to A.R.S. § 38-750, a transferred employee who continues an Irrevocable PDA after transferring service credit to the Other Retirement Plan may be eligible to:
1. Transfer service credit associated with the remaining balance of the Irrevocable PDA for which the transferred employee paid for the purchase of service credit plus interest at the Assumed Actuarial Investment Earnings Rate pursuant to A.R.S. § 38-922, not including any administrative interest charge the transferred employee paid pursuant to an Irrevocable PDA; or
 2. Receive a return of contributions plus interest as specified in R2-8-118(A), column 3, pursuant to A.R.S. § 38-740.
- G. If the ASRS has a DRO on file for a member, the ASRS shall not transfer a member's service credit from the ASRS to the

Other Retirement Plan unless the DRO indicates whether the member may transfer all ASRS service credit to the Other Retirement Plan.

- H. Notwithstanding subsection (G), if the ASRS has a DRO on file for a member that does not indicate whether the member may transfer all ASRS service credit to the Other Retirement Plan, the ASRS shall not transfer a member's service credit from the ASRS to the Other Retirement Plan unless the alternate payee submits written acceptance of the transfer with the alternate payee's notarized signature.

Historical Note

New Section made by final rulemaking by final rulemaking at 28 A.A.R. 1746 (July 22, 2022), effective September 4, 2022 (Supp. 22-3).



2 A.A.C. 20

Supp. 23-2

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

The table of contents on page one contains links to the referenced page numbers in this Chapter.

Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
April 1, 2023 through June 30, 2023

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Questions about these rules? Contact:

Commission: Citizens Clean Elections Commission
Address: 1616 W. Adams, Suite 110
Phoenix, AZ 85007
Website: azcleanelections.gov
Name: Thomas M. Collins
Telephone: (602) 364-3477
E-mail: cccc@azcleanelections.gov

The release of this Chapter in Supp. 23-2 replaces Supp. 22-1, 1-27 pages.

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

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

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

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

ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

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

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

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

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

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

PERSONAL USE/COMMERCIAL USE

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

Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division

The Arizona Secretary of State electronically publishes each A.A.C. Chapter with a digital certificate. The certificate-based signature displays the date and time the document was signed and can be validated in Adobe Acrobat Reader.

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

Authority: A.R.S. § 16-956(A)(7)

Supp. 23-2

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Editor's Note: The Office of the Secretary of State, Administrative Rules Division, complied with its legal obligation to publish the Notice of Rule Expiration filed for Sections R2-20-109 and R2-20-111 under A.R.S. § 41-1011(C) and 41-1056(G) and (J)(2) in Supp. 17-2, version 2. As a courtesy to the Commission, the Office also published R2-20-109 and R2-20-111 as adopted and made by the Commission because it stated the Governor's Regulatory Review Council did not have the authority to file such a notice. On December 14, 2017, the Commission "re-adopted" rules in the disputed Sections of R2-20-109 and R2-20-111; therefore, our Division has removed the expired rule Sections as published in Supp. 17-2, version 2. The Office will not interpret the legality of any actions made by the Commission or the Council as to whether the rules in R2-20-109 and R2-20-111 were effective at 23 A.A.R. 1761 or expired at 23 A.A.R. 1757 between the dates of June 7, and December 14, 2017. Those interested in that issue should consult counsel.

Editor's Note: The Citizen's Clean Elections Commission has filed a Notice of Public Information with the Office of the Secretary of State (Office) stating the Governor's Regulatory Review Council (G.R.R.C.) "cannot effectively repeal the rules" in this Chapter. The Notice also states, "persons subject to the Act and Rules are advised that it is the Commission's position [sic] that an action of G.R.R.C.... cannot relieve them of their obligations under the Act and Rules." [published at 23 A.A.R. 1761] The Office has received a Notice of Rule Expiration from the G.R.R.C. stating R2-20-109 and R2-20-111 have automatically expired [published at 23 A.A.R. 1757]. Under A.R.S. § 41-1056(G), our Office publishes filed G.R.R.C. notices and has included the rule expiration in this Chapter. Since the Office is merely the publisher, it has not, nor will it interpret the legality of the G.R.R.C. authority to "effectively repeal rules."

Editor's Note: The Office of the Secretary of State publishes all Code Chapters on white paper (Supp. 02-1).

Editor's Note: This Chapter contains rules that were adopted under an exemption from the rulemaking provisions of the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to A.R.S. § 16-956(D). Exemption from A.R.S. Title 41, Chapter 6 means that these rules were not certified by the Attorney General or the Governor's Regulatory Review Council. Because this Chapter contains rules that are exempt from the regular rulemaking process, the Chapter is printed on blue paper. The rules affected by this exemption appear throughout this Chapter.

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CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 1. GENERAL PROVISIONS

R2-20-101. Definitions

In addition to the definitions provided in A.R.S. § 16-961, the following shall apply to the Chapter, unless the context otherwise requires:

1. "Act" means the Citizens Clean Elections Act set forth in the Arizona Revised Statutes, Title 16, Chapter 6, Article 2.
2. "Audit" means a written report pertaining to an examination of a candidate's campaign finances that is reviewed by the Commission in accordance with A.A.C. Title 2, Chapter 20, Article 4.
3. "Campaign account" means an account at a financial institution designated by a political committee that is used solely for political campaign purposes.
4. "Candidate" means a natural person who receives or gives consent for receipt of a contribution for the person's nomination for or election to any office in this state, and includes the person's campaign committee, the political committee designated and authorized by the person, or any agents or personnel of the person. When not otherwise specified by statute or these rules, "Candidate" includes a Candidate for Statewide Office or a Legislative Candidate.
5. "Candidate for Statewide Office" means: A natural person seeking the office of governor, attorney general, secretary of state, treasurer, superintendent of public instruction, or mine inspector.
6. "Current campaign account" means a campaign account used solely for election campaign purposes in the present election cycle.
7. "Direct campaign purpose" includes, but is not limited to, materials, communications, transportation, supplies and expenses used toward the election of a candidate. This does not include the candidate's personal appearance, support, or support of a candidate's family member.
8. "Early contributions" means private contributions that are permitted pursuant to A.R.S. § 16-945.
9. "Examination" means an inspection by the Commission or agent of the Commission of a candidate's books, records, accounts, receipts, disbursements, debts and obligations, bank account records, and campaign finance reports related to the candidate's campaign, which may include fieldwork, or a visit to the campaign headquarters, to ensure compliance with campaign finance laws and rules.
10. "Executive Director" means the highest ranking Commission staff member, who is appointed pursuant to A.R.S. § 16-955(J) and is responsible for directing the day-to-day operations of the Commission.
11. "Expressly advocates" means:
 - a. Conveying a communication containing a phrase such as "vote for," "elect," "re-elect," "support," "endorse," "cast your ballot for," "(name of candidate) in (year)," "(name of candidate) for (office)," "vote against," "defeat," "reject," or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of one or more clearly identified candidates.
 - b. Making a general public communication, such as in broadcast medium, newspaper, magazine, billboard, or direct mailer referring to one or more clearly identified candidates and targeted to the electorate of that candidate(s) that in context can have no reasonable meaning other than to advocate the election or defeat of the candidate(s), as evidenced by factors such as the presentation of the candidate(s) in a favorable or unfavorable light, the targeting, placement, or timing of the communication, or the inclusion of statements of the candidate(s) or opponents.
 - c. A communication within the scope of subsection (10)(b) shall not be considered as one that "expressly advocates" merely because it presents information about the voting record or position on a campaign issue of three or more candidates, so long as it is not made in coordination with a candidate, political party, agent of the candidate or party, or a person who is coordinating with a candidate or candidate's agent.
12. "Extension of credit" means the delivery of goods or services or the promise to deliver goods or services to a candidate in exchange for a promise from the candidate to pay for such goods or services at a later date.
13. "Family member" means parent, grandparent, aunt, uncle, child or sibling of the candidate or the candidate's spouse, including the spouse of any of the listed family members, regardless of whether the relation is established by marriage or adoption.
14. "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.
15. "Fixed Asset" means tangible property usable in a capacity that will benefit the candidate for a period of more than one year from the date of acquisition.
16. "Fund" means the Citizens Clean Elections Fund established pursuant to A.R.S. § 16-949(D).
17. "Future campaign account" means a campaign account that is used solely for campaign election purposes in an election that does not include the present or prior primary or general elections.
18. "Independent candidate" means a candidate who is registered as an independent or with no party preference or who is registered with a political party that is not eligible for recognition on the ballot.
19. "Legislative Candidate" means: A natural person seeking the office of state senator or state representative.
20. "Officeholder" means a person who has been elected to a statewide office or the legislature in the most recent election, as certified by the Secretary of State, or who is appointed to or otherwise fills a vacancy in such office.
21. "Person," unless stated otherwise, or having context requiring otherwise, means: A corporation, company, partnership, firm, association or society, as well as a natural person.
22. "Prior campaign account" means a campaign account used solely for campaign election purposes in a prior election.
23. "Public funds" includes all funds deposited into the Citizens Clean Elections Fund and all funds disbursed by the Commission to a participating candidate.
24. "Solicitor" means a person who is eligible to be registered to vote in this state and seeks qualifying contributions from qualified electors of this state.
25. "Unopposed" means in reference to state senate candidates and statewide candidates other than Corporation Commission, that the candidate is opposed by no candi-

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dates who will appear on the ballot. In reference to candidates for the House of Representatives and Corporation Commission, “unopposed” means that no more candidates will appear on the ballot than the number of seats available for the office sought.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by exempt rulemaking at 19 A.A.R. 3515, effective September 27, 2013 (Supp. 13-4). Amended by final exempt rulemaking at 23 A.A.R. 113, effective December 15, 2016 (Supp. 16-4). Amended by final rulemaking at 28 A.A.R. 491 (March 4, 2022), with an immediate effective date of February 7, 2022 (Supp. 22-1).

R2-20-102. Repealed**Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Repealed by exempt rulemaking at 19 A.A.R. 3518, effective September 27, 2013 (Supp. 13-4).

R2-20-103. Communications: Time and Method

- A. General rule: in computing any period of time prescribed or allowed by the Act or these rules, unless otherwise specified, days are calculated by calendar days, and the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday. The term “legal holiday” includes New Year’s Day, Martin Luther King Jr. Day, President’s Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday for employees of the state.
- B. Special rule for periods less than seven days: when the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.
- C. Whenever the Commission or any person has the right or is required to do some act within a prescribed period after the service of any paper by or upon the Commission by regular mail, three calendar days shall be added to the prescribed period.
- D. Whenever the Commission or any person is required to do some act within a prescribed period after the service of paper by or upon the Commission by overnight delivery, the time period shall begin on the date the recipient signs for the overnight delivery.
- E. The Commission shall use the address of the candidate that is provided on the application for certification filed pursuant to A.R.S. § 16-947. A candidate may designate in writing for the Commission to send written correspondence to a person other than the candidate.

- F. If possible, the Commission shall furnish a copy of all communications electronically.
- G. Delivery of subpoenas, orders and notifications to a natural person may be made by handing a copy to the person, or leaving a copy at his or her office with the person in charge thereof, by leaving a copy at his or her dwelling place or usual place of abode with a person of suitable age and discretion residing therein, by mailing a copy by overnight delivery to his or her last known address, or by any other method whereby actual notice is given.
- H. When the person to be served is not an individual, delivery of subpoenas, orders and notifications may be made by mailing a copy by overnight delivery to the person at its place of business or by handing a copy to a registered agent for service, or to any officer, director, or agent in charge of any office of such person, or by mailing a copy by overnight delivery to such representative at his or her last known address, or by any other method whereby actual notice is given.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2).

R2-20-104. Certification as a Participating Candidate

- A. A nonparticipating candidate who accepts contributions up to the limits authorized by A.R.S. § 16-941(B), but later chooses to run as a participating candidate, shall:
 1. Make the change to participating candidate status during the exploratory and qualifying periods only;
 2. Return the amount of each contribution in excess of the individual contribution limit for participating candidates;
 3. Return all Political Action Committee (PAC) monies received;
 4. Not have made expenditures exceeding the early contribution limit, or have spent any part of a contribution exceeding the early contribution limit;
 5. Comply with all provisions of A.R.S. § 16-941 and Commission rules.
 6. Return all contributions received from another candidate’s candidate committee.
- B. Money from prior election. If a nonparticipating candidate has a cash balance remaining in the campaign account from the prior election cycle, the candidate may seek certification as a participating candidate in the current election after:
 1. Transferring money from the prior campaign account to the candidate’s current election campaign account. The amount transferred shall not exceed the permitted personal monies, early contributions, and debt-retirement contributions, as defined in A.R.S. § 16-945(C), and shall contain contributions received from individuals only;
 2. Spending the money lawfully prior to April 30 of an election year in a way that does not constitute a direct campaign purpose and does not meet the definition of “expenditure” under A.R.S. § 16-901(24); and the event or item purchased is completed or otherwise used and depleted prior to April 30 of an election year;
 3. Remitting the money to the Fund; or

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4. Holding the money in the prior election campaign account, not to be used during the current election, except as provided pursuant to this Section.
- C. Application for certification as a participating candidate. Pursuant to A.R.S. § 16-947, a candidate seeking certification shall file with the Secretary of State a Commission-approved application and a campaign finance report reflecting all campaign activity to date. In the application, a candidate shall certify under oath that the candidate:
 1. Agrees to use all Clean Elections funding for direct campaign purposes only;
 2. Has filed a campaign finance report, showing all campaign activity to date in the current election cycle;
 3. Will comply with all requirements of the Act and Commission rules;
 4. Is subject to all enforcement actions by the Commission as authorized by the Act and Commission rules;
 5. Has the burden of proving that expenditures made by or on behalf of the candidate are for direct campaign purposes;
 6. Will keep and furnish to the Commission all documentation relating to expenditures, receipts, funding, books, records (including bank records for all accounts), and supporting documentation and other information that the Commission may request;
 7. Will permit an audit or examination by the Commission of all receipts and expenditures including those made by the candidate. The candidate shall also provide any material required in connection with an audit, investigation, or examination conducted by the Commission. The candidate shall facilitate the audit by making available in one central location, such as the Commission's office space, records and such personnel as are necessary to conduct the audit or examination, and shall pay any amounts required to be repaid;
 8. Will submit the name and mailing address of the person who is entitled to receive primary and general election funding on behalf of the candidate and the name and address of the campaign depository designated by the candidate. Changes in the information required by this subsection shall not be effective until submitted to the Commission in a letter signed or submitted electronically, by the candidate or the committee treasurer;
 9. Will pay any civil penalties included in a conciliation agreement or otherwise imposed against the candidate;
 10. Will timely file all campaign finance reports with the Secretary of State in an electronic format; and
 11. Will file an amended application for certification reporting any change in the information prescribed in the application for certification within five days after the change.
- D. If certified as a participating candidate, the candidate shall:
 1. Only accept early contributions from individuals during the exploratory and qualifying periods in accordance with A.R.S. § 16-945. No contributions may be accepted from political action committees, political parties or corporations;
 2. Not accept any private contributions, other than early contributions and a limited number of \$5 qualifying contributions;
 3. Make expenditures of personal monies of no more than the amounts prescribed in A.R.S. § 16-941(A)(2) for legislative candidates and for statewide office candidates;
 4. Conduct all campaign activity through a single campaign account. A participating candidate shall only deposit early contributions, qualifying contributions and Clean Elections funds into the candidate's current campaign account. The campaign account shall not be used for any non-direct campaign purpose as provided in Article 7 of these rules;
 5. Attend a Commission sponsored candidate training class within 60 days of being certified or within 60 days of the beginning of the qualifying period if the candidate is certified before the beginning of the qualifying period. If the candidate is unable to attend a training class, the candidate shall:
 - a. Notify the Commission that the candidate is unable to attend a training class. The Commission then will send that person the Commission training materials; and
 - b. The candidate shall sign and send to the Commission a statement certifying that he or she has received and reviewed the Commission training materials; and
 6. Limit campaign expenditures. Prior to qualifying for Clean Elections funding, a candidate shall not incur debt, or make an expenditure in excess of the amount of cash on hand. Upon approval for funding by the Secretary of State, a candidate may incur debt, or make expenditures, not to exceed the sum of the cash on hand and the applicable spending limit.
- E. Loans. A participating candidate may accept an individual contribution as a loan or may loan his or her campaign committee personal monies during the exploratory and qualifying periods only. The total sum of the contribution received or personal funds and loans shall not exceed the expenditure limits set forth in A.R.S. § 16-941(A)(1) and (2). If the loan is to be repaid, the loans shall be repaid promptly upon receipt of Clean Elections funds if the participating candidate qualifies for Clean Elections funding. Loans from a financial institution or bank, to a candidate used for the purpose of influencing that candidate's election shall be considered personal monies and shall not exceed the personal monies expenditure limits set forth in A.R.S. § 16-941(A)(2).
- F. A participating candidate may raise early contributions for election to one office and choose to run for election to another office.
- G. Contributions to officeholder expense accounts are subject to the restrictions of A.R.S. § 41-1234.01, contributions prohibited during session; exceptions.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 9 A.A.R. 3506, effective April 2, 2002 (Supp. 03-3). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by exempt rulemaking at 13 A.A.R. 3597, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by exempt rulemaking at 15 A.A.R. 1420, effective April 30, 2010 (Supp. 09-3). Subsection R2-20-104(C)(8) amended by exempt rulemaking at 19 A.A.R. 1685, effective October 6, 2011; Subsection R2-20-104(D)(5) amended by exempt rulemaking at 19 A.A.R. 1685, effective May 23, 2013

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(Supp. 13-2). Amended by final exempt rulemaking at 23 A.A.R. 115, effective December 15, 2016 (Supp. 16-4).

R2-20-105. Certification for Funding

- A. After a candidate is certified as a participating candidate, pursuant to A.R.S. § 16-947, in accordance with the procedure set forth in R2-20-104, that candidate may collect qualifying contributions only during the qualifying period.
- B. A participating candidate must submit to the Secretary of State, a list of names of persons who made qualifying contributions, an application for funding prescribed by the Secretary of State, the minimum number of original reporting slips, and an amount equal to the sum of the qualifying contributions collected pursuant to A.R.S. § 16-950 no later than one week after the end of the qualifying period. Any and all expenses associated with obtaining the qualifying contributions, including credit card processing fees must be paid for from the candidate's early contributions or personal monies. A candidate may develop his or her own three-part reporting slip for qualifying contributions, or one that is photocopied or computer reproduced, if the form substantially complies with the form prescribed by the Commission. The candidate must comply with the Act and ensure that the original qualifying slip is tendered to the Secretary of State, a copy remains with the candidate, and that a copy is given to the contributor.
- C. A candidate may accept electronic \$5 qualifying contributions for the elected office sought by the candidate. The Secretary of State's secured internet portal must be used to collect electronic \$5 qualifying. A \$5 contribution must accompany every \$5 qualifying contribution form and must be submitted via the Secretary of State's portal using a private electronic payment service, specified by the Secretary of State's Office, bank account, credit or debit card. A non-refundable transaction fee may be assessed on electronic \$5 qualifying contribution transactions. The transaction fee is not a contribution to the candidate's campaign and is paid by the contributor. If excess funds are accumulated by the candidate's campaign based on the transaction fee then all excess funds must be given to the Commission and must be entered into the candidate's campaign finance report in a manner that indicates the transaction fees have been accumulated and transferred.
- D. A solicitor who seeks signatures and qualifying contributions on behalf of a participating candidate shall provide his or her residential address, typed or printed name and signature on each reporting slip. The solicitor shall also sign a sworn statement on the contribution slip avowing that the contributor signed the slip, that the contributor contributed the \$5, that based on information and belief, the contributor's name and address are correctly stated and that each contributor is a qualified elector of this state. If a contribution is received unsolicited, the candidate or contributor may sign the qualifying contribution form as the solicitor and is accountable for all of the responsibilities of a solicitor. Nothing in this rule shall prohibit the use of direct mail or the internet to obtain qualifying contributions as long as an original signature is provided on the qualifying contribution form. The candidate may sign the qualifying contribution form as the solicitor and is accountable for all of the responsibilities of a solicitor. For qualifying contributions received in accordance with subsection (C) of this Section, the residential address and signature of the solicitor is not required.
- E. The Secretary of State has the authority to approve or deny a candidate for Clean Elections funding, pursuant to A.R.S. § 16-950(C) based upon the verification of the qualifying contribution forms by the appropriate county recorder. The county recorder shall disqualify any qualifying contribution forms that are:
 1. Unsigned by the contributor;
 2. Undated; or
 3. That the recorder is unable to verify as matching signature of a person who is registered to vote, on the date specified inside the electoral district the candidate is seeking.
- F. The Secretary of State will notify the candidate and the Commission regarding the approval or denial of Clean Elections funds. A candidate who is denied Clean Elections funding after all of the slips are verified is eligible to submit supplemental qualifying contribution forms for one additional opportunity to be approved for funding pursuant to subsection (G) of this rule.
- G. The amount equal to the sum of the qualifying contributions collected and tendered to the Secretary of State pursuant to A.R.S. § 16-950(B) will be deposited into the fund, and the amount tendered will not be returned to a candidate if a candidate is denied Clean Elections funding.
- H. In accordance with the procedure set forth at A.R.S. § 16-950(C), if the Secretary of State determines that the result of the five percent random sample is less than 110 percent of the slips needed to qualify for funding, then the Secretary of State shall send all of the slips for verification. If the county recorder has verified all of the candidate's signature slips and there is an insufficient number of valid qualifying contribution slips to qualify the candidate for funding, the candidate may make only one supplemental filing of additional qualifying contribution slips and qualifying contributions to the Secretary of State if all of the following apply:
 1. The candidate files at least the minimum number of additional slips needed to qualify for funding;
 2. The slips are not receipts for duplicate contributions from individuals who have previously contributed to that candidate; and
 3. The period for filing qualifying contributions slips has not expired.
- I. The Secretary of State shall forward facsimiles of all of the supplemental qualifying contribution slips to the appropriate county recorders for the county of the contributors' addresses as shown on the contribution slips. The county recorder shall verify all of the supplemental slips within 10 business days after receipt of the facsimiles and shall provide a report to the Secretary of State identifying as disqualified any slips that are unsigned by the contributor or undated or that the recorder is unable to verify as matching the signature of a person who is registered to vote, on the date specified on the slip, inside the electoral district of the office the candidate is seeking. On receipt of the report of the county recorder on all supplemental slips, the Secretary of State shall calculate the candidate's total number of valid qualifying contribution slips and shall approve or deny the candidate for funds.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 9 A.A.R. 3506, effective April 30, 2002 (Supp. 03-3). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 16 A.A.R. 1200, effective February 28, 2008 (Supp. 10-2). Subsection R2-20-105(C) amended by exempt rulemak-

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ing at 19 A.A.R. 1688, effective October 6, 2011; Subsection R2-20-105(J) amended by exempt rulemaking at 19 A.A.R. 1688, effective May 23, 2013 (Supp. 13-2).

Amended by final exempt rulemaking at 23 A.A.R. 117, effective January 1, 2017 (Supp. 16-4).

R2-20-106. Distribution of Funds to Certified Candidates

- A.** Before the initial disbursement of funds, the Commission shall review the candidate's funding application and all relevant facts and circumstances and:
1. Verify that the number of signatures on the candidate's nominating petitions equals or exceeds the number required pursuant to A.R.S. § 16-322 as follows:
 - a. If the application is submitted before the March 1 voter registration list is determined, the Commission shall verify that the number of signatures on the candidate's nominating petitions equals or exceeds 115 percent of the number required pursuant to A.R.S. § 16-322 based on the prior election voter registration list as determined by the Secretary of State; or
 - b. If the application is submitted after the current year March 1 voter registration list is determined, the Commission shall verify that the number of signatures on the candidate's nominating petitions is equal to or greater than the number required pursuant to A.R.S. § 16-322.
 2. Determine that the required number of qualifying contributions have been received and paid to the Secretary of State for deposit in the Fund; and
 3. Determine whether the candidate is opposed in the election.
- B.** In making the determinations described in subsection (A)(3), the Commission shall consider all relevant facts and circumstances, and it shall not be bound by election formalities such as the filing of nominating petitions by others in determining whether an applicant is opposed. Among other evidence the Commission may consider is the existence of exploratory committees or filings made to organize campaign committees of opponents and other like indicia.
- C.** The Commission may review and affirm or change its determination that the candidate is or is not opposed until the ballot for the election is established.
- D.** Within seven days after a primary election and before the Secretary of State completes the canvass, the Commission shall disburse funds for general election campaigns to the participating candidates who received the greatest number of votes at each primary election, provided that the candidate with the highest number of votes out of the total number of votes, has at least two percentage points greater than the candidate with the next highest votes based on the unofficial results as of that date. In a legislative race for the Arizona House of Representatives, the Commission shall disburse funds for general election campaigns to participating candidates with the highest or second highest number of votes cast, provided such candidate received votes totaling at least two percentage points, of the total ballots cast, larger than the vote total cast for the candidate with the third highest vote total.
- E.** Promptly after the Secretary of State completes the canvass, the Commission shall disburse funds for general election campaigns to all eligible participating candidates to whom payment has not been made. If a participating candidate has received funds from the Commission pursuant to subsection (D) and the canvass or recount determines that the candidate is not eligible to appear on the general election ballot, the participating candidate shall return all unused funds to the Fund

within 10 days after such determination is made. That candidate shall make no expenditures from general election funds from the date of the canvass.

- F.** The Commission may refuse to distribute funds to participating candidates in cases in which the Commission finds evidence of fraud or illegal activity committed by the participating candidate.
- G.** Pursuant to A.R.S. § 16-953, a participating candidate shall return to the Fund:
1. All primary election funds not committed to expenditures (1) during the primary election period; and (2) for goods or services directed to the primary election. A candidate shall not be deemed to have violated A.R.S. § 16-953(A) or this subsection on account of failure to use all materials purchased with primary election funds prior to the primary election, provided such candidate exercises good faith and diligent efforts to comply with the requirement that goods and services purchased with primary election funds be directed to the primary election. Subject to A.R.S. § 16-953(A) and this subsection, a candidate may continue to use goods purchased with primary election funds during the general election period.
 2. All general funds not committed to expenditures (1) during the general election period; and (2) for goods or services directed to the general election.
- H.** All funds returned to the Commission pursuant to subsection (G) of this rule, shall be returned to the Fund by a cashier's check drawn on the candidate's campaign bank account. Any fee associated with the issuance of a cashier's check shall be deemed a direct campaign expenditure and reported on the candidate's campaign finance report.
- I.** If a participating candidate does not account for any outstanding expenditures in the amount of the funds returned to the Commission, the participating candidate must reconcile the outstanding expenditures with personal monies. Once funds have been returned to the Commission, no further reimbursements from the Clean Elections Fund shall be permitted. Participating candidates may not exceed the primary or general election spending limits.
- J.** Commission staff may waive the return of funds if:
1. The Commission staff determines the amount to be returned is de minimus;
 2. The Commission staff determines the cost of recovery exceeds the amount of the return;
 3. The funds to be returned shall not exceed \$25; and
 4. The Commission is notified of any waiver of the return of funds.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by final exempt rulemaking at 24 A.A.R. 107, effective December 14, 2017 (Supp. 17-4).

R2-20-107. Candidate Debates

- A.** The Commission shall sponsor debates among statewide and legislative office candidates prior to the primary and general elections. Except as set forth in the subsection below, the Commission shall not be required to sponsor a debate if there is no participating candidate in the election for a particular office.

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- B.** In the primary election period, the Commission shall sponsor political party primary election debates for every office in which:
1. There are more candidates appearing on the ballot than there are seats available for the political party's nomination for general election candidates, and
 2. At least one of the candidates is a participating candidate.
- C.** The following candidates will not be invited to participate in debates as follows:
1. In the primary election, write-in candidates for the primary election, independent candidates, no party affiliation or unrecognized party candidates.
 2. In the general election, write-in candidates.
- D.** In the event that there is no participating candidate in a primary or general election but there is an election involving candidates who are not unopposed, a candidate may request that the Commission sponsor a debate pursuant to this rule. If the requesting candidate is the sole participant in the debate the format shall be as prescribed in R2-20-107(K).
1. A nonparticipating candidate who requests a debate pursuant to this rule shall complete and return the invitation form sent to the candidate by the Commission by the deadline identified on the form. Forms received by the Commission past the deadline may still be considered at the discretion of the Commission. Commission staff shall notify all invited candidates if a debate will be sponsored by the Commission and which candidates will participate.
 2. If a candidate requests that the Commission sponsor a debate and fails or refuses to attend the debate, or a candidate agrees to participate in a debate and subsequently fails or refuses to attend the debate sponsored by the Commission, each candidate who fails or refuses to attend the debate shall reimburse the Commission for the cost of debate preparations not to exceed \$10,000 for a non-participating candidate for the legislature and \$25,000 for a non-participating candidate for statewide office. In the event that a candidate requests a general election debate or agrees to participate in a general election debate but does not advance to the general election, the candidate shall not be liable for the reimbursement.
- E.** Pursuant to A.R.S. § 16-956(A)(2), all participating candidates certified pursuant to A.R.S. § 16-947 shall attend and participate in the debates sponsored by the Commission. No proxies or representatives are permitted to participate for any candidate and no statements may be read on behalf of an absent candidate.
- F.** Unless exempted, if a participating candidate fails to participate in any Commission-sponsored debate, the participating candidate shall be fined \$500.00. For purposes of this Section, each primary or general election shall be considered a separate election.
- G.** A participating candidate may request to be exempt from participating in a required debate by doing the following:
1. Submit a written request to the Commission at least one week prior to the scheduled debate, and
 2. State the reasons and circumstances justifying the request for exemption.
- H.** After examining the request to be exempt, the Commission will exempt a candidate from participating in a debate if at least three Commissioners determine that the circumstances are:
1. Beyond the control of the candidate; or
 2. Of such nature that a reasonable person would find the failure to attend justifiable or excusable.
- I.** A participating candidate who fails to participate in a required debate may submit a request for excused absence to the Commission.
1. The candidate's request for excused absence shall:
 - a. State the reason the candidate failed to participate in the debate, and
 - b. State the reason the candidate failed to request an exemption in advance, and
 - c. Be submitted to the Commission no later than five business days after the date of the debate the candidate failed to attend.
 2. After examining the request for excused absence, the Commission may excuse a candidate from the penalties imposed if at least three Commissioners determine that the circumstances were:
 - a. Beyond the control of the candidate; or
 - b. Of such nature that a reasonable person would find the failure to attend justifiable or excusable.
- J.** When a participating candidate is not opposed in the general election, the candidate shall be exempt from participating in a Commission-sponsored debate for the general election.
- K.** In the event that a participating candidate is opposed in the primary election or general election but is the only candidate taking part in a primary election period or general election period debate, as applicable, the debate will be held and will consist of a 30-minute question and answer session for the single participating candidate. If more than one candidate takes part in the debate, regardless of participation status, the debate will be held in accordance with the procedures established by the Commission staff.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). New Section made by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by exempt rulemaking at 19 A.A.R. 1690, effective October 6, 2011 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 4213, effective November 21, 2013 (Supp. 13-4). Amended by final exempt rulemaking at 21 A.A.R. 1627, effective July 23, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 119, effective December 15, 2016 (Supp. 16-4).

R2-20-108. Termination of Participating Candidate Status

- A.** A candidate may voluntarily request termination of his or her participating candidate status at any time prior to notification by the Commission that such candidate has qualified for Clean Elections funding. To withdraw from participating candidate status, a candidate shall send a letter to the Commission stating the candidate's intent to withdraw and the reason for the withdrawal. The candidate shall not accept any private monies until the withdrawal is approved by the Commission. The Commission shall act on the withdrawal request within seven days. If the Commission takes no action within the seven-day time period, the withdrawal is automatic.
- B.** A candidate's participating candidate status shall automatically terminate if:

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1. The candidate fails to make such submissions to the Secretary of State as prescribed in R2-20-105(B) within seven days after the end of the qualifying period, or
 2. The candidate is denied Clean Elections funding by the Secretary of State and the candidate is ineligible to make a supplemental filing with the Secretary of State in accordance with R2-20-105(G).
- C. A candidate whose participating candidate status has been terminated in accordance with this Section shall be ineligible to receive Clean Elections funding for that election cycle unless he/she reapplies for certification and is in compliance with R2-20-104(A) and (C).
- D. In the event that a candidate who has collected qualifying contributions decides not to seek certification as a participating candidate, the candidate shall return all qualifying contributions received from contributors who have not given written permission to use their qualify contributions as campaign contributions. Written permission may include a check box on the original \$5 form that authorizes a candidate to treat the qualifying contribution as a general campaign contribution if he or she decides not to participate in the Clean Elections system. If a good faith attempt to return the funds to the contributor is unsuccessful, the contributions shall be submitted to the Fund.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 17 A.A.R. 1950, effective August 25, 2011 (Supp. 11-3).

Revised Editor's Note: The Office will not interpret the legality of any actions made by the Commission or the Governor's Regulatory Review Council as to whether the rules in R2-20-109 and R2-20-111 were effective at 23 A.A.R. 1761 or expired at 23 A.A.R. 1757 between the dates of June 7, and December 14, 2017. Those interested in that issue should consult counsel.

R2-20-109. Independent Expenditure Reporting Requirements

- A. In accordance with A.R.S. § 16-958(E), all persons obligated to file any campaign finance report under any provisions of Chapter 6, Article 2 of the Arizona Revised Statutes shall file such reports using the Secretary of State's Internet-based finance-reporting system, except if:
1. Expressly provided otherwise by another Commission rule; or
 2. That system, or the necessary function on the system, is unavailable, in which case the executive director shall implement a suitable process.
- B. Independent Expenditure Reporting Requirements.
1. Any person making independent expenditures cumulatively exceeding the amount prescribed in A.R.S. § 16-941(D) in an election cycle shall file campaign finance reports in accordance with A.R.S. § 16-958 and Commission rules.
 2. Any person who fails to file a timely campaign finance report pursuant to A.R.S. § 16-941(D), A.R.S. § 16-958, shall be subject to a civil penalty as prescribed in A.R.S. § 16-942(B). Subsection R2-20-109(B)(4) does not apply to reports pursuant to A.R.S. §§ 16-941(D) and 16-958 or this subsection. Any expenditure advocating against one or more candidates shall be considered an expenditure on

behalf of any opposing candidate or candidates. Penalties shall be assessed as follows:

- a. For an election involving a candidate for statewide office, the civil penalty shall be \$300 per day.
 - b. For an election involving a legislative candidate, the civil penalty shall be \$100 per day.
 - c. The penalties in (a) and (b) shall be doubled if the amount not reported for a particular election cycle exceeds ten (10%) percent of the applicable adjusted primary election spending limit or adjusted general election spending limit.
 - d. The dollar amounts in items (a) and (b), and the spending limits in item (c) are subject to adjustment of A.R.S. § 16-959.
 - e. Penalties imposed pursuant to this subsection shall not exceed twice the amount of expenditures not reported.
3. A.R.S. § 16-942(B) applies to any entity including political committees that accepts contributions or makes expenditures on behalf of any candidate regardless of any other contributions taken or expenditures made and fails to timely file a campaign finance report under Chapter 6 of Title 16, Arizona Revised Statutes. Any expenditure advocating against one or more candidates shall be considered an expenditure on behalf of any opposing candidate or candidates. Penalties shall be assessed as follows:
- a. For an election involving a candidate for statewide office, the civil penalty shall be \$300 per day.
 - b. For an election involving a legislative candidate, the civil penalty shall be \$100 per day.
 - c. The penalties in (a) and (b) shall be doubled if the amount not reported for a particular election cycle exceeds ten (10%) percent of the applicable adjusted primary election spending limit or adjusted general election spending limit.
 - d. The dollar amounts in items (a) and (b), and the spending limits in item (c) are subject to adjustment of A.R.S. § 16-959.
 - e. Penalties imposed pursuant to this subsection shall not exceed twice the amount of expenditures not reported.
4. For purposes of A.A.C. R2-20-109(B)(3):
- a. Subject to A.R.S. § 16-901(43) and notwithstanding any rule to the contrary of that section, an entity shall not be found to have the predominant purpose of influencing elections unless, a preponderance of the evidence establishes that during a two-year legislative election cycle, the total reportable contributions made by the entity, in any combination, in a calendar year exceeds \$1,000 and is more than fifty percent (50%) of the entity's total spending during the election cycle.
 - i. For purposes of this provision, a "reportable contribution" or "reportable expenditure" shall be limited to a contribution or expenditure, as defined in title 16 of the Arizona revised statutes, that must be reported to the Arizona secretary of state, the Arizona citizens clean elections commission, or local filing officer in Arizona. A contribution or expenditure that must be reported to the federal election commission or to the election authority of any other state, but not to the Arizona secretary of state, the Arizona citizens clean elections commis-

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- sion or a local filing officer in Arizona, shall not be considered a reportable contribution or reportable expenditure.
- ii. For purposes of this provision, “total spending” shall not include volunteer time or fundraising and administrative expenses but shall include all other spending by the organization.
 - iii. For purposes of this provision, grants to other organizations shall be treated as follows:
 - (1) A grant made to a political committee or an organization organized under section 527 of the internal revenue code shall be counted in total spending and as a reportable contribution or reportable expenditure, unless expressly designated for use outside Arizona or for federal elections, in which case such spending shall be counted in total spending but not as a reportable contribution or reportable expenditure.
 - (2) If the entity making a grant takes reasonable steps to ensure that the transferee does not use such funds to make a reportable contribution or reportable expenditure, such a grant shall be counted in total spending but not as a reportable contribution or reportable expenditure.
 - iv. If the entity making a grant earmarks the grant for reportable contributions or reportable expenditures, knows the grant will be used to make reportable contributions or reportable expenditures, knows that a recipient will likely use a portion of the grant to make reportable contributions or reportable expenditures, or responds to a solicitation for reportable contributions or reportable expenditures, the grant shall be counted in total spending and the relevant portion of the grant as set forth in subsection (v) of this section shall count as a reportable contribution or reportable expenditure.
 - v. Notwithstanding subsections (iii) and (iv) the amount of a grant counted as a reportable contribution or reportable expenditure shall be limited to the lesser of the grant or the following:
 - (1) The amount that the recipient organization spends on reportable contributions and reportable expenditures, plus
 - (2) The amount that the recipient organization gives to third parties but not more than the amount that such third parties fund reportable contributions or reportable expenditures.
 - b. Notwithstanding section a above, the commission may nonetheless determine that an entity is not a political committee if, taking into account all the facts and circumstances of grants made by an entity, it is not persuaded that the preponderance of the evidence establishes that the entity is a political committee as defined in title 16 of Arizona Revised Statutes.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8

A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 3597, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by exempt rulemaking at 16 A.A.R. 152, effective January 29, 2010 (Supp. 10-1). Subsections R2-20-109(A), (A)(4), and (B) through (E) amended by exempt rulemaking at 19 A.A.R. 2923, effective October 6, 2011; Subsections R2-20-109(A) and (C)(2) amended by exempt rulemaking at 19 A.A.R. 2923, effective August 29, 2013; Subsection R2-20-109(C)(3) amended by exempt rulemaking at 19 A.A.R. 2923, effective January 1, 2014 (Supp. 13-3). Amended by exempt rulemaking at 19 A.A.R. 3519, effective September 27, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1329, effective May 22, 2014 (Supp. 14-2). Amended by exempt rulemaking at 20 A.A.R. 2804, effective September 11, 2014 (Supp. 14-3). Subsection R2-20-109(D) amended by final exempt rulemaking at 21 A.A.R. 3168 effective October 29, 2015; subsection R2-20-109(F) amended by final exempt rulemaking at 21 A.A.R. 3168 effective October 30, 2015 (Supp. 15-4). Amended by exempt rulemaking at 22 A.A.R. 2892, effective January 1, 2017 (Supp. 16-3). Amended by final exempt rulemaking at 23 A.A.R. 121, effective January 1, 2017 (Supp. 16-4). Section retained at the request of the Commission at 23 A.A.R. 1761 (Supp. 17-2, version 2). The Commission adopted and unanimously voted to reenact and republish this Section that was “currently in effect” for the purpose of public notice and clarity at 24 A.A.R. 109, effective December 14, 2017 (Supp. 17-4). Amended by final rulemaking at 27 A.A.R. 1568, with an immediate effective date of September 14, 2021 (Supp. 21-3).

R2-20-110. Participating Candidate Reporting Requirements

- A. All participating candidates shall file campaign finance reports that include all receipts and disbursements for their current campaign account as follows:
1. Expenditures for consulting, advising, or other such services to a candidate shall include a detailed description of what is included in the service, including an allocation of services to a particular election. When appropriate, the Commission may treat such expenditures as though made during the general election period.
 2. If a participating candidate makes an expenditure on behalf of the campaign using personal funds, the candidate’s campaign shall reimburse the candidate within seven calendar days of the expenditure. After the 7 day period has passed, the expenditure shall be deemed an in-kind contribution subject to all applicable limits.
 3. A candidate may authorize an agent to purchase goods or services on behalf of such candidate, provided that:
 - a. Expenditures shall be reported as of the date that the agent promises, agrees, contracts or otherwise incurs an obligation to pay for the goods or services;
 - b. The candidate shall have sufficient funds in the candidate’s campaign account to pay for the amount of such expenditure at the time it is made and all other outstanding obligations of the candidate’s campaign committee; and
 - c. Within seven calendar days of the date upon which the amount of the expenditure is known, the candi-

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date shall pay such amount from the candidate's campaign account to the agent who purchases the goods or services.

4. A joint expenditure is made when two or more candidates agree to share the cost of goods or services. Candidates may make a joint expenditure on behalf of one or more other campaigns, but must be authorized in advance by the other candidates involved in the expenditure, and must be reimbursed within seven days. Participating candidates may participate in joint expenditures for the cost of goods and services with one or more candidates, subject to the following:
 - a. Joint expenditures must be allocated fairly among candidates. An allocated share of a joint expenditure paid by one candidate pursuant to such an agreement must be reimbursed within seven days.
 - b. Any violator of part (a) shall be liable for a penalty pursuant to R2-20-222, in addition to penalties prescribed by any other law.
 - c. If a fairly allocated share of any joint expenditure is not reimbursed to a candidate, the unreimbursed amount of the joint expenditure fairly allocated to that candidate shall be deemed a contribution to that candidate by the campaign committee of the candidate obligated to reimburse the share.
 - d. If a fairly allocated share of any joint expenditure is not reimbursed to a participating candidate, the candidate obligated to reimburse the share shall reimburse the fund for the unreimbursed amount of the joint expenditure fairly allocated to the obligated candidate, in addition to any penalty specified by law.
 - e. A candidate's payment for an advertisement, literature, material, campaign event or other activity shall be considered a joint expenditure including, but not limited to, the following criteria:
 - i. The activity includes express advocacy of the election or defeat of more than 2 candidates;
 - ii. The purpose of the material or activity is to promote or facilitate the election of a second candidate;
 - iii. The use and prominence of a second candidate or his or her name or likeness in the material or activity;
 - iv. The material or activity includes an expression by a second candidate of his or her view on issues brought up during the election campaign;
 - v. The timing of the material or activity in relation to the election of a second candidate;
 - vi. The distribution of the material or the activity is targeted to a second candidate's electorate; or
 - vii. The amount of control a second candidate has over the material or activity.

5. For the purposes of the Act and Commission rules, a candidate or campaign shall be deemed to have made an expenditure as of the date upon which the candidate or campaign promises, agrees, contracts or otherwise incurs an obligation to pay for goods or services.

B. Timing of reporting expenditures.

1. Except as set forth in subsection (A)(2) above, a participating candidate shall report a contract, promise or agreement to make an expenditure resulting in an extension of credit as an expenditure, in an amount equal to the full

future payment obligation, as of the date the contract, promise or agreement is made.

2. In the alternative to reporting in accordance with subsection (A)(1) above, a participating candidate may report a contract, promise or agreement to make an expenditure resulting in an extension of credit as follows:
 - a. For a month-to-month or other such periodic contract or agreement that is terminable by a candidate at will and without any termination penalty or payment, the candidate may report an expenditure, in an amount equal to each future periodic payment, as of the date upon which the candidate's right to terminate the contract or agreement and avoid such future periodic payment elapses.
 - b. For a contract, promise or agreement to provide goods or services during the general election period that is contingent upon a candidate advancing to the general election period, the candidate may report an expenditure, in an amount equal to the general election period payment obligation, as of the date upon which such contingency is satisfied.
 - c. For a contract, promise or agreement to pay rent, utility charges or salaries payable to individuals employed by a candidate's campaign committee as staff, the candidate may report an expenditure, in an amount equal to each periodic payment, as of the date that is the sooner of (i) the date upon which payment is made; or (ii) the date upon which payment is due.

C. Reports and Refunds of Excess Monies by Participating Candidates.

1. In addition to any campaign finance report required by Chapter 6 of Title 16, Arizona Revised Statutes, participating candidates shall file the following campaign finance reports and dispose of excess monies as follows:
 - a. Prior to filing the application for funding pursuant to A.R.S. § 16-950, participating candidates shall file a campaign finance report with the names of the persons who have made qualifying contributions to the candidate.
 - b. At the end of the qualifying period, a participating candidate shall file a campaign finance report consisting of all early contributions received, including personal monies and the expenditures of such monies.
 - i. The campaign finance report shall be filed with the Secretary of State no later than five days after the last day of the qualifying period and shall include all campaign activity through the last day of the qualifying period.
 - ii. If the campaign finance report shows any amount of unspent monies, the participating candidate, within five days after filing the campaign finance report, shall remit all unspent contributions to the Fund, pursuant to A.R.S. § 16-945(B). Any unspent personal monies shall be returned to the candidate or the candidates' family member within five days.
2. Each participating candidate shall file a campaign finance report consisting of all expenditures made in connection with an election, all contributions received in the election cycle in which such election occurs, and all payments made to the Clean Elections Fund. If the campaign finance report shows any amount unspent, the participat-

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ing candidate, within five days after filing the campaign finance report, shall send a check from the candidate's campaign account to the Commission in the amount of all unspent monies to be deposited in the Fund.

- a. The campaign finance report for the primary election shall be filed within five days after the primary election day and shall reflect all activity through the primary election day.
 - b. The campaign finance report for the general election shall be filed within five days after the general election day and shall reflect all activity through the general election day.
3. In the event that a participating candidate purchases goods or services from a subcontractor or other vendor through an agent pursuant to subsection (A)(3), the candidate's campaign finance report shall include the same detail as required in A.R.S. § 16-948(C) for each such subcontractor or other vendor. Such detail is also required when petty cash funds are used for such expenditures.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 19 A.A.R. 1693, effective May 23, 2013 (Supp. 13-2). Amended by final exempt rulemaking at 21 A.A.R. 1629, effective July 23, 2015 (Supp. 15-3). Section R2-20-110 renumbered to Section R2-20-114; new Section R2-20-110 made by exempt rulemaking at 22 A.A.R. 2897, effective January 1, 2017 (Supp. 16-3). Amended by final exempt rulemaking at 23 A.A.R. 124, effective January 1, 2017 (Supp. 16-4).

Revised Editor's Note: *The Office will not interpret the legality of any actions made by the Commission or the Governor's Regulatory Review Council as to whether the rules in R2-20-109 and R2-20-111 were effective at 23 A.A.R. 1761 or expired at 23 A.A.R. 1757 between the dates of June 7, and December 14, 2017. Those interested in that issue should consult counsel.*

R2-20-111. Non-participating Candidate Reporting Requirements and Contribution Limits

- A. Any person may file a complaint with the Commission alleging that any non-participating candidate or that candidate's campaign committee has failed to comply with or violated A.R.S. § 16-941(B). Complaints shall be processed as prescribed in Article 2 of these rules. In addition to those penalties outlined in R2-20-222(B), a non-participating candidate or candidate's campaign committee violating A.R.S. § 16-941(B) shall be subject to penalties prescribed in A.R.S. § 16-941(B) and A.R.S. § 16-942(B) and (C) as applicable:
- B. Penalties under A.R.S. § 16-942(B):
 1. For an election involving a candidate for statewide office, the civil penalty shall be \$300 per day.
 2. For an election involving a legislative candidate, the civil penalty shall be \$100 per day.
 3. The penalties in (B)(1) and (B)(2) shall be doubled if the amount not reported for a particular election cycle exceeds ten percent (10%) of the applicable one of the adjusted primary election spending limit or adjusted general election spending limit.
 4. The dollar amounts in items (B)(1) and (B)(2), and the spending limits in item (B)(3) are subject to adjustment of A.R.S. § 16-959.

- C. Penalties under A.R.S. § 16-942(C): Where a campaign finance report filed by a non-participating candidate or that candidate's campaign committee indicates a violation of A.R.S. § 16-941(B) that involves an amount in excess of ten percent (10%) of the sum of the adjusted primary election spending limit and the adjusted general election spending limits specified by A.R.S. § 16-961(G) and (H) as adjusted pursuant to A.R.S. § 16-959, that violation shall result in disqualification of a candidate or forfeiture of office.
- D. Penalties under A.R.S. § 16-941(B): Regardless of whether or not there is a violation of a reporting requirement, a person who violates A.R.S. § 16-941(B) is subject to a civil penalty of three times the amount of money that has been received, expended, or promised in violation of A.R.S. § 16-941(B) or three times the value in money for an equivalent of money or other things of value that have been received, expended, or promised in violation of A.R.S. § 16-941(B).
- E. The twenty percent reduction in A.R.S. § 16-941(B) applies to all campaign contributions limits on contributions that are permitted to be accepted by nonparticipating candidates.
- F. Contribution limits as adjusted by A.R.S. § 16-931 shall be the base level contribution limits subject to reduction pursuant to A.R.S. § 16-941(B).

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 13 A.A.R. 3597, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by final exempt rulemaking at 21 A.A.R. 1631, effective July 23, 2015 (Supp. 15-3). Section R2-20-111 renumbered to R2-20-115 at 22 A.A.R. 2904; new Section R2-20-111 made by exempt rulemaking at 22 A.A.R. 2899 effective January 1, 2017 (Supp. 16-3). Amended by final exempt rulemaking at 23 A.A.R. 126, effective January 1, 2017 (Supp. 16-4). Section retained at the request of the Commission at 23 A.A.R. 1761 (Supp. 17-2, version 2). The Commission unanimously adopted and voted to reenact and republish this Section that was "currently in effect" for the purpose of public notice and clarity, with amendments at 24 A.A.R. 111, effective December 14, 2017 (Supp. 17-4).

R2-20-112. Political Party Exceptions

The provisions of A.R.S. § 16-911(B)(4) shall apply to a candidate, whether participating or nonparticipating, who becomes a nominee as defined in A.R.S. § 16-901(38).

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). New Section made by exempt rulemaking at 13 A.A.R. 3597, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1423, effective October 22,

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2009 (Supp. 09-3). Amended by final exempt rulemaking at 23 A.A.R. 128, effective January 1, 2017 (Supp. 16-4).

R2-20-113. Candidate Statement Pamphlet

- A.** The Commission shall publish a candidate statement pamphlet in both the primary and general elections as required by A.R.S. § 16-956(A)(1). Commission staff shall send invitations for submission of a 200 word statement to every statewide and legislative candidate who has qualified for the ballot. Statements submitted for the primary candidate statement pamphlet shall be used for the general candidate statement pamphlet unless otherwise stated by the candidate.
- B.** The following candidates will not be invited to submit a statement for the candidate statement pamphlet:
 1. In the primary election: write-in candidates for the primary election, independent candidates, no party affiliation or unrecognized party candidates.
 2. In the general election: write in candidates.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 13 A.A.R. 3597, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by exempt rulemaking at 15 A.A.R. 1423, effective October 22, 2009 (Supp. 09-3). Amended by exempt rulemaking at 15 A.A.R. 1567, effective September 2, 2009 (Supp. 09-3). Amended by exempt rulemaking at 16 A.A.R. 1200, effective January 8, 2010 (Supp. 10-2). Repealed by exempt rulemaking at 19 A.A.R. 1694, effective October 6, 2011 (Supp. 13-2). New Section made by final exempt rulemaking at 21 A.A.R. 1633, effective July 23, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 2118, effective July 29, 2019 (Supp. 19-3). Amended by final rulemaking at 26 A.A.R. 335, effective February 4, 2020; amendments made to subsection (A) were originally codified in Supp. 19-3 at 25 A.A.R. 2118 (Supp. 20-1).

R2-20-114. Candidate Campaign Bank Account

- A.** Each participating candidate shall designate a single campaign bank account for conducting campaign financial activity. During an election cycle, each participating candidate shall conduct all campaign financial activities through a single, current election campaign bank account and any petty cash accounts as are permitted by law.
- B.** A participating candidate may maintain a campaign bank account other than the current election campaign bank account described in subsection (A) if the other campaign bank account is for a campaign in a prior election cycle in which the candidate was not a participating candidate.
- C.** During the exploratory period, a candidate may receive debt-retirement contributions for a campaign during a prior election cycle if the funds are deposited in the bank account for that prior campaign. A candidate shall not deposit debt-retirement contributions into the current election campaign bank account.

Historical Note

New Section R2-20-114 renumbered from R2-20-110 by exempt rulemaking at 22 A.A.R. 2897 and 22 A.A.R. 2902, effective January 1, 2017 (Supp. 16-3).

R2-20-115. Books and Records Requirements

- A.** All candidates shall maintain, at a single location within the state, the books and records of financial transactions, and other information required by A.R.S. § 16-904.
- B.** All candidates shall ensure that the books and records of accounts and transactions of the candidate are recorded and preserved as follows:
 1. The treasurer of a candidate's campaign committee is the custodian of the candidate's books and records of accounts and transactions, and shall keep a record of all of the following:
 - a. All contributions or other monies received by or on behalf of the candidate.
 - b. The identification of any individual or political committee that makes any contribution together with the date and amount of each contribution and the date of deposit into the candidate's campaign bank account.
 - c. Cumulative totals contributed by each individual or political committee.
 - d. The name and address of every person to whom any expenditure is made, and the date, amount and purpose or reason for the expenditure.
 - e. All periodic bank statements or other statements for the candidate's campaign bank account.
 - f. In the event that the campaign committee uses a petty cash account the candidate's campaign finance report shall include the same detail for each petty cash expenditure as required in A.R.S. § 16-948(C) for each vendor.
 2. No expenditure may be made for or on behalf of a candidate without the authorization of the treasurer or his or her designated agent.
 3. Unless specified by the contributor or contributors to the contrary, the treasurer shall record a contribution made by check, money order or other written instrument as a contribution by the person whose signature or name appears on the bottom of the instrument or who endorses the instrument before delivery to the candidate. If a contribution is made by more than one person in a single written instrument, the treasurer shall record the amount to be attributed to each contributor as specified.
 4. All contributions other than in-kind contributions and qualifying contributions must be made by a check drawn on the account of the actual contributor or by a money order or a cashier's check containing the name of the actual contributor or must be evidenced by a written receipt with a copy of the receipt given to the contributor and a copy maintained in the records of the candidate.
 5. The treasurer shall preserve all records set forth in subsection (B) and copies of all campaign finance reports required to be filed for three years after the filing of the campaign finance report covering the receipts and disbursements evidenced by the records.
 6. If requested by the attorney general, the county, city or town attorney or the filing officer, the treasurer shall provide any of the records required to be kept pursuant to this Section.
- C.** Any request to inspect a candidate's records under A.R.S. § 16-958(F) shall be sent to the candidate, with a copy to the Commission, 10 or more days before the proposed date of the inspection. If the request is made within two weeks before the

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primary or general election, the request shall be delivered at least two days before the proposed date of inspection. Every request shall state with reasonable particularity the records sought.

1. The inspection shall occur at a location agreed upon by the candidate and the person making the request. If no agreement can be reached, the inspection shall occur at the Commission office. The inspection shall occur during the Commission's regular business hours and shall be limited to a two-hour time period.
2. The requesting party may obtain copies of records for a reasonable fee. The Commission shall not be responsible for making copies. The person in possession of the records shall produce copies within a reasonable time of the receipt of the copying request and fees.
3. The Commission will not permit public inspection of records if it determines that the inspection is for harassment purposes.
4. If a person who requests to inspect a candidate's records under A.R.S. § 16-958(F) is denied such a request, the requesting party may notify the Commission. The Commission may enforce the public inspection request by issuing a subpoena pursuant to A.R.S. § 16-956(B) for the production of any books, papers, records, or other items sought in the public inspection request. The subpoena shall order the candidate to produce:
 - a. All papers, records, or other items sought in the public inspection request;
 - b. No later than two business days after the date of the subpoena; and
 - c. To the Commission's office during regular business hours.
5. Any person who believes that a candidate or a candidate's campaign committee has not complied with this Section may appeal to Superior Court.

Historical Note

New Section R2-20-115 renumbered from R2-20-111 by exempt rulemaking at 22 A.A.R. 2899 and 22 A.A.R. 2904, effective January 1, 2017 (Supp. 16-3).

ARTICLE 2. COMPLIANCE AND ENFORCEMENT PROCEDURES**R2-20-201. Scope**

These rules provide procedures for processing possible violations of the Citizens Clean Elections Act.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-202. Initiation of Compliance Matters

Compliance matters may be initiated by a complaint or on the basis of information ascertained by the Commission in the normal course of carrying out its statutory responsibilities.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-203. Complaints

- A. Any person who believes that a violation of any statute or rule over which the Commission has jurisdiction has occurred or is about to occur may file a complaint in writing to the Executive Director.
- B. A complaint shall conform to the following:

1. Provide the full name and address of the complainant; and
 2. Contents of the complaint shall be sworn to and signed in the presence of a notary public and shall be notarized.
- C. All statements made in a complaint are subject to the statutes governing perjury. The complaint shall differentiate between statements based upon personal knowledge and statements based upon information and belief.
 - D. The complaint shall conform to the following provisions:
 1. Clearly identify as a respondent each person or entity who is alleged to have committed a violation;
 2. Statements which are not based upon personal knowledge shall be accompanied by an identification of the source of information which gives rise to the complainant's belief in the truth of such statements;
 3. Contain a clear and concise recitation of the facts which describe a violation of a statute or rule over which the Commission has jurisdiction; and
 4. Be accompanied by any documentation supporting the facts alleged if such documentation is known of, or available to, the complainant.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Amended by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-204. Initial Complaint Processing; Notification

- A. Upon receipt of a complaint, the Administrative Counsel shall review the complaint for substantial compliance with the technical requirements of R2-20-203, and, if it complies with those requirements, shall within five days after receipt notify each respondent that the complaint has been filed, advise each respondent of Commission compliance procedures, and provide each respondent a copy of the complaint.
- B. If a complaint does not comply with the requirements of R2-20-203, the Administrative Counsel shall so notify the complainant and any person or entity identified therein as respondent, within the five-day period specified in subsection (A), that no action should be taken on the basis of that complaint. A copy of the complaint shall be provided with the notification to each respondent.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Amended by final exempt rulemaking at 21 A.A.R. 1634, effective July 23, 2015 (Supp. 15-3).

R2-20-205. Opportunity for No Action on Complaint-generated Matters

- A. A respondent shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting, within 5 days from receipt of a written copy of the complaint, a letter or memorandum setting forth reasons why the Commission should take no action.
- B. The Commission shall not take any action, or make any finding, against a respondent other than action dismissing the complaint, unless it has considered such response or unless no such response has been served upon the Commission within the 5 day period specified in subsection A.
- C. The respondent's response shall be sworn to and signed in the presence of a notary public and shall be notarized. The respon-

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dent's failure to respond in accordance with subsection A within 5 days of receiving the written copy of the complaint may be viewed as an admission to the allegations made in the complaint for purposes of the reason to believe finding pursuant to A.A.C. R2-20-206.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R.

588, effective November 27, 2001 (Supp. 02-1).

Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by final exempt rulemaking at 21 A.A.R. 1636, effective July 23, 2015 (Supp. 15-3).

R2-20-206. Executive Director's Recommendation on Complaint-generated Matters

- A. Following either the expiration of the 5 day period specified by A.A.C. R2-20-205 or the receipt of a response as specified by A.A.C. R2-20-205(A), whichever occurs first, the Executive Director:
1. May recommend to the Commission whether it should find reason to believe that a respondent has committed or is about to commit a violation of a statute or rule over which the Commission has jurisdiction;
 2. May recommend that the Commission find that there is no reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has been committed or is about to be committed, or that the Commission otherwise dismiss a complaint without regard to the provisions of A.A.C. R2-20-205(A); or
 3. May close the complaint generated matter without a reason to believe recommendation from the Executive Director based upon Respondent complying with the statute or rule on which the complaint is founded and in such case shall notify the Commission.
- B. Neither the complainant nor the respondent has the right to appeal the Executive Director's recommendation made pursuant to subsection (A) because the recommendation is not an appealable agency action.
- C. If the complaint relates to a violation of A.R.S. § 16-941(B) by a non-participating candidate or that candidate's campaign committee, the Executive Director shall not proceed pursuant to R2-20-206(A) or R2-20-207(A), without first receiving Commission approval to initiate an inquiry.
- D. The respondent shall not have the right to appeal the Commission's decision to authorize an inquiry pursuant to subsection (C) because the Commission's decision whether or not to authorize an inquiry is not an appealable agency action.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R.

588, effective November 27, 2001 (Supp. 02-1).

Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by exempt rulemaking at 20 A.A.R. 1332, effective May 22, 2014 (Supp. 14-2). Amended by final exempt rulemaking at 21 A.A.R. 1638, effective July 23, 2015 (Supp. 15-3).

R2-20-207. Internally Generated Matters; Referrals

- A. On the basis of information ascertained by the Commission in the normal course of carrying out its statutory responsibilities, or on the basis of a referral from an agency of the state, the Executive Director may recommend in writing that the Commission find reason to believe that a person or entity has com-

mitted or is about to commit a violation of a statute or rule over which the Commission has jurisdiction.

- B. If the Commission finds reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or is about to occur, the Executive Director shall notify the respondent of the Commission's decision and shall include a copy of a staff report setting forth the legal basis and the alleged facts which support the Commission's action.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R.

588, effective November 27, 2001 (Supp. 02-1).

Amended by exempt rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3).

R2-20-208. Complaint Processing; Notification

- A. If the Commission, either after reviewing a complaint-generated recommendation as described in R2-20-206 and any response of a respondent submitted pursuant to R2-20-205, or after reviewing an internally-generated recommendation as described in R2-20-207, determines by an affirmative vote of at least three of its members that it has reason to believe that a respondent has violated a statute or rule over which the Commission has jurisdiction, the Commission shall notify such respondent of the Commission's finding, setting forth the sections of the statute or rule alleged to have been violated and the alleged factual basis supporting the finding. In accordance with A.R.S. § 16-957(A), the Commission shall serve on the respondent an order requiring compliance within 14 days. During that period, the respondent may provide any explanation to the Commission, comply with the order, or enter into a public administrative settlement with the Commission.
- B. If the Commission finds no reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred, or otherwise terminates its proceedings, the Executive Director shall so notify both the complainant and respondent.
- C. The complainant may bring an action in Superior Court in accordance with A.R.S. § 16-957(C) if the Commission finds there is no reason to believe a violation of a statute or rule over which the Commission has jurisdiction has occurred or otherwise terminates its proceedings.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R.

588, effective November 27, 2001 (Supp. 02-1).

Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1).

R2-20-209. Investigation

- A. The Executive Director or any other person designated by the Executive Director shall conduct an investigation in any case in which the Commission finds reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or is about to occur.
- B. The investigation may include, but is not limited to, field investigations, audits, and other methods of information gathering.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R.

588, effective November 27, 2001 (Supp. 02-1). Section amended by final rulemaking at 26 A.A.R. 111, with a immediate effective of December 12, 2019 (Supp. 19-4). Amended by final rulemaking at 26 A.A.R. 542, effective

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March 9, 2020; the amendments to subsections (A) and (B) were originally codified in Supp. 19-4 at 26 A.A.R. 1111 (Supp. 20-1).

R2-20-210. Written Questions Under Order

The Commission may issue an order requiring any person to submit sworn, written answers to written questions and may specify a date by which such answers must be submitted to the Commission.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).
Amended by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3).

R2-20-211. Subpoenas and Subpoenas Duces Tecum; Depositions

- A. The Commission may authorize its Executive Director or Assistant Attorney General to issue subpoenas requiring the attendance and testimony of any person by deposition and to issue subpoenas duces tecum for the production of documentary or other tangible evidence in connection with a deposition or otherwise.
- B. If the Commission orders oral testimony to be taken by deposition or for documents to be produced, the subpoena shall so state and shall advise the deponent or person subpoenaed that all testimony will be under oath. The Commission may authorize its Executive Director to take a deposition and have the power to administer oaths.
- C. The deponent shall have the opportunity to review and sign depositions taken pursuant to this rule.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).
Amended by exempt rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3).

R2-20-212. Repealed**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-213. Motions to Quash or Modify a Subpoena

- A. Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than five days after the date of receipt of such subpoena, apply to the Commission to quash or modify such subpoena, accompanying such application with a brief statement of the reasons therefore.
- B. The Commission may deny the application, quash the subpoena or modify the subpoena.
- C. The person subpoenaed and the Executive Director may agree to change the date, time, or place of a deposition or for the production of documents without affecting the force and effect of the subpoena, but such agreements shall be confirmed in writing.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).
Amended by exempt rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3).

R2-20-214. The Probable Cause to Believe Recommendation;**Briefing Procedures**

- A. Upon completion of the investigation conducted pursuant to R2-20-209, the Executive Director shall prepare a brief setting forth his or her position on the factual and legal issues of the case and containing a recommendation on whether the Commission should find probable cause to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or is about to occur.
- B. The Executive Director shall notify each respondent of the recommendation and enclose a copy of his or her brief.
- C. Within five days from receipt of the Executive Director's brief, the respondent may file a brief with the Commission setting forth the respondent's position on the factual and legal issues of the case.
- D. After reviewing the respondent's brief, the Executive Director shall promptly advise the Commission in writing whether he or she intends to proceed with the recommendation or to withdraw the recommendation from Commission consideration.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).
Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1).

R2-20-215. Probable Cause to Believe Finding

- A. If the Commission, after having found reason to believe and after following the procedures set forth in R2-20-214, determines by an affirmative vote of at least three of its members that there is probable cause to believe that a respondent has violated a statute or rule over which the Commission has jurisdiction, the Commission shall authorize the Executive Director to so notify the respondent by an order, that states the nature of the violation, pursuant to A.R.S. § 16-957.
- B. If the Commission finds no probable cause to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or otherwise orders a termination of Commission proceedings, it shall authorize the Executive Director to notify both respondent and complainant by letter that the proceeding has ended. The Executive Director's letter also will inform the parties that the Commission is not precluded from taking action on this matter in the future if evidence is discovered which may alter the decision of the Commission.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).
Amended by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3). Amended by exempt rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3).

R2-20-216. Conciliation

- A. Upon a Commission finding of probable cause to believe that the respondent has violated a statute or rule over which the Commission has jurisdiction, the Executive Director shall attempt to settle the matter as authorized by A.R.S. § 16-957(A) by informal methods of administrative settlement or conciliation, and shall attempt to reach a tentative conciliation agreement with the respondent.
- B. A conciliation agreement pursuant to subsection (A) of this Section is not binding upon either party unless and until it is signed by the respondent and by the Executive Director upon

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approval by the affirmative vote of at least three members of the Commission.

- C. If a conciliation agreement is reached between the Commission and the respondent, the Executive Director shall send a copy of the signed agreement to both complainant and respondent.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R.

588, effective November 27, 2001 (Supp. 02-1).

Amended by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3).

R2-20-217. Enforcement Proceedings

- A. Upon a finding of probable cause that the alleged violator remains out of compliance, the Executive Director may recommend to the Commission that the Commission authorize the issuance of an order and assessment of civil penalties pursuant to A.R.S. § 16-957(B).
- B. The Commission may, by an affirmative vote of at least three of its members, authorize the Executive Director to issue an order and assess civil penalties pursuant to A.R.S. § 16-957(B).
- C. Subsections (A) and (B) of this rule shall not preclude the Commission, upon request of a respondent, from entering into a conciliation agreement pursuant to R2-20-216 even after the Commission authorizes the Executive Director to issue an order and assess civil penalties pursuant to subsection (B). Any conciliation agreement reached under this subsection is subject to the provisions of R2-20-216(B) and shall have the same force and effect as a conciliation agreement reached under R2-20-216(D).

Historical Note

New Section made by exempt rulemaking at 8 A.A.R.

588, effective November 27, 2001 (Supp. 02-1).

Amended by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1).

R2-20-218. Repealed**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R.

588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-219. Repealed**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R.

588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3).

R2-20-220. Ex Parte Communications

- A. In order to avoid the possibility of prejudice, real or apparent, to the public interest in enforcement actions pending before the Commission pursuant to its compliance procedures, except to the extent required for the disposition of ex parte matters as required by law (for example, during the normal course of an investigation or a conciliation effort), no interested person outside the agency shall make or cause to be made to any Commissioner or any member of any Commission staff any ex parte communication relative to the factual or legal merits of

any enforcement action, nor shall any Commissioner or member of the Commission's staff make or entertain any such ex parte communications.

- B. This rule shall apply from the time a complaint is filed with the Commission or from the time that the Commission determines on the basis of information ascertained in the normal course of its statutory responsibilities that it has reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or may occur, and remains in force until the Commission has finally concluded all action with respect to the matter in question.
- C. Nothing in this Section shall be construed to prohibit contact between a respondent or respondent's attorney and any staff member or other authorized representative of the Commission or the Commission staff in the course of representing the Commission or the respondent with respect to an enforcement proceeding or civil action. No statement made by a Commission representative or staff member shall bind or estop the Commission.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R.

588, effective November 27, 2001 (Supp. 02-1).

Amended by final rulemaking at 29 A.A.R. 994 (May 5, 2023), effective June 17, 2023 (Supp. 23-2).

R2-20-221. Representation by Counsel; Notification

- A. If a respondent wishes to be represented by counsel with regard to any matter pending before the Commission, respondent shall so advise the Commission by sending a letter of representation signed by the respondent, which letter shall state the following:
1. The name, address, and telephone number of the counsel; and
 2. A statement authorizing such counsel to receive any and all notifications and other communications from the Commission on behalf of respondent.
- B. Upon receipt of a letter of representation, the Commission shall have no contact with respondent except through the designated counsel unless authorized in writing by respondent. The Commission will send a copy of this letter to the respondent's attorney.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R.

588, effective November 27, 2001 (Supp. 02-1).

R2-20-222. Civil Penalties

- A. If the Commission has reason to believe by a preponderance of the evidence that a participating candidate is not in compliance with the Act or Commission rules, then in addition to other penalties under law, the Commission may decertify a candidate, deny or suspend funding, order repayment of funds, or impose a penalty not to exceed \$1,000 for a participating candidate for the legislature and 5,000 for a participating candidate for statewide office.
- B. If the Commission has reason to believe by a preponderance of the evidence that a person other than a participating candidate is not in compliance with the Act or Commission rules, then in addition to other penalties under law, the Commission may impose a penalty not to exceed \$1,000.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R.

588, effective November 27, 2001 (Supp. 02-1).

Amended by exempt rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3). Amended by

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exempt rulemaking at 19 A.A.R. 1697, effective May 23, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3524, effective September 27, 2013 (Supp. 13-4).

R2-20-223. Notice of Appealable Agency Action

If the Commission makes a probable cause finding pursuant to R2-20-215 or decides to initiate an enforcement proceeding pursuant to R2-20-217, any person authorized to provide legal services on behalf of the Commission shall draft and serve notice of an appealable agency action pursuant to A.R.S. § 41-1092.03 and § 41-1092.04 on the respondent. The notice shall identify the following:

1. The statute or rule violated and specific facts constituting the violation;
2. A description of the respondent's right to request a hearing and to request an informal settlement conference; and
3. A description of what the respondent may do if the respondent wishes to remedy the situation without appealing the Commission's decision.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by final exempt rulemaking at 21 A.A.R. 2921, effective July 1, 2011; filed in the Office October 27, 2015 (Supp. 15-4). Amended by final rulemaking at 29 A.A.R. 994 (May 5, 2023), effective June 17, 2023 (Supp. 23-2).

R2-20-224. Request for an Administrative Hearing

- A. The respondent must file a request for a hearing with the Commission within 30 days of receipt of the notice prescribed in R2-20-223.
- B. If the respondent requests a hearing, the AAG shall notify the Office of Administrative Hearings (OAH) of the appeal and shall coordinate a hearing date with the Commission's AAG and Commission staff that may be called as witnesses and OAH. The hearing must be held within 60 days after the notice of appeal is filed with the Commission.
- C. The AAG shall prepare and serve a notice of hearing on all parties to the appeal at least 30 days before the hearing date, unless an expedited hearing is requested and granted. The notice of hearing shall be drafted in accordance with A.R.S. § 41-1092.05(D).

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-225. Informal Settlement Conference

- A. If the respondent requests an informal settlement conference, the informal settlement conference shall be held within 15 days after the Commission receives the request. A request for an informal settlement conference shall be in writing and must be filed with the Commission no later than 20 days before the hearing date. A person with the authority to act on behalf of the Commission must represent the Commission at the conference. The AAG shall attend the settlement conference, but shall not be the individual authorized to act on behalf of the Commission.
- B. The Commission representative shall notify the appellant in writing that the statements, either written or oral, made by the appellant at the conference, including a written document, created or expressed solely for the purpose of settlement negotiations, are inadmissible in any subsequent administrative hearing. The parties participating in the settlement conference

waive their right to object to the participation of the agency representative in the final administrative decision.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-226. Administrative Hearing

- A. If the matter continues to a hearing, the hearing shall be held in accordance with A.R.S. § 41-1092.07. The Administrative Law Judge (ALJ) must issue a written recommended decision within 20 days after the hearing is concluded.
- B. If the enforcement action occurs within six months of the primary or general election, the Commission will request an expedited review of the matter

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-227. Review of Administrative Decision by Commission

- A. Within 30 days after the date OAH sends a copy of the ALJ's decision to the Commission, the Commission may review the ALJ's decision and accept, reject or modify the decision.
- B. If the Commission declines to review the ALJ's decision, the Commission shall serve a copy of the decision on all parties. If the Commission modifies or rejects the decision, the Commission shall file with OAH and serve on all parties, a copy of the ALJ's decision with the rejection or modification and a written justification setting forth the reasons for the rejection or modification. If the Commission accepts, rejects or modifies the decision, the Commission's decision will be certified as final.
- C. If the Commission does not accept, reject or modify the decision within 30 days after OAH sends the ALJ's decision to the Commission, the ALJ's decision will be certified as final.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-228. Judicial Review

A party may appeal a final administrative decision pursuant to A.R.S. § 12-901 et seq. (Judicial Review of Administrative Decisions). A party does not have the right to judicial review unless that party first exhausts its administrative remedies by going through the above steps. After a hearing has been held and a final administrative decision has been entered pursuant to § 41-1092.08, a party is not required to file a motion for rehearing or review of the decision in order to exhaust the party's administrative remedies.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-229. Repealed**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-230. Repealed**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section

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repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-231. Repealed**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1).

ARTICLE 3. STANDARD OF CONDUCT FOR COMMISSIONERS AND EMPLOYEES**R2-20-301. Purpose and Applicability**

- A. The Commission is committed to implementing the Act in an honest, independent, and impartial fashion and to seeking to uphold public confidence in the integrity of the electoral system. To ensure public trust in the fairness and integrity of the Arizona elections process, all Commissioners and employees must observe the highest standards of conduct. This Article prescribes standards of ethical conduct for Commissioners and employees of the Commission relating to conflicts of interest arising from outside employment, private businesses, professional activities, political activities, and financial interests. The avoidance of misconduct and conflicts of interest on the part of the Commissioners and the employees through informed judgment is indispensable to the maintenance of these prescribed ethical standards. Attainment of these goals necessitates strict and absolute fairness and impartiality in the administration of the law.
- B. This Article applies to all persons included within the terms “employee” and “Commissioner” of the Commission.
- C. These Standards of Conduct shall be construed in accordance with any applicable laws, regulations, and agreements between the Commission and a labor organization.
- D. Pursuant to A.R.S. § 16-955(I), for three years after a Commissioner completes his or her tenure, Commissioners shall not seek or hold any public office, serve as an officer of any political committee, or employ or be employed as a lobbyist.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-302. Definitions

The following terms apply in all Citizens Clean Elections Act matters:

1. “Commission” means the Citizens Clean Elections Commission of Arizona.
2. “Commissioner” means a voting member of the Commission, appointed pursuant to A.R.S. § 16-955.
3. “Conflict of interest” means a situation in which a Commissioner’s or an employee’s private interest is or appears to be inconsistent with the efficient and impartial conduct of his or her official duties and responsibilities.
4. “Employee” means an employee or staff member of the Commission.
5. “Former employee” means one who was, and is no longer, an employee of the Commission.
6. “Official responsibility” means the direct administrative or operating authority, whether intermediate or final, to approve, disapprove, or otherwise direct Commission action. Official responsibility may be exercised alone or with others and either personally or through subordinates.
7. “Outside employment” or “outside activity” means any work, service or other activity performed by a Commis-

sioner or employee other than in the performance of the Commissioner’s or employee’s official employment duties. It includes such activities as writing and editing, publishing, teaching, lecturing, consulting, self-employment, and other services or work performed, with or without compensation.

8. “Person” means an individual, corporation, company, association, firm, partnership, society, joint stock company, political committee, or other group, organization, or institution.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-303. Notification to Commissioners and Employees

The Executive Director shall provide to each Commissioner and employee of the Commission, upon commencement of his or her term or employment and at least annually thereafter, a copy of this Article and such other information regarding standards of conduct as the Commission and/or applicable law may prescribe.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Amended by exempt rulemaking at 13 A.A.R. 3527, effective January 1, 2008 (Supp. 07-3).

R2-20-304. Interpretation and Advisory Service

Commissioners or employees seeking advice and guidance on questions of conflict of interest and on other matters covered by this Article shall consult with the Commission’s Chair or Executive Director. The Commission’s Chair or Executive Director shall be consulted prior to the undertaking of any action that might violate this Article governing the conduct of Commissioners or employees.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Amended by exempt rulemaking at 13 A.A.R. 3527, effective January 1, 2008 (Supp. 07-3).

R2-20-305. Reporting Suspected Violations

- A. Persons who have information that causes them to believe that there has been a violation of a statute or a rule set forth in this Article or that a Commissioner should not participate in a Commission decision, shall report promptly, in writing, such information to the Commission’s Chair or Executive Director.
- B. When information made available to the Commission under subsection (A) indicates a conflict between the interests of a Commissioner or employee and the performance of his or her Commission duties, the Commissioner or employee shall be provided notice of the conflict issue and an opportunity to explain the conflict or appearance of conflict in writing. In the case of a Commissioner, the response shall be due five days from the issuance of the notice. The Commission’s Chair or Executive Director may decline to require a response if the claim is clearly meritless and, in such event, no response is required. In such cases, the Commission’s Chair or Executive Director shall state in writing why the claim is clearly meritless and provide the writing to the person who provided the information and the Commissioner.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

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Amended by final rulemaking at 29 A.A.R. 1549 (July 14, 2023), effective August 13, 2023 (Supp. 23-2).

R2-20-306. Disciplinary and Other Remedial Action

- A. A violation of this Article by an employee or Commissioner may be cause for remedial action or, if the matter involves a Commission employee, disciplinary action, which may be in addition to any penalty or enforcement mechanism provided by law.
- B. When the Commission's Executive Director determines that an employee may have or appears to have a conflict of interest, the Commission's Executive Director may question the employee in the matter and gather other information. The Commission's Executive Director and the employee's supervisor shall discuss with the employee possible ways of eliminating the conflict or appearance of conflict. If the Commission's Executive Director, after consultation with the employee's supervisor, concludes that remedial action should be taken, he or she shall refer a statement to the Commission containing his or her recommendation for such action. The Commission, after consideration of the employee's explanation and the results of any investigation, may direct appropriate remedial action as it deems necessary.
- C. Remedial action pursuant to subsection (B) may include, but is not limited to:
 - 1. Changes in assigned duties;
 - 2. Divestment by the employee of his or her conflicting interest;
 - 3. Disqualification for particular action; or
 - 4. Disciplinary action.
- D. When the matter involves a Commissioner, the Commission's Chair and Executive Director may conduct an appropriate investigation or gather relevant information for consideration by the Commission. After review of relevant information and a response from the Commissioner, the Commission's Chair and Executive Director shall ensure that the matter is made part of the agenda for a Commission meeting for discussion and possible action no later than the next regular Commission meeting, unless there is less than one week before that meeting, in which case, the matter shall be scheduled at the next subsequent meeting. The Commission's Chair may call for an interim meeting regarding the matter at the discretion of the Commission's Chair.
- E. After consideration of the relevant information and a Commissioner's response at an open meeting, the Commission may vote on an action for proper remedial action. Remedial action may include, but is not limited to:
 - 1. An expression of the majority opinion of the Commissioners about voluntary remedial action the Commissioner at issue should take to resolve the conflict issues and ensure the appropriate level of impartiality in Commission proceedings; or
 - 2. Disqualification of the Commissioner from participation in discussion or votes on any matter for which the Commissioner has, in the determination of a majority of the other non-disqualified Commissioners, a disqualifying conflict.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).
Amended by final rulemaking at 29 A.A.R. 1549 (July 14, 2023), effective August 13, 2023 (Supp. 23-2).

R2-20-307. General Prohibited Conduct

- A. A Commissioner or employee shall avoid any action whether or not specifically prohibited by this Section that might result in, or create the appearance of:
 - 1. Using public office for unlawful private gain;
 - 2. Giving favorable or unfavorable treatment to any person or organization due to any partisan or political consideration;
 - 3. Impeding Commission efficiency or economy;
 - 4. Losing impartiality.
 - 5. Making a Commission decision without Commission approval; or
 - 6. Adversely affecting the confidence of the public in the integrity of the Commission.
- B. A Commissioner or employee of the Commission shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who:
 - 1. Has, or is seeking to obtain, contractual or other business or financial relations with the Commission;
 - 2. Conducts operations or activities that are regulated or examined by the Commission; or
 - 3. Has an interest that may be substantially affected by the performance or nonperformance of the Commissioner or employee's official duty.
- C. Subsection (B) of this Section shall not apply in the following circumstances:
 - 1. When circumstances make it clear that obvious family or personal relationships, rather than the business of the persons concerned, are the motivating factors;
 - 2. To the acceptance of food, refreshments, and accompanying entertainment of nominal value in the ordinary course of a social occasion or a luncheon or dinner meeting or other function where a Commissioner or an employee is properly in attendance;
 - 3. To the acceptance of unsolicited advertising or promotional material or other items of nominal value such as pens, pencils, note pads, calendars; and
 - 4. To the acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities, such as home mortgage loans.
- D. A Commissioner or an employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself or herself. However, this subsection does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as birthday, holiday, marriage, illness, or retirement.
- E. This Section does not preclude a Commissioner or employee from receipt of reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this Article for which no state payment or reimbursement is made. However, this Section does not allow a Commissioner or employee to be reimbursed, or payment to be made on his or her behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow a Commissioner or employee to be reimbursed by a person for travel on official business under Commission orders when reimbursement is prescribed by statute.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-308. Outside Employment or Activities

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- A. A Commissioner or employee shall not engage in outside employment that is incompatible with the full discharge of his or her duties as a Commissioner or employee.
- B. Incompatible outside employment or other activities by Commissioners or employees include, but are not limited to:
1. Outside employment or other activities that involve illegal activities;
 2. Outside employment or other activities that would give rise to a real or apparent conflict of interest situation even though no violation of a specific statutory provision was involved;
 3. Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances where acceptance may result in, or create the appearance of, a conflict of interest;
 4. Outside employment or other activities that might bring discredit upon the state or Commission;
 5. Outside employment or other activities that establish relationships or property interests that may result in a conflict between the Commissioner's or the employee's private interests and official duties;
 6. Outside employment or other activities which would involve any contractor or subcontractor connected with any work performed for the Commission or would involve any person or organization in a position to gain advantage in its dealings with the state through the Commissioner's or employee's exercise of his or her official duties;
 7. Outside employment or other activities that may be construed by the public to be the official acts of the Commission. In any permissible outside employment, care shall be taken to ensure that names and titles of Commissioners and employees are not used to give the impression that the activity is officially endorsed or approved by the Commission or is part of the Commission's activities;
 8. Outside employment or other activities which would involve use by a Commissioner or employee of his or her official duty time; use of official facilities, including office space, machines, or supplies, at any time; or use of the services of other employees during their official duty hours;
 9. Outside employment or other activities which impair the Commissioner's or employee's mental or physical capacities to perform Commission duties and responsibilities in an acceptable manner; or
 10. Use of information obtained as a result of state employment that is not freely available to the general public or would not be made available upon request. However, written authorization for the use of any such information may be given when the Commission determines that such use would be in the public interest.
- C. Commissioners and employees shall not receive any salary or anything of monetary value from a private source as compensation for the Commissioner's or employee's services to the state.
- D. Commissioners and employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law or this Article. However, Commissioners and employees shall not, either with or without compensation, engage in teaching or writing that is dependent on information obtained as a result of his or her Commission employment, except when that information has been made available to the public or will be made available on request, or when the Commission gives written

authorization for the use of nonpublic information on the basis that the use is in the public interest.

- E. This Section does not preclude a Commissioner or employee from participating in the activities of or acceptance of an award for meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit, educational, recreational, public service, or civic organization.
- F. An employee who intends to engage in outside employment shall obtain the approval of the Executive Director. The request shall include the name of the person, group, or organization for whom the work is to be performed, the nature of the services to be rendered, the proposed hours of work, or approximate dates of employment, and the employee's certification as to whether the outside employment (including teaching, writing, or lecturing) will depend in any way on information obtained as a result of the employee's official position. The employee will receive, from the Executive Director, written notice of approval or disapproval of any written request. A record of the decision shall be placed in each employee's official personnel folder.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-309. Financial Interests

- A. Commissioners and employees shall not engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through the Commissioner's or employee's duties or employment.
- B. Commissioners and employees shall not have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with the Commissioner's or employee's official duties and responsibilities, except in cases where the Commissioner or employee makes full disclosure, and disqualifies himself or herself from participating in any decisions, approval, disapproval, recommendation, the rendering of advice, investigation, or in any proceeding of the Commission in which the financial interest is or appears to be affected. Full disclosure by a Commissioner or employee will require that individual to submit a written statement to the Executive Director or Chair disclosing the particular financial interest which conflicts substantially, or appears to conflict substantially, with the Commissioner's or employee's duties and responsibilities.
- C. Commissioners and employees shall disqualify themselves from a proceeding in which the Commissioner's or employee's impartiality might reasonably be questioned, such as in a situation where the Commissioner or employee knows that he or she, or his or her family member, has an interest in the subject matter in controversy or is a party to the proceeding, or has any other interest that could be substantially affected by the outcome of the proceeding.
- D. This Section does not preclude a Commissioner or employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Commission, as long as the Commissioner's or employee's financial interest does not conflict with official Commission duties.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-310. Political and Organization Activity

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- A. Due to the Commission's role in the political process, the following restrictions on political activities are required:
1. Commissioners and employees shall not advocate for the election or defeat of a candidate, nor make contributions to a candidate, political party, or political committee subject to the jurisdiction of the Commission. Commissioners and employees, however, are not prohibited from signing candidate nomination petitions;
 2. Commissioners and employees shall not provide volunteer or paid services for a candidate, political party, or political committee subject to the jurisdiction of the Commission; and
 3. Commissioners and employees not shall display partisan buttons, badges, or other insignia on Commission premises.
- B. Employees on leave, leave without pay, or on furlough or terminal leave, even though the employees' resignations have been accepted, are subject to the restrictions of this Section. A separated employee who has received a lump-sum payment for annual leave, however, is not subject to the restrictions during the period covered by the lump-sum payment or thereafter, provided he or she does not return to state employment during that period. An employee is not permitted to take a leave of absence to work with a political candidate, committee, or organization or become a candidate for office despite any understanding that he or she will resign his or her position if nominated or elected.
- C. A Commissioner or employee is accountable for political activity by another person acting as his or her agent or under the Commissioner's or employee's direction or control if the Commissioner or employee is thus accomplishing what he or she may not lawfully do directly and openly.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-311. Membership in Associations

Commissioners or employees who are members of nongovernmental associations or organizations shall avoid activities on behalf of those associations or organizations that are incompatible with their official positions.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-312. Use of State Property

A Commissioner or employee shall not directly or indirectly use, or allow the use of, state property of any kind, including property leased to the state, for other than officially approved activities. Commissioners and employees have a positive duty to protect and conserve state property including equipment, supplies, and other property entrusted or issued to him or her.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

ARTICLE 4. AUDITS**R2-20-401. Purpose and Scope**

This article prescribes procedures for conducting examinations and audits of participating candidates' campaign finances.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by

exempt rulemaking at 19 A.A.R. 1699, effective October 6, 2011 (Supp. 13-2).

R2-20-402. General

The Commission may conduct an examination and audit of the receipts, disbursements, debts and obligations of each candidate. In addition, the Commission may conduct other examinations and audits as it deems necessary to carry out the provisions of the Act and regulations. Information obtained pursuant to any audit and examination may be used by the Commission as the basis, or partial basis, for its repayment determinations.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-402.01. Audits of Participating Legislative Candidates

To ensure compliance with the Act and Commission rules, the Commission shall conduct audits of all participating legislative candidates after each election. Candidates who win their primary election will not be subject to an audit until after the general election. Audits shall include the review of campaign finance reports for the entire election cycle and related documentation in accordance with procedures established by the Commission. The Commission may hire independent accounting firms to carry out the audits.

Historical Note

New Section made by exempt rulemaking at 13 A.A.R. 3529, effective January 1, 2008 (Supp. 07-3). Amended by exempt rulemaking at 19 A.A.R. 1700, effective October 6, 2011 (Supp. 13-2). Amended by final exempt rulemaking at 21 A.A.R. 1640, effective July 23, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 130, effective December 15, 2016 (Supp. 16-4). Amended by final exempt rulemaking at 23 A.A.R. 2944, effective September 28, 2017 (Supp. 17-4).

R2-20-402.02. Audits of Participating Statewide Candidates

All participating statewide candidates shall be audited after each primary election period and each general election period.

Historical Note

New Section made by final exempt rulemaking at 23 A.A.R. 131, effective December 15, 2016 (Supp. 16-4).

R2-20-403. Conduct of Fieldwork

- A. The Commission will provide the candidate two days notice of the Commission's intention to commence fieldwork on the audit and examination. The Commission will conduct fieldwork at a site provided by the candidate. During or after fieldwork, the Commission may request additional or updated information, which expands the coverage dates of information previously provided. During or after fieldwork, the Commission may also request additional information that was created by or becomes available to the candidate that is of assistance in the Commission's audit. The candidate shall produce the additional or updated information no later than two days after service of the Commission's request.
- B. On the date scheduled for the commencement of fieldwork, the candidate shall facilitate the examination or audit by making records available in one central location, such as the Commission's office space, or shall provide the Commission with office space and records. The candidate shall be present at the site of the fieldwork. The candidate shall be familiar with the

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candidate's records and shall be available to the Commission to answer questions and to aid in locating records.

- C. If the candidate fails to provide adequate office space, personnel or records, the Commission may seek judicial intervention to enforce the request or assess other penalties.
- D. If, in the course of the examination or audit process, a dispute arises over the documentation sought, the candidate may seek review by the Commission of the issues raised. To seek review, the candidate shall submit a written statement within five days after the disputed Commission request is made, describing the dispute and indicating the candidate's proposed alternatives.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-404. Preliminary Audit Report

- A. After the completion of fieldwork, the auditors may prepare a written preliminary audit report, which will be provided to the candidate after it is reviewed by the Executive Director. The preliminary audit report may include:
 - 1. An evaluation of procedures and systems employed by the candidate to comply with applicable provisions of the Act and Commission rules,
 - 2. The accuracy of statements and campaign finance reports filed with the Secretary of State by the candidate, and
 - 3. Preliminary findings.
- B. The candidate may submit in writing within 10 days after receipt of the preliminary audit report, legal and factual materials disputing or commenting on the proposed findings contained in the preliminary audit report. In addition, the candidate shall submit any additional documentation requested by the Commission.
- C. If the preliminary audit report cannot be completed, the Commission shall notify the candidate in writing that the audit report will not be completed.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 16 A.A.R. 1200, effective February 28, 2008 (Supp. 10-2).

R2-20-405. Final Audit Report

- A. Before voting on whether to approve and issue a final audit report, the Commission will consider any written legal and factual materials timely submitted by the candidate in accordance with R2-20-404. The Commission-approved final audit report may address issues other than those contained in the preliminary audit report.
- B. The final audit report may identify issues that warrant referral for possible enforcement proceedings.
- C. Addenda to the final audit report may be approved and issued by the Commission from time to time as circumstances warrant and as additional information becomes available. Such addenda may be based on follow-up fieldwork conducted, or information ascertained by the Commission in the normal course of carrying out its responsibilities. The procedures set forth in R2-20-404 and subsections (A) and (B) will be followed in preparing such addenda.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-406. Release of Audit Report

- A. The Commission will consider the final audit report specified in R2-20-405 in an open meeting. The Commission will provide the candidate with copies of the final audit report to be considered in an open meeting 24 hours prior to the public meeting.
- B. Following Commission approval of the final audit report, the report will be forwarded to the candidate within five days after the public meeting.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

ARTICLE 5. RULEMAKING**R2-20-501. Purpose and Scope**

This Article prescribes the procedures for the submission, consideration, and disposition of rulemaking petitions filed with the Commission, establishes the conditions under which the Commission may identify and respond to petitions for rulemaking, and informs the public of the procedures the agency follows in response to such petitions.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-502. Procedural Requirements

- A. Any interested person may file with the Commission a written petition for the issuance, amendment, or repeal of an administrative rule implementing any of the Citizens Clean Elections Act.
- B. The petition shall:
 - 1. Include the name and address of the petitioner or agent. An authorized agent of the petitioner may submit the petition, but the agent shall disclose the identity of his or her principal;
 - 2. Identify itself as a petition for the issuance, amendment, or repeal of a rule;
 - 3. Identify the specific Section of the regulations to be affected;
 - 4. Set forth the factual and legal grounds on which the petitioner relies, in support of the proposed action; and
 - 5. Be addressed and submitted to the Commission.
- C. The petition may include draft regulatory language that would effectuate the petitioner's proposal.
- D. The Commission may, in its discretion, treat a document that fails to conform to the format requirements of subsection (B) of this Section as a basis for rulemaking addressing issues raised in a petition.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-503. Processing of Petitions

- A. Within 10 days of receiving a petition, the Commission shall send a letter to the petitioner acknowledging the receipt of the petition and informing the petitioner that the Commission will review and decide whether to deny or accept the petition. To assist in determining whether a rulemaking proceeding should be initiated, the Commission may publish a Notice of Availability on the Commission web site or otherwise post notice, stating that the petition is available for public inspection in the Commission's Office and that statements in support of or in opposition to the petition may be filed within a stated period after publication of the Notice of Availability.

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- B. If the Commission decides a public hearing on the petition would help determine whether to commence a rulemaking proceeding, it will publish an appropriate notice of the hearing on the Commission web site or otherwise post notice, to notify interested persons and to invite their participation in the hearing.
- C. The Commission will consider all comments regarding whether rulemaking proceedings should be initiated.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-504. Disposition of Petitions

- A. After considering the comments and any other information relevant to the subject matter of the petition, the Commission will decide whether to initiate rulemaking based on the filed petition.
- B. If the Commission decides to initiate rulemaking proceedings, it shall file a Notice of Proposed Rulemaking and the proposed rule, in the format prescribed in A.R.S. § 41-1022, with the Secretary of State's office for publication in the Arizona Administrative Register. After the Commission approves the proposed rule, the Commission will accept public comments on the proposed rule for 60 days. After consideration of the comments received in the 60-day comment period, the Commission may adopt the rule in open meeting.
- C. If the Commission decides not to initiate rulemaking, it will give notice of this action by publishing a Notice of Disposition on the Commission web site, or otherwise post notice, and by sending a letter to the petitioner. The Notice of Disposition will include a brief statement of the grounds for the Commission's decision.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-505. Commission Considerations

The Commission's decision on the petition for rulemaking may include, but will not be limited to, the following considerations:

1. The Commission's statutory authority;
2. Policy considerations;
3. The desirability of proceeding on a case-by-case basis;
4. The necessity or desirability of statutory revision;
5. Available agency resources; and
6. Substantive policy statements.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-506. Administrative Record

- A. The Commission record for the petition process consists of the following:
 1. The petition, including all attachments on which it relies, filed by the petitioner;
 2. Written comments on the petition that have been circulated to and considered by the Commission, including attachments submitted as a part of the comments;
 3. Agenda documents, in the form they are circulated to and considered by the Commission in the course of the petition process;
 4. All notices published on the Commission web site and in the Arizona Administrative Register, including the Notice of Availability and Notice of Disposition;

5. The transcripts or audiotapes of any public hearing on the petition;
 6. All correspondence between the Commission and the petitioner, other commentators and state agencies pertaining to Commission consideration of the petition; and
 7. The Commission's decision on the petition, including all documents identified or filed by the Commission as part of the record relied on in reaching its final decision.
- B. The administrative record specified in subsection (A) of this Section is the exclusive record for the Commission's decision.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

ARTICLE 6. EX PARTE COMMUNICATIONS**R2-20-601. Purpose and Scope**

This Article prescribes procedures for handling ex parte communications made regarding Commission audits, investigations, and litigation. Rules governing such communications made in connection with Commission enforcement actions are found at R2-20-220.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-602. Definitions

- A. "Ex parte communication" means any written or oral communication, by any person outside the agency to any Commissioner or any employee, which imparts information or argument regarding prospective Commission action or potential action concerning:
 1. Any ongoing audit;
 2. Any pending investigation; or
 3. Any litigation matter.
- B. "Ex parte communication" does not include the following communications:
 1. Public statements by any person in a public forum; or
 2. Statements or inquiries by any person limited to the procedural status of an open proceeding involving a Commission audit, investigation, or litigation matter.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-603. Audits, Investigations, and Litigation

- A. In order to avoid the possibility of prejudice, real or apparent, in Commission decision making, no person outside the Commission shall make, or cause to be made, to any Commissioner or employee, any ex parte communication regarding any audit undertaken by the Commission or any pending or prospective Commission decision regarding any investigation or litigation, including whether to initiate, settle, appeal, or any other decision concerning an investigation or litigation matter.
- B. A Commissioner or employee who receives an oral ex parte communication concerning any matters addressed in subsection (A) of this Section shall attempt to prevent the communication. If unsuccessful in preventing the communication, the Commissioner or employee shall advise the person making the communication that he or she will not consider the communication and shall, as soon after the communication as is reasonably possible, but no later than three business days after the communication, or prior to the next Commission discussion of the matter, whichever is earlier, prepare a statement setting forth the substance and circumstances of the communication,

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and deliver the statement to the Executive Director for placement in the applicable case file.

- C. A Commissioner or employee who receives a written ex parte communication concerning any matters addressed in subsection (A) of this Section shall, as soon after the communication as is reasonably possible but no later than three business days after the communication, or prior to the next Commission discussion of the matter, whichever is earlier, deliver a copy of the communication to the Executive Director for placement in the applicable case file.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-604. Sanctions

Any person who becomes aware of a possible violation of this Article shall notify the Executive Director in writing of the facts and circumstances of the alleged violation. The Executive Director shall recommend to the Commission the appropriate action to be taken. The Commission shall determine the appropriate action by at least three votes.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

ARTICLE 7. USE OF FUNDS AND REPAYMENT**R2-20-701. Purpose and Scope**

Notwithstanding any other provision of the rules to the contrary, a participating candidate shall not make any payment to a private organization that is exempt under section 501(a) of the internal revenue code and that is eligible to engage in activities to influence the outcome of a candidate election, nor make any payment directly or indirectly to a political party; and subject to the foregoing, may spend clean elections monies only for reasonable and necessary expenses that are directly related to the campaign of that participating candidate.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by final rulemaking at 26 A.A.R. 886, with an immediate effective date of February 27, 2020; the same amendments were filed and codified by final rulemaking at 26 A.A.R. 1259, with an immediate effective date of June 4, 2020 (Supp. 20-2).

R2-20-702. Use of Campaign Funds

- A. A participating candidate shall use funds in the candidate's current campaign account to pay for goods and services for direct campaign purposes only. Funds shall be disbursed and reported in accordance with A.R.S. § 16-948(C).
- B. Participating candidates may purchase fixed assets with a value not to exceed \$800. Fixed assets, including accessories, purchased with campaign funds that can be used for non-campaign purposes with a value of \$200 or more shall be turned into the Commission no later than 14 days after the primary election or the general election if the candidate was successful in the primary. For purposes of determining whether a fixed asset is valued at \$200 or more, the value shall include any accessories purchased for use with the fixed asset in question. A candidate may elect to keep an item by reimbursing the

Commission for 80 percent of the original purchase price including the cost of accessories.

- C. During the primary election period, a participating candidate shall not make any expenditure greater than the difference between:
1. The sum of early contributions received plus public funds disbursed through the primary election period; less
 2. All other expenditures made during and for the exploratory, qualifying and primary election periods.
- D. During the general election period, a participating candidate shall not make any expenditure greater than the difference between:
1. The amount of public funds disbursed during and for the general election period; less
 2. All other expenditures made during and for the general election period.
- E. Transportation expenses.
1. Except as otherwise provided in this subsection (D), the costs of transportation relating to the election of a participating statewide or legislative office candidate shall not be considered a direct campaign expense and shall not be reported by the candidate as expenditures or as in-kind contributions.
 2. If a participating candidate travels for campaign purposes in a privately owned automobile, the candidate may:
 - a. Use campaign funds to reimburse the owner of the automobile at a rate not to exceed the state mileage reimbursement rate in which event the reimbursement shall be considered a direct campaign expense and shall be reported as an expenditure and reported in the reporting period in which the expenditure was incurred. If a candidate chooses to use campaign funds to reimburse, the candidate shall keep an itinerary of the trip, including name and type of events(s) attended, miles traveled and the rate at which the reimbursement was made. This subsection applies to candidate owned automobiles in addition to any other automobile.
 - b. Use campaign funds to pay for direct fuel purchases for the candidate's automobile only and shall be reported. If a candidate chooses to use campaign funds for direct fuel purchases, the candidate shall keep an itinerary of the trip, including name and type of events(s) attended, miles traveled and the rate at which the reimbursement could have been made.
 3. Use of airplanes.
 - a. If a participating candidate travels for campaign purposes in a privately owned airplane, within 7 days from the date of travel, the candidate shall use campaign funds to reimburse the owner of the airplane at a rate of \$150 per hour of flying time, in which event the reimbursement shall be considered a direct campaign expense and shall be reported as an expenditure. If the owner of the airplane is unwilling or unable to accept reimbursement, the participating candidate shall remit to the fund an amount equal to \$150 per hour of flying time.
 - b. If a participating candidate travels for campaign purposes in a state-owned airplane, within 7 days from the date of travel, the candidate shall use campaign funds to reimburse the state for the portion allocable to the campaign in accordance with subsection 3a, above. The portion of the trip attributable to state

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business shall not be reimbursed. If payment to the State is not possible, the payment shall be remitted to the Clean Elections Fund.

4. If a participating candidate rents a vehicle or purchases a ticket or fare on a commercial carrier for campaign purposes, the actual costs of such rental (including fuel costs), ticket or fare shall be considered a direct campaign expense and shall be reported as an expenditure.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed; new Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 3606, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1423, effective October 22, 2009 (Supp. 09-3). Amended by exempt rulemaking at 17 A.A.R. 1267, effective April 12, 2011 (Supp. 11-2). Since language in subsections R2-20-702(C)(3)(d)(i) and (ii) and R2-20-702(C)(4) and (5) are substantively identical, the Commission requested to remove the redundant language in R2-20-702(C)(3)(d)(i) and (ii) under A.R.S. § 41-1011(C), Office File No. M11-345, filed October 3, 2011 (Supp. 11-2). Amended by exempt rulemaking at 19 A.A.R. 1702, effective October 6, 2011 (Supp. 13-2). Amended by exempt rulemaking at 22 A.A.R. 2906, effective January 1, 2017 (Supp. 16-3). Amended by exempt rulemaking at 23 A.A.R. 2342, effective January 1, 2018 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2120, effective July 29, 2019 (Supp. 19-3). Amended by final rulemaking at 26 A.A.R. 309, with an immediate effective date of January 23, 2020 (Supp. 20-1). Amended by final rulemaking at 26 A.A.R. 1132, with an immediate effective date of May 11, 2020 (Supp. 20-2).

R2-20-702.01. Use of Assets

A participating candidate may use assets such as signs, pamphlets, and office equipment from a prior election cycle only after the candidate's current campaign pays for the assets in an amount equal to the fair market value of the assets, which amount shall in no event be less than one-fifth (1/5) the original purchase price of such assets. If the candidate was a participating candidate during the prior election cycle, the cash payment shall be made to the Fund. If the candidate was not a participating candidate during the prior election cycle, the cash payment shall be made to the prior campaign. If the prior campaign account of a nonparticipating candidate is closed, the payment shall be made to the candidate. Notwithstanding any other provision of the rules to the contrary, a participating candidate shall not make any payment to a private organization that is exempt under section 501(a) of the internal revenue code and that is eligible to engage in activities to influence the outcome of a candidate election, nor make any payment directly or indirectly to a political party.

Historical Note

New Section made by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by exempt rulemaking at 13 A.A.R. 3606, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by final rulemaking at 26 A.A.R. 887, with an immediate effective date of March 9, 2020; the same amendments were filed and codified by final

rulemaking at 26 A.A.R. 1261, with an immediate effective date of June 4, 2020 (Supp. 20-2).

R2-20-703. Documentation for Direct Campaign Expenditures

- A. In addition to the general books and records requirements prescribed in R2-20-111, participating candidates shall comply with the following requirements:
 1. All participating candidates shall have the burden of proving that expenditures made by the candidate were for direct campaign purposes. The candidate shall obtain and furnish to the Commission on request any evidence regarding direct campaign expenses made by the candidate as provided in subsection (A)(2).
 2. All participating candidates shall retain records with respect to each expenditure and receipt, including bank records, vouchers, worksheets, receipts, bills and accounts, journals, ledgers, fundraising solicitation material, accounting systems documentation, and any related materials documenting campaign receipts and disbursements, for a period of three years, and shall present these records to the Commission on request.
 3. All participating candidates shall maintain a list of all fixed assets whose purchase price exceeded \$200 when acquired by the campaign. The list shall include a brief description of each fixed asset, the purchase price, the date it was acquired, the method of disposition and the amount received in disposition.
- B. Upon written request from a candidate, the Commission shall determine whether a planned campaign expenditure or fundraising activity is permissible under the Act. To make a request, a candidate shall submit a written description of the planned expenditure or activity to the Commission. The Commission shall inform the candidate whether an enforcement action will be necessary if the candidate carries out the planned expenditure or activity. The Commission shall ensure that the candidate can rely on a "no action" letter. A "no action" letter applies only to the candidate who requested it.
- C. Any expenditure made by the candidate or the candidate's committee that cannot be documented as a direct expenditure shall promptly be repaid to the Fund with the candidate's personal monies.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed; new Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by final exempt rulemaking at 21 A.A.R. 1641, effective July 23, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 133, effective January 1, 2017 (Supp. 16-4).

R2-20-703.01. Campaign Consultants

- A. For purposes of this rule "Campaign Consultant" means any person paid by a participating candidate's campaign or who provides services that are ordinarily charged to a person, except services provided for in A.R.S. § 16-911(6)(b).
- B. A participating candidate may engage campaign consultants.
- C. A participating candidate may only advance a campaign consultant for services such as consulting, communications, field employees, canvassers, mailers, auto-dialers, telephone town halls, electronic communications and other advertising purchases and other campaign service if an itemized invoice iden-

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tifying the value of the services is provided directly to that particular candidate at the time of the advance payment.

1. Providing payment for such services as described in subsection (C) of this rule in the absence of an itemized invoice or advance payment for such services shall be deemed not to be a direct campaign expenditure.
 2. A participating candidate may advance payment for postage upon the receipt of a written estimate and so long as any balance is returned to the candidate if the advance exceeds the actual cost of postage.
 3. A participating candidate may advance payment for advertising that customarily requires pre-payment upon the receipt of a written estimate and so long as any balance is returned to the candidate if the advance exceeds the actual cost of the advertisement.
- D.** The Commission shall be included in the mail batch for all mailers and invitations. The Commission shall also be provided with documentation from the mail house, printer or other original source, showing the number of mailers printed and the number of households to which a mailer was sent. Failure to provide this information within 7 days after the mailer has been mailed may be considered as evidence the mailer was not for direct campaign purposes.
- E.** Notwithstanding any other provision of the rules to the contrary, a participating candidate shall not make any payment to a private organization that is exempt under section 501(a) of the internal revenue code and that is eligible to engage in activities to influence the outcome of a candidate election, nor make any payment directly or indirectly to a political party.

Historical Note

New Section made by exempt rulemaking at 23 A.A.R. 2344, effective July 20, 2017 (Supp. 17-3). Amended by final rulemaking at 26 A.A.R. 889, with an immediate effective date of March 16, 2020; the same amendments were filed and codified by final rulemaking at 26 A.A.R. 1263, with an immediate effective date of June 4, 2020 (Supp. 20-2).

R2-20-704. Repayment

- A.** In general, the Commission may determine that a participating candidate who has received payments from the Fund must repay the Fund as determined by the Commission.
1. A candidate who has received payments from the Fund shall pay the Fund any amounts that the Commission determines to be repayable. In making repayment determinations, the Commission may utilize information obtained from audits and examinations or otherwise obtained by the Commission in carrying out its responsibilities.
 2. The Commission will notify the candidate of any repayment determinations made under this Section as soon as possible.
 3. Once the candidate receives notice of the Commission's repayment determination, the candidate should give preference to the repayment over all other outstanding obligations of the candidate, except for any taxes owed by the candidate.
 4. Repayments may be made only from the following sources: personal funds of the candidate, funds in the candidate's current election campaign account, and any additional funds raised subject to the limitations and prohibitions of the Act.
 5. The Commission may withhold the portion of funds required to be repaid from future payments to a participating candidate if the Commission has made a repayment determination.
- B.** The Commission may determine that a participating candidate who has received payments from the Fund must repay the Fund under any of the following circumstances:
1. Payments in excess of candidate's entitlement. If the Commission determines that any portion of the payments made to the candidate was in excess of the aggregate payments to which such candidate was entitled, it will so notify the candidate, and such candidate shall pay to the Fund an amount equal to such portion.
 2. Use of funds not for direct campaign expenses. If the Commission determines that any amount of any payment to an eligible candidate from the Fund was used for purposes other than direct campaign purposes described in R2-20-702, it will notify the candidate of the amount so used, and such candidate shall pay to the Fund an amount equal to such amount.
 3. Expenditures that were not documented in accordance with campaign finance reporting requirements, expended in violation of state or federal law, or used to defray expenses resulting from a violation of state or federal law, such as the payment of fines or penalties.
 4. Surplus. If the Commission determines that a portion of payments from the Fund remains unspent after all direct campaign expenses have been paid, it shall so notify the candidate, and such candidate shall pay the Fund that portion of surplus funds.
 5. Income on investment or other use of payments from the Fund. If the Commission determines that a candidate received any income as a result of an investment or other use of payments from the Fund, it shall so notify the candidate, and such candidate shall pay to the Fund an amount equal to the amount determined to be income, less any federal, state or local taxes on such income.
 6. Unlawful acceptance of contributions by an eligible candidate. If the Commission determines that a participating candidate accepted contributions, other than early contributions or qualifying contributions, it shall notify the candidate of the amount of contributions so accepted, and the candidate shall pay to the Fund an amount equal to such amount, plus any civil penalties assessed.
- C.** Repayment determination procedures. The Commission's repayment determination will be made in accordance with the following procedures:
1. Repayment determination. The Commission will send a repayment determination pursuant to Article 2, Compliance and Enforcement Procedures, and will set forth the legal and factual reasons for such determination, as well as the evidence upon which any such determination is based. The candidate shall repay, in accordance with subsection (D), the amount that the Commission has determined to be repayable.
 2. Administrative review of repayment determination. If a candidate disputes the Commission's repayment determination, he or she may request an administrative appeal of the determination in accordance with A.R.S. § 41-1092 et. seq.
- D.** Repayment period.
1. Within 30 days of service of the notice of the Commission's repayment determination, the candidate shall repay the amounts the Commission has determined must be repaid. Upon application by the candidate, the Commis-

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

sion may grant an extension of time in which to make repayment.

2. If the candidate requests an administrative appeal of the Commission's repayment determination of this Section, the time for repayment will be suspended until the Commission has concluded its review of the Administrative Law Judge's (ALJ) decision. Within 30 days after service of the notice of the Commission's review of the ALJ's decision, the candidate shall repay the amounts that the Commission has determined to be repayable. Upon application by the candidate, the Commission may grant an extension of up to 30 days in which to make repayment.
3. Interest shall be assessed on all repayments made after the initial 30-day repayment period or the 30-day repayment period established by this Section. The amount of interest due shall be the greater of:
 - a. An amount calculated in accordance with A.R.S. § 44-1201(A); or
 - b. The amount actually earned on the funds set aside or to be repaid under this Section.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed; new Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by final exempt rulemaking at 21 A.A.R. 1643, effective July 23, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 2122, effective July 29, 2019 (Supp. 19-3). Amended by final rulemaking at 26 A.A.R. 337, effective February 4, 2020; the amendment to subsection (A)(2) was originally codified in Supp. 19-3 at 25 A.A.R. 2020 (Supp. 20-1).

R2-20-705. Additional Audits or Repayment Determinations

- A. The Commission may conduct an additional audit or examination of any candidate in any case in which the Commission finds reason to believe that a violation of a statute or regulation over which the Commission has jurisdiction has occurred or is about to occur.
- B. The Commission may make additional repayment determinations after it has made an initial repayment determination pursuant to R2-20-704. The Commission may make additional repayment determinations where there exist facts not used as the basis for any previous determination. Any such additional

repayment determination will be made in accordance with the provisions of this Article.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed; new Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-706. Repealed**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-707. Repealed**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-708. Repealed**Historical Note**

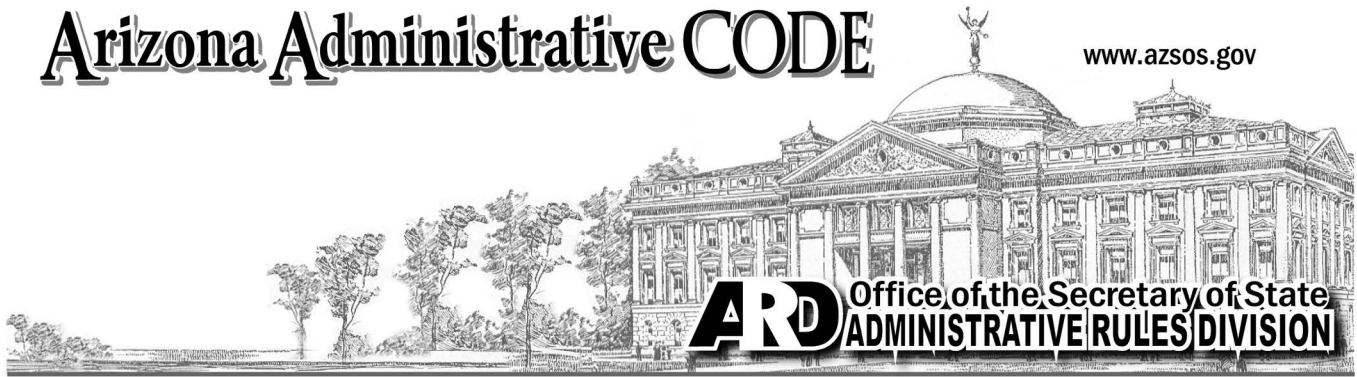
New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-709. Repealed**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-710. Repealed**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).



3 A.A.C. 2

Supp. 23-2

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE - ANIMAL SERVICES DIVISION

The table of contents on page one contains links to the referenced page numbers in this Chapter.

Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of

April 1, 2023 through June 30, 2023

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Questions about these rules? Contact:

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The release of this Chapter in Supp. 23-2 replaces Supp. 22-3, 1-56 pages.

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

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

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

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

ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

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

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

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

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

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

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division

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TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE - ANIMAL SERVICES DIVISION

Authority: A.R.S. §§ 3-1201 et seq., 3-601 et seq., and 3-701 et seq., and 3-2901 et seq.

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Article 1, consisting of Sections R3-2-101 through R3-2-109, adopted effective September 11, 1996 (Supp. 96-3).

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TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE - ANIMAL SERVICES DIVISION

ARTICLE 1. GENERAL PROVISIONS

R3-2-101. Definitions

In addition to the definitions provided in A.R.S. §§ 3-1201, 3-1451, and 3-1771, the following terms apply to this Chapter:

“Accredited veterinarian” means a veterinarian approved by the State Veterinarian and USDA Area Veterinarian In Charge (A.V.I.C.) to perform functions required by cooperative State-Federal animal disease control and eradication programs.

“Animal” means livestock, bison, dogs, cats, rabbits, rodents, aquatic animals, game animals, furbearing and wildlife mammals, poultry and psittacines.

“APHIS” means the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

“Beef cattle” means all cattle other than dairy cattle.

“Certificate of Veterinary Inspection” or “CVI” means a legible record that is issued by a VS animal health official, state animal health official, or accredited veterinarian at the point of origin of a shipment of animals, conforms to the requirements of R3-2-606, and is written on a form approved by the chief animal health official of the state of origin or an equivalent form of the USDA attesting that the animal described has been inspected and found to meet the Arizona entry requirements.

“Dairy cattle” means any domesticated bovine dairy animal or crosses of the Bos genus that show at least 50 percent phenotypic characteristics of a dairy breed, including; Ayrshire, Brown Swiss, Canadienne, Dutch Belt, Holstein, Jersey, Guernsey, Kerry, Milking Devon, Milking Shorthorn, or Norwegian Red.

“Designated feedlot” means a feedlot containing a confined drylot area under state quarantine that is approved and authorized by the State Veterinarian; contains a restricted feeding pen; and is maintained for finish feeding of cattle or bison that do not meet the brucellosis or tuberculosis import test requirements.

“Entry permit number” or “Import permit number” means a serialized number issued by the State Veterinarian’s Office that conforms to the requirements of this chapter and allows the regulated movement of certain animals into Arizona.

“Equine Infectious Anemia” or “EIA” means an infectious, noncontagious, and potentially fatal viral disease of members of equine caused by a RNA virus classified in the Lentivirus genus, family Retroviridae.

“Official Identification” as defined in 9 CFR 71.19 (b) as revised on January 1, 2018 for swine; 9 CFR 79.2 (a)(2) as revised on January 1, 2018 for sheep and goats; and 9 CFR 86.4 as revised on January 1, 2018 for cattle.

“Poultry” means any bird except psittacine, whether live or dead, including but not limited to chickens, turkeys, ducks, geese, guineas, ratites, squabs, and any exotic birds not regulated as restricted wildlife by the Arizona Game and Fish Department. The definition “poultry” also includes hatching eggs, which are fertilized eggs produced by breeding poultry.

“Psittacine” means a bird belonging to the family Psittacidae, which includes macaws, parakeets, and parrots.

“USDA” means the United States Department of Agriculture.

“VS” means the Veterinary Services branch of APHIS.

Historical Note

Reserved Section R3-2-101 renumbered from R3-9-101 (Supp. 91-4). New Section adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-101 recodified to R3-2-1101 (Supp. 97-1). New Section adopted effective May 7, 1997 (Supp. 97-2). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-102. Licensing Time-frames

- A. Overall time-frame. The Department shall issue or deny a license within the overall time-frames listed in Table 1 after receipt of the complete application. The overall time-frame is the total of the number of calendar days provided for the administrative completeness review and the substantive review.
- B. Administrative completeness review.
 1. The administrative completeness review time-frame established in Table 1 begins on the date the Department receives the application. The Department shall notify the applicant in writing within the administrative completeness review time-frame whether the application or request is incomplete. The notice shall specify what information is missing. If the Department does not provide notice to the applicant within the administrative completeness review time-frame, the Department considers the application complete.
 2. An applicant with an incomplete license application shall supply the missing information within the completion request period established in Table 1. The administrative completeness review time-frame is suspended from the date the Department sends the notice of missing information to the applicant until the date the Department receives the information.
 3. If the applicant fails to submit the missing information before the expiration of the completion request period, the Department shall close the file, unless the applicant requests an extension. An applicant whose file has been closed may obtain a license by submitting a new application.
- C. Substantive review. The substantive review time-frame established in Table 1 shall begin after the application is administratively complete.
 1. If the Department makes a comprehensive written request for additional information, the applicant shall submit the additional information identified by the request within the additional information period provided in Table 1. The substantive review time-frame is suspended from the date of the Department request until the information is received by the Department. If the applicant fails to provide the information identified in the written request within the additional information period, the Department shall deny the license.
 2. The Department shall issue a written notice granting or denying a license within the substantive review time-frame. If the application is denied, the Department shall send the applicant written notice explaining the reason for the denial with citations to supporting statutes or rules, the applicant’s right to seek a fair hearing, and the time period in which the applicant may appeal the denial.

Historical Note

Reserved Section R3-2-102 renumbered from R3-9-102 (Supp. 91-4). New Section adopted effective September

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11, 1996 (Supp. 96-3). Section R3-2-102 recodified to R3-2-1102 (Supp. 97-1). New Section R3-2-102 adopted effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-103. Recodified

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). R3-2-103 renumbered from Section R3-9-103 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2). New Section adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-103 recodified to R3-2-1103 (Supp. 97-1).

R3-2-104. Recodified

Historical Note

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-104 recodified to R3-2-1104 (Supp. 97-1).

R3-2-105. Recodified

Historical Note

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-105 recodified to R3-2-1105 (Supp. 97-1).

R3-2-106. Recodified

Historical Note

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-106 recodified to R3-2-1106 (Supp. 97-1).

R3-2-107. Recodified

Historical Note

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-107 recodified to R3-2-1107 (Supp. 97-1).

R3-2-108. Recodified

Historical Note

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-108 recodified to R3-2-1108 (Supp. 97-1).

R3-2-109. Recodified

Historical Note

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-109 recodified to R3-2-1109 (Supp. 97-1).

Table 1. Time-frames (Calendar Days)

License	Authority	Administrative Completeness Review	Response to Completion Request	Substantive Completeness Review	Response to Additional Information	Overall Time-frame
MEAT AND POULTRY INSPECTION						
License to Slaughter	A.R.S. §§ 3-2002 & 3-2003 R3-2-208	14	14	30	14	44
Transfer of license without fee	A.R.S. § 3-2009	14	14	30	5	44
State Meat Inspection Service	A.R.S. § 3-2047	14	14	30	14	44
Sale or Exchange of Meat or Poultry	A.R.S. § 3-2081 R3-2-208	14	14	30	14	44
Rendering Facility Certification	A.R.S. § 3-2081	14	14	30	14	44
Transfer of License	A.R.S. § 3-2086	14	14	30	5	44
Official Slaughter Meat Licenses	A.R.S. § 3-2122 R3-2-208	14	14	30	14	44
FEEDING OF ANIMALS						
Feed Lot License	A.R.S. § 3-1452	14	14	60	14	74
Permit to Feed Garbage to Swine	A.R.S. § 3-2664	14	14	60	14	74
DAIRY PRODUCTS AND CONTROL						
Milk Distributing Plant New Renewal	A.R.S. § 3-607	14 14	14 14	14 14	14 14	28 28
Milk Processing Plant New Renewal	A.R.S. § 3-607	14 14	14 14	14 14	14 14	28 28
Plant Licensing New Renewal	A.R.S. § 3-665	14 14	14 14	14 14	14 14	28 28
Request to market a product as a milk product	A.R.S. § 601.01	14	14	14	14	28
Tester License	A.R.S. § 3-619	7	7	7	7	14
Trade Product Label	A.R.S. § 3-667	14	14	30	30	44

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License	Authority	Administrative Completeness Review	Response to Completion Request	Substantive Completeness Review	Response to Additional Information	Overall Time-frame
LIVESTOCK INSPECTION						
Equine Trader Permit	A.R.S. § 3-1348	7	7	7	7	14
Ownership and Hauling Certificate for Equines	A.R.S. §§ 3-1344 & 3-1345	14	14	14	14	28
EGG PRODUCTS AND CONTROL						
Annual Licensing	A.R.S. § 3-714	10	10	10	10	20
AQUACULTURE						
Aquaculture Facility	A.R.S. § 3-2907	14	14	30	14	44
Fee Fishing Facility	R3-2-1004	14	14	30	14	44
Processor	R3-2-1005	14	14	30	14	44
Transporter	R3-2-1006	14	14	30	14	44
Special Licenses	R3-2-1007	14	14	30	14	44
	A.R.S. § 3-2908	14	14	30	14	44

Historical Note

Adopted effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 3625, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

ARTICLE 2. MEAT AND POULTRY INSPECTION**R3-2-201. Definitions**

In addition to the definitions provided in A.R.S. §§ 3-101 and 3-2001 and 9 CFR 301.2 and 9 CFR 381.1, which are incorporated by reference in R3-2-202, the following terms apply to this Article:

1. "Animal" means any steer, heifer, calf, cow, bull, sheep, goat, swine, horse, ass, mule, burro, ratite, or poultry.
2. "Dead animal" means an animal that died other than by slaughter in a place where inspection is performed by the Department or by the United States Department of Agriculture.
3. "Inedible meat" means:
 - a. Meat or meat food product from an animal that died by slaughter or was processed in an inspected slaughterhouse, but which an inspector did not pass as fit for human consumption; or
 - b. Meat condemned by a federal or state inspector.
4. "Rendering" means the conversion of packinghouse waste or dead animal carcasses and parts into industrial fat, oil, or other product unfit for human consumption.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective June 4, 1987 (Supp. 87-2). Amended subsection (A) effective February 28, 1989 (Supp. 89-1). Section R3-2-201 renumbered from Section R3-9-201 (Supp. 91-4). Section repealed, new Section adopted effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 10 A.A.R. 2661, effective August 7, 2004 (Supp. 04-2).

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

All meat and poultry inspection, slaughtering, production, processing, labeling, storing, handling, transportation and sanitation procedures shall be conducted as prescribed in 9 CFR Chapter III, revised January 1, 2016, as amended by 80 FR 75590-01 (December 2, 2015), except sections 302.2, 307.5, 307.6, 312, 322, 327, 329.7, 329.9, 331, 335, 351, 352, 354, 355, 381.38, 381.39, 381.96 through 381.112, 381.195 through 381.209, 381.218 through

381.225, 390, 391, 392, 590 and 592. This material is incorporated by reference and does not include any later amendments or editions. A copy of the incorporated material is available from the Department and may also be viewed online at www.gpo.gov/fdsys.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective June 4, 1987 (Supp. 87-2). Amended subsection (A) effective February 28, 1989 (Supp. 89-1). Section R3-2-202 renumbered from Section R3-9-202 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Amended effective March 5, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 465, effective January 5, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 3625, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 10 A.A.R. 1971, effective May 4, 2004 (Supp. 04-2). Amended by emergency rulemaking at 15 A.A.R. 1890, effective October 21, 2009 for 180 days (Supp. 09-4). Emergency expired; Section amended by final rulemaking at 16 A.A.R. 351, effective April 3, 2010 (Supp. 10-1). Amended by emergency rulemaking at 19 A.A.R. 150, effective January 9, 2013 (Supp. 13-1). Amended by final rulemaking at 19 A.A.R. 1789, effective July 9, 2013 (Supp. 13-3). Amended by final rulemaking at 22 A.A.R. 2167, effective October 2, 2016 (Supp. 16-3).

R3-2-203. Licenses; Registration; Records

- A. Any person operating a business in any of the following categories shall obtain the appropriate license from the Department.
1. Types of slaughter licenses.
 - a. Official slaughter – the slaughtering of animals in a slaughterhouse for sale for human consumption.
 - b. Exempt slaughter.
 - i. Exempt non-mobile slaughter – the slaughtering or dressing of an animal in a stationary building for human consumption, that is not sold or offered for sale.
 - ii. Exempt mobile slaughter – the slaughtering or dressing of an animal for human consumption

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by using a mobile structure on the property of the animal's owner, that is not sold or offered for sale.

2. Types of meat licenses.

- a. Broker – any person, firm or corporation engaged in buying or selling carcasses, parts of carcasses, meat or poultry food products, or by-products from state or federally inspected establishments. A broker negotiates purchases or sales of these products other than for the broker's own account, as an employee of another person, and is paid a commission.
- b. Exempt – any person, firm, or corporation engaged in processing meat or poultry products without meat inspection, for an individual owner of meat that is not for sale.
- c. Distributor – any person, firm, or corporation engaged in receiving carcasses, parts of carcasses, meat or poultry food products, or by-products from state or federally inspected establishments and storing or distributing these products to commercial outlets, processors, or individuals. A distributor does not process any of these products.
- d. Jobber – any person, firm, or corporation with an established place of business that buys meat or poultry food products and offers the products for sale to someone other than the end-use consumer.
- e. Pet food manufacturer – any person, firm, or corporation engaged in manufacturing animal food from meat or poultry unfit for human consumption.
- f. Processor – any person, firm, or corporation that changes meat or poultry food products by cutting, mixing, blending, canning, curing or otherwise preparing meat or meat food products wholesale for human consumption.
- g. Renderer – any person, firm, or corporation that renders and tallows and any person, firm, or corporation engaged commercially in the hide, hair, or pelt removal, cutting up, or rendering of animals.

B. Applications for a license or registration pursuant to A.R.S. § 3-2081(A), shall be made on forms provided by the Department and shall contain the following:

1. The name of the applicant and the applicant's partners, officers or directors of the business, if any;
2. The business name, mailing address, telephone number, and Social Security number of the applicant;
3. The exact location of the business, if different from subsection (B)(2).

C. All persons licensed or registered under this Section, and all other persons described in A.R.S. § 3-2081, shall maintain the records required under A.R.S. § 3-2081 for a minimum of one year. In addition, all registered dead animal haulers, licensed rendering and tallow plants, and pet food manufacturing plants shall prepare and submit the reports required under A.R.S. § 3-2695 and shall include copies of those reports as part of records maintained under this Section and A.R.S. § 3-2081.

D. During fiscal year 2023, the fee to obtain or renew a license to slaughter is:

1. Not to exceed 45 head of cattle, and not to exceed 55 head of sheep, goats or swine in one calendar year: \$250.
2. For more than 45 and not to exceed 150 head of cattle and more than 45 and not to exceed 160 head of sheep, goats or swine in one calendar year: \$300.
3. For more than 150 head of cattle and more than 160 head of sheep, goats or swine in any one calendar year: \$450.

E. During fiscal year 2023, the fee to obtain or renew a meat license is:

1. For a broker, \$450.
2. For exempt processing, \$300.
3. For a distributor, \$500 for a large distributor (more than \$100,000 in sales per calendar year) and \$150 for a small distributor (not to exceed \$100,000 in sales per calendar year).
4. For a jobber, \$450.
5. For a pet food manufacturer, \$300.
6. For a processor, \$300.
7. For meat storage, \$450.
8. For transportation, \$300.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-208 renumbered from Section R3-9-208 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Former Section R3-2-203 renumbered to R3-2-208; new Section R3-2-203 renumbered from Section R3-2-208 and amended by final rulemaking at 5 A.A.R. 1593, effective May 5, 1999 (Supp. 99-2). Amended by exempt rulemaking at 16 A.A.R. 1331, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1756, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 19 A.A.R. 3127, effective September 14, 2013 (Supp. 13-3). Amended by exempt rulemaking at 20 A.A.R. 2449, effective July 24, 2014 (Supp. 14-3). Amended by exempt rulemaking pursuant to Laws 2015, Ch. 10, § 14, at 21 A.A.R. 2404, effective July 3, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 1937, effective August 9, 2017 (Supp. 17-2). Amended by final exempt rulemaking at 24 A.A.R. 2219, effective August 3, 2018 (Supp. 18-3). Amended by final exempt rulemaking at 25 A.A.R. 2081, effective August 27, 2019 (Supp. 19-3). Amended by final exempt rulemaking at 26 A.A.R. 1471, effective August 25, 2020 (Supp. 20-3). Amended by final exempt rulemaking at 27 A.A.R. 1264, effective September 29, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 28 A.A.R. 2017 (August 12, 2022), effective September 24, 2022 (Supp. 22-3).

R3-2-204. Official Slaughter Establishment

In addition to the requirements in A.R.S. § 3-2051, the following shall be provided when slaughtering cattle, calves, sheep, and hogs:

1. Cattle.
 - a. A metal knocking box or concrete box with metal door to confine the animals prior to stunning;
 - b. A separately drained, dry landing area at least five feet wide in front of the knocking box;
 - c. A curbed-in bleeding area at least eight feet wide and seven feet long, located so that blood will not splash upon stunned animals lying in the dry landing area or upon carcasses being skinned on the siding bed. Curbing shall be at least six inches high and six inches wide;
 - d. A separately drained area at least five feet from the curbed-in bleeding area to the siding bed;
 - e. A distance of at least 14 feet from the vertical of the dropoff to the vertical of the hoist where carcasses are eviscerated. For multiple-bed plants, this distance shall be increased to 16 feet;

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- f. A distance of at least 14 feet between the vertical of the hoist where carcasses are eviscerated and the header rail leading to the cooler. This distance may be shortened when a single rail hang-off is used;
 - g. A distance of at least three feet from the header rail to the adjacent wall;
 - h. A bleeding rail with its top at least 16 feet above the floor or a traveling hoist on an I-beam which will provide an equivalent distance of the carcass from the floor;
 - i. Floor space for a head-flushing cabinet and head inspection rack with removable hooks;
 - j. When hides are dropped to a room below, a hide chute near the point where hides are removed from the carcasses. The chute shall have a vented hood with a self-closing, push-in door. The vent shall be approximately 10 inches in diameter and extend to a point above the roof. Additional chutes, which meet the requirements of this subsection, for inedible and condemned materials shall be provided separate from the hide chutes;
 - k. A two-level viscera inspection truck for evisceration, except when a moving top viscera inspection table is used;
 - l. An area for washing and shrouding carcasses which shall be curbed and sloped to a separate drain or have a slope of approximately 1/2 inch to the foot leading to a separate drain;
 - m. Dressing rails and cooler rails at least 11 feet in height.
2. Calves and sheep.
- a. A bleeding rail with its top approximately 11 feet from the floor. The floor of the bleeding area shall be curbed and separately drained;
 - b. Dressing and cooler rails of such height as to provide a clearance of at least eight inches from the carcasses to the floor. Calves which are of such size that there is not a clearance of at least eight inches above the floor, or whose viscera cannot be transferred manually and unaided to the inspection stand, shall be skinned and eviscerated as cattle;
 - c. Facilities for washing hides of calves before any incision is made (except the sticking wound) when carcasses are dressed hide on. The heads of calves and veal slaughtered by the Kosher method shall be skinned prior to the washing of the carcasses;
 - d. Facilities for flushing, washing, and inspecting calf heads, including head-flushing cabinet and head inspection rack with removal calf loops;
 - e. Facilities for the inspection of the viscera. A hopped metal stand shall be provided which accommodates two removal inspection pans. One inspection pan is for the thoracic viscera; the other is for the abdominal viscera. The pans shall have perforated bottoms and handles or hand holes for removal. A sterilizing receptacle shall be provided for sterilization of contaminated pans;
 - f. Facilities for washing sheep carcasses after removal of the pelt. Calves and sheep shall be washed again after they have been eviscerated.
3. Hogs.
- a. Facilities for bleeding hogs in a hanging position, over a separately drained, curbed-in bleeding area;
 - b. A scalding vat and gambreling table, including the platforms, of metal construction;
 - c. A shaving rail to assure that carcasses are cleaned;
 - d. A hopped metal stand for the inspection of viscera. A sterilizing receptacle shall be provided at a convenient location for the sterilization of contaminated pans;
 - e. Dressing and cooler rails at least nine feet high or of such height as to provide a clearance of at least eight inches between the lowest point of the carcass, or head if left attached, and the floor.
4. Coolers. A chill cooler and separate holding coolers may be provided or both may be combined in one room. The chill cooler shall have floors of concrete sloped to a drain. The walls shall be smooth, light colored, impervious, and the room shall be sealed. The other coolers shall have floors of concrete; the walls shall be smooth, free of cracks, light colored, impervious, and the room shall be sealed. The door between the slaughtering department and the chill cooler shall be clad with rust-resistant metal. Rails shall be spaced at least two feet from walls, columns, refrigerating equipment, or other fixed equipment to prevent contact with the carcasses. Header rails shall be three feet from the walls. When overhead refrigerating facilities are provided, insulated drip pans must be installed beneath them and the pans connected to the drainage system. If wall coils are installed, a drip gutter of impervious material and connected with the drainage system shall be installed beneath the coils. When edible offal is chilled or stored in a cooler other than a separate offal cooler, that area shall be separately drained.
5. Other edible products departments.
- a. Floors, walls, and ceilings in the various edible products departments of the plant shall be constructed of material that can be readily kept clean. Wooden structures and equipment shall be kept at a minimum. Floors requiring drainage shall be constructed of dense concrete or floor brick laid on a concrete base. The interior walls and, where practical, ceiling surfaces shall be smooth and flat. Walls shall be constructed of glazed tile, smooth cement plaster, or other USDA-approved impervious material. Walls shall be free of cracks and crevices, and, where brick or tile is used, the mortar joints shall be flush with the surface of the walls. Walls shall be light colored.
 - b. The floors of the plant shall be well-drained; a slope of not less than 1/4 inch to the foot to drainage inlets is required. The floors shall be smooth, impervious, and in good repair; they shall be free from cracks and depressions which could hold floor liquids. Wooden floors are not permitted. Junctions of floors and walls shall be coved.
 - c. Walls, ceilings, beams, and hangers shall be cleaned. Rails may be oiled instead of painted. Rust and scale shall be removed from hangers and meat trolleys. Smooth Portland cement plaster walls shall not be painted.
6. Hide room. The floor of the hide room, if provided, shall be of concrete and drained. Walls shall be smooth and impervious to at least the highest point of the hide pile. The hide room shall not connect with the slaughtering department except for one opening which shall be equipped with a tight-fitting, self-closing door. The hide

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- room shall not connect with any other room in which edible products are stored, processed, or handled.
7. Disposal of blood. When blood is not permitted to drain into the sewage system, it may be collected in a metal tank and removed from the premises or blown to the blood drier in a manner that will not mask odors or create a harborage for pests.
 8. Other inedible products departments.
 - a. An inedible products department, completely separate and apart from edible products departments, shall be provided. Walls shall be of smooth, finished, Portland cement plaster, glazed tile, or other USDA-approved material impervious to moisture. Floors shall be constructed of dense concrete or floor tile, sloped to drain. Hot and cold water connections shall be provided. With the exception of one opening to the slaughtering department, there shall be no openings between an inedible products department and an edible products department. This one opening shall be approximately five feet in width to allow the free passage of materials and shall be equipped with a close-fitting, self-closing door of solid construction. This door shall be kept closed at all times, except when in actual use, to prevent the entrance of undesirable odors to the slaughtering department. The area at the loading dock shall be paved, drained, and of sufficient size to accommodate the largest truck used. If inedible offal is stored in an edible offal room, the room is classed as an inedible products department. Paunches may be opened in the slaughtering department only when a hydraulic mechanically operated paunch lift table is provided and used for this purpose. Otherwise, the paunches shall be opened in the inedible offal rooms.
 - b. Requests for permission for rendering of shop scraps and outside dead animals shall be made to the inspector who shall grant or deny the request pursuant to Article 2.
 9. Pens.
 - a. Holding pens shall be surfaced with an impervious material, sloped to drains. A curb shall be installed around the outside of the pens to prevent the wash from escaping. Water under pressure shall be available for washing out the pens. Feeding pens shall be at least 300 feet from the plant and shall not be located in front of the plant.
 - b. Holding and shackling pens shall be located outside of, or separated from, the slaughtering department.
 10. Drainage
 - a. Floors which require flushing during operations shall have sloped floor drains to carry off the floor drainage. Each floor drain shall be equipped with a deep-seal trap; the drainage lines shall be vented to the outside in accordance with local plumbing codes. In no case shall a drain line be less than four inches in diameter.
 - b. Sewage may be disposed of into a municipal sewer system, if permitted by local ordinance, or it may be disposed of into a stream or other similar body of water, provided that:
 - i. This method is acceptable to local health authorities having jurisdiction over sewage disposal, and
 - ii. The flow of the stream or other body of water is sufficient to carry the sewage away from the plant at all seasons of the year. When cesspools are used, they shall be of sufficient size to receive the sewage from the plant at all times; they shall be so constructed that they do not create a nuisance by breeding flies or other insects.
 - c. Grease recovery basins shall not mask odors or create a harborage for pests.
 11. Equipment and utensils.
 - a. Equipment shall be constructed of metal and shall be so constructed that it can be easily cleaned. Cutting boards may be of hard wood or synthetic material, but equipment, such as the framework of boning or cutting tables, scalding vats, offal racks and trees, product storage racks, and product trucks shall be of metal construction. Rusty or worn-out equipment shall be replaced.
 - b. All equipment shall be thoroughly cleaned following each day's operations. The use of a clear, colorless, odorless, tasteless, edible mineral oil may be used on metal equipment, such as choppers, grinders, mixers, tables, meat trucks, offal racks, hooks, and trolleys. Scale shall not be permitted to accumulate on metal equipment.
 - c. Sterilizing receptacles equipped with drains to permit draining and cleaning shall be placed at convenient locations in the slaughtering department for the cleaning and sterilization of contaminated tools and equipment. Water wasting from equipment shall not flow across the floor.
 - d. Shovels used for transferring ice or other edible materials from one container to another shall not touch the floor.
 12. Ventilation and lighting. Natural ventilation may be supplemented by artificial means and shall be sufficient to assure the absence of dust, masking odors, or steam vapors. Points where inspection is conducted may require special lighting. The glass area shall be at least 1/4 of the floor area in all nonrefrigerated work rooms. To assure adequate lighting at all times and at all places, natural lighting must be supplemented by well-distributed artificial lighting.
 13. Water supply, wash basins, sterilizing facilities.
 - a. Hot and cold running water, under pressure, shall be available at all parts of the establishment and in conformity with the requirements of the Arizona Department of Health Services. The hot water used for sterilizing equipment, floors, and walls that may be contaminated by the dressing procedure or handling of diseased carcasses, viscera, and other animal parts, shall be at least 180° F. A thermometer shall be installed to verify the temperature of the water at the point of use. A cleanup hose shall be available for use.
 - b. Foot-pedal operated wash basins shall be placed in or near dressing rooms. These wash basins shall be equipped with running hot and cold water, delivered through a combination mixing faucet with an outlet at least 12 inches above the rim of the bowl. The drainage outlet shall lead directly into the sewage lines. Soap and towels, and a receptacle for dirty

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paper towels or other trash, shall be convenient to the wash basin.

- c. One or more wash basins shall be located in the slaughtering department, and one or more in the sausage manufacturing room and at any other place in the establishment essential to ensure cleanliness of all persons handling products. The wash basins shall be equipped with hot and cold running water, delivered through a combination mixing faucet with an outlet at least 12 inches above the rim of the bowl. The water delivery shall be foot-pedal operated, and the drainage outlet shall lead directly into the sewage lines. Soap and disposable towels shall be convenient to the wash basins.
 - d. Water for sterilizing purposes shall be maintained at a temperature of at least 180° F. One or more sterilizing receptacles of rust-resisting, impervious material shall be placed at convenient locations in the slaughtering department for the sterilization of all implements that have been contaminated or used on a diseased carcass or part of a diseased carcass. The sterilizer shall be equipped with a cold water and steam line, or other means to maintain water at a temperature of at least 180° F during slaughtering operations. The sterilizer shall contain a drain so that water may be completely drained out for daily cleaning. Boilers and water heaters shall not be located in the slaughtering department or in any edible products department. To prevent possible back siphonage, vacuum breakers shall be provided on all steam and water lines when open ends are submerged or connected to equipment.
14. Protection against flies, rodents, or other vermin.
- a. Plants must be kept free of flies, rats, mice, roaches, and other pests or vermin. The plant shall be constructed to prevent entrance of rodents to the premises and to eliminate their breeding places from the surrounding areas and in the establishment. Construction of the plant shall be such as to eliminate roach and other insect harbors. Windows, doors, and other openings to the plant shall be provided with insect screens, or other measures to prevent entrance of flies or other insects. The screens shall be kept in good repair. Sprays containing residual-acting chemicals shall not be used in edible products departments.
 - b. Animal-handling facilities such as stock pens and runways shall be cleaned as often as necessary and the manure or other waste materials removed shall not be permitted to accumulate at or near the plant.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-204 renumbered from Section R3-9-204 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 1593, effective May 5, 1999 (Supp. 99-2).

R3-2-205. Expired**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-205 renumbered from Section R3-9-205 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 135,

effective December 15, 2016 (Supp. 16-4).

R3-2-206. Purchase, Sale, Collection, Transportation, Disposition, and Use of Meat or Meat Food Products; Dead Animals; Animal Bone, Animal Fat, Animal Offal

- A. A person shall not buy, sell, offer for sale, store, transport, receive, or collect any meat or meat food product except as provided in this subsection.
 1. Any of the following meat or meat food products may be bought, sold, or offered for sale as animal food and may be stored, transported, received, or collected anywhere within the state:
 - a. Any meat or meat food product that is processed in an animal food manufacturing plant licensed by the Department;
 - b. Any meat or meat food product that comes from an animal that died by slaughter or is approved or passed for animal food by either state or federal meat inspectors;
 - c. Any meat or meat food product that is thoroughly cooked at a minimum temperature of 180° F for 30 minutes and is certified by a state or a federal meat inspector having jurisdiction at the place of processing.
 2. A carcass with the hide, hair, or pelt still on the carcass may be bought, sold, offered for sale, collected and transported to or received by the following only:
 - a. A rendering or tallow plant;
 - b. A state or county diagnostic laboratory, a veterinarian's clinic, or crematory;
 - c. An animal food manufacturing plant;
 - d. A landfill regulated by the Arizona Department of Environmental Quality;
 - e. An out-of-state landfill regulated by that state's landfill regulatory authority; or
 - f. A landfill located on a Native American reservation that is regulated by equivalent standards to those prescribed by the Arizona Department of Environmental Quality.
 3. Any meat or meat food product described in subsection (A)(1) or a carcass with the hide, hair, or pelt still on the carcass from an official state or federal slaughter establishment shall be denatured with a denaturant that will not leave a toxic residue and is removable when steam-distilled at atmospheric pressure.
 4. Any meat or meat food product that has been condemned by state or federal meat inspectors shall be treated as provided in 9 CFR 314.3, which has been incorporated by reference in R3-2-202, and may be disposed of as provided in that rule or may be collected and transported to or received by a rendering or tallow plant or a state or county diagnostic laboratory or crematory.
- B. A person engaged commercially in the collection or transportation of dead animal carcasses or inedible meat shall register with the Department as a dead animal hauler as prescribed in R3-2-203(B) and shall maintain and keep all records for the time required by R3-2-203(C).
- C. A vehicle or other means of conveyance used to transport a dead animal carcass or inedible meat shall be:
 1. Leak-proof,
 2. Constructed of impervious materials that permit thorough cleaning and sanitizing,
 3. Equipped to control insects and odors and prevent the spread of disease, and

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4. Comply with the Department of Environmental Quality vehicle requirements prescribed in R18-13-310(A) and (B).
- D. Except as provided in subsection (E), a dead animal carcass may be rendered or made into animal food only at a licensed rendering or animal food manufacturing plant as prescribed in A.R.S. § 3-2088 and this Article.
- E. Dead animals diagnosed with anthrax or an animal disease foreign to the United States shall be handled as directed by the State Veterinarian.
- F. Discarded animal bone, animal fat, and animal offal generated by a wholesale food manufacturer shall be transported to and received by only a:
 1. Licensed rendering plant, or
 2. Landfill, as prescribed in subsections (A)(2)(d), (A)(2)(e), and (A)(2)(f).

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-206 renumbered from Section R3-9-206 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Citation in subsection (B) corrected to R3-2-203(C) from R3-2-208(C) under R1-1-109(C) (Supp. 01-2). Amended by final rulemaking at 8 A.A.R. 3015, effective July 10, 2002 (Supp. 02-3).

R3-2-207. Meat from Dead Animals Processed and Decharacterized for Use as Animal Food

- A. The following are minimum requirements for animal food manufacturing plants:
 1. Hot and cold water shall be provided with facilities for its distribution in the plant which shall conform with the minimum requirements of the state Department of Health Services. The hot water shall be at least 180° F and shall be used for the cleaning of equipment, floors, and walls.
 2. There shall be a drainage and plumbing system and a sewage disposal system that will not serve as a breeding place for flies, constitute a hazard, or endanger public health. Both systems shall meet the minimum requirements of the state Department of Health Services.
 3. The floors, walls, ceilings, partitions, posts, doors, and other parts of all structures shall be of materials, construction, and finish that are capable of being thoroughly cleaned. The floors shall be tile, cement or other material impervious to water and shall have sufficient drainage to preclude stagnant accumulations of moisture.
 4. All outside windows and doors shall be screened.
 5. All rooms shall have natural or artificial lighting and well-distributed ventilation sufficient to prevent uncontrolled mold growth and filth or bacteria that may endanger health.
 6. The plant shall be kept free from flies, rats, mice, and other vermin. Dogs and cats shall be excluded from the plants.
 7. Tables, benches, and other equipment shall be provided so that processing can be performed free from filth or bacteria that may endanger health.
 8. Each plant shall provide toilets, wash basins, towels, hot and cold running water, and soap for the employees with separate facilities when both sexes are employed. Toilets and wash basins shall be kept free from filth or bacteria that may endanger health. The rooms in which the toilet facilities are located shall be ventilated and shall be separated from the rooms in which the animal food is manufactured.

9. Coolers shall be maintained below 40° F. Freezers shall be maintained below 10° F.
- B. Decharacterizing or denaturant agents: The following USDA-approved denaturant agents may be used: Charcoal (finely powdered) with a minimum 1 lb. per 100 lbs. meat, F-D & C Blue 1, F-D & C Blue 2, F-D & C Green 3, or liquid charcoal.
 1. In addition to the application of the denaturing agents listed, meat or meat products shall be identified with the following information:
 - a. The kind of animal,
 - b. The following phrases:
 - i. For pet food only from dead animals,
 - ii. Denatured with _____,
 - c. The correct statement of net weight, and
 - d. The name and address of processor or manufacturer.
 2. Before the denaturing agents are applied to pieces more than four inches in diameter, the pieces shall be freely slashed or sectioned. The application of any of the denaturing agents listed in this Section to the outer surfaces of molds or blocks of boneless meat, meat by-products, or meat food products shall not be considered adequate. The denaturing agent shall be mixed thoroughly with all of the material to be denatured and shall be applied in such quantity and manner that it cannot easily and readily be removed by washing or soaking. Denaturant shall be used to give the meat, meat by-products, raw animal fat, or rendered animal fats and oils, a distinctive color, odor, or taste so that such material cannot be confused with an article of human food.
 3. All denaturing shall be done immediately upon condemnation of the meat or product, or immediately after the meat or product is prepared or during preparation.
 4. True containers shall be legibly marked with the words "Beef or horse meat from dead animals for pet food only and not for human consumption" in letters at least 3/4 inch in height, on all sides and in at least two places if the container has less than four sides.
 5. Every carrying container in which meat obtained from a dead animal is packaged shall have an exterior surface sufficiently absorbent so that the markings on at least two sides, in letters two inches high "Pet food only," will not become illegible during handling, storage, or transportation of the container.
- C. Sales of meat obtained from a dead animal are permitted only to kennels, zoos, and animal food manufacturing plants registered by the Department, and records of sales shall be maintained by the purchaser and animal food manufacturing plant.
- D. Each vehicle used for the transportation of fresh or frozen pet food shall be clearly and legibly marked with the name of the manufacturer in letters not less than four inches in height on both sides of the cab or body.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-207 renumbered from Section R3-9-207 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3).

R3-2-208. Diseased and Injured Animals

- A. Diseased animals.
 1. No meat from any diseased animal shall be processed, sold or stored at premises where food is sold or prepared for human consumption, unless it is decharacterized and clearly identified "Not for Human Consumption."
 2. Subsection (A)(1) does not apply to meat from animals affected by any disease that does not render the meat unfit

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for human consumption if the affected animals are slaughtered in establishments where meat inspection is maintained under A.R.S. § 3-2051 and 9 CFR, Chapter III, Subchapter A, which is incorporated by reference in R3-2-202(A).

B. Injured animals. An injured animal may be slaughtered by:

1. The animal's owner at the owner's premises if the meat is used solely for consumption by the owner, the owner's immediate family, or employees. The owner shall keep the animal's hide until it has been inspected and marked or tagged by a livestock officer under A.R.S. § 3-2011.
2. An official slaughter establishment, if:
 - a. The animal is inspected by a livestock officer at origin; or
 - b. The animal is transported to the official slaughter establishment with a self-inspection certificate; or
 - c. The animal is transported to an official slaughter establishment with a waiver from the Associate Director and the waiver is documented by the livestock officer.
3. An exempt slaughterer, if the meat is used solely for consumption by the animal's owner, the owner's immediate family or employees, and if:
 - a. The animal's body temperature is 103° F or less and except for the injury its condition appears normal; and
 - b. The animal is inspected by a livestock officer at origin who verifies the temperature and condition of the animal and approves it for slaughter; or
 - c. The Associate Director waives the inspection and the waiver is documented by the livestock officer, and the exempt slaughterer verifies the temperature and condition of the animal.

C. Non-ambulatory disabled cattle. Non-ambulatory disabled cattle shall not be slaughtered by any official or exempt slaughterer. Non-ambulatory disabled cattle are cattle that cannot rise from a recumbent position or that cannot walk, including, but not limited to, those with broken appendages, severed tendons or ligaments, nerve paralysis, fractured vertabul column, or metabolic conditions.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-203 renumbered from Section R3-9-203 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Former Section R3-2-208 renumbered to R3-2-203; new Section R3-2-208 renumbered from Section R3-2-203 and amended by final rulemaking at 5 A.A.R. 1593, effective May 5, 1999 (Supp. 99-2). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-209. Exempt Non-mobile Slaughter Establishments

In addition to A.R.S. § 3-2050 and the material incorporated in R3-2-202(A), the following shall be provided when slaughtering animals in an exempt non-mobile slaughter establishment:

1. General.
 - a. A metal knocking box or concrete box with metal door to confine the animal before stunning;
 - b. A distance of at least three feet from the header rail to the adjacent wall;
 - c. A bleeding rail with its top at least 16 feet above the floor; and

- d. Dressing rails and cooler rails placed so the lowest part of the carcass is at least 12 inches from the floor.
2. Coolers. A chill cooler and separate holding cooler may be provided or both may be combined in one unit. The walls shall be light colored, smooth, free from cracks, and impervious to moisture. The door between the slaughtering department and the chill cooler shall be clad with rust-resistant material. Rails shall be spaced at least two feet from walls, columns, refrigeration equipment, or other fixed equipment to prevent contact with the carcasses.
3. Disposal of blood. If blood is not permitted to drain into the sewage system, it may be collected in a metal tank and removed from the premises.
4. Drainage.
 - a. Floors that require flushing during operations shall have sloped floor drains to carry off the effluent. Drainage systems shall conform to state and local plumbing codes.
 - b. Grease recovery systems shall not mask odors or create a harborage for pests.
5. Ventilation and lighting. Natural ventilation may be supplemented by artificial means and shall be sufficient to ensure the absence of dust, masking odors, or steam vapors. To ensure adequate lighting at all times and at all places, natural lighting shall be supplemented by well-distributed artificial lighting.
6. Potable water supply, wash basins, sterilizing facilities.
 - a. Hot and cold running water, under pressure, shall be available in all parts of the plant and in conformity with the requirements of the Arizona Department of Health Services. The hot water used for sterilizing equipment, floors, and walls that may be contaminated by the dressing procedure or handling of diseased carcasses, viscera, and other animal parts, shall be at least 180° F. A thermometer shall be installed to verify the temperature of the water at the point of use. A cleanup hose shall be available for use.
 - b. One or more wash basins shall be located in the slaughtering department. The wash basins shall be equipped with hot and cold running water, delivered through a combination mixing faucet with an outlet at least 12 inches above the rim of the bowl. The water delivery shall be foot-pedal operated, and the drainage outlet shall lead directly into the sewage lines. Soap and disposable towels shall be convenient to the wash basins.
 - c. The tool sterilizer shall be maintained at 180° F and be in operation at all times during slaughter activities.
7. Protection against flies, rodents, or other vermin.
 - a. Establishments shall be free of flies, rats, mice, roaches, and other pests or vermin. The establishment shall be constructed and maintained to prevent entrance of pests to the premises and to eliminate breeding places from the surrounding area and in the establishment.
 - b. Animal handling facilities such as stock pens and runways shall be clean and manure or other waste materials removed shall not accumulate at or near the establishment.

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New Section adopted by final rulemaking at 5 A.A.R. 1593, effective May 5, 1999 (Supp. 99-2).

ARTICLE 3. FEEDING OF ANIMALS**R3-2-301. Repealed****Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-301 renumbered from Section R3-9-301 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-302. Permit to Feed Garbage to Swine; Requirements

A swine garbage feeding permit holder or applicant for a permit to feed garbage to swine shall comply with the following requirements:

1. An approved cooker is installed, is in operating condition on the premises, and fenced off from all swine.
2. A concrete slab, trough, or other easily cleanable area, and equipment for feeding garbage is provided.
3. Premises utilized for swine garbage feeding are reasonably clean, free of litter, adequately drained, and provide for removal of animal excrement and garbage not consumed.
4. Individually operated swine garbage feeding premises are separated from other swine premises by a minimum distance of 200 feet in all directions and constructed to prevent the escape of any swine.
5. In addition, all swine garbage feeding permit holders shall follow all federal garbage feeding regulations as outlined in 9 CFR Part 166 as revised on January 1, 2018.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-302 renumbered from Section R3-9-302 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

ARTICLE 4. ANIMAL DISEASE PREVENTION AND CONTROL**R3-2-401. Definitions**

The following terms apply to this Article:

“Biologics” means medical preparations made from living organisms and their products, including serums, vaccines, antigens, and antitoxins.

“Foreign Animal Disease” means a transboundary animal disease or pest, or an aquatic animal disease or pest, not known to exist in the United States.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-401 renumbered from Section R3-9-401 (Supp. 91-4). Former Section R3-2-401 renumbered to R3-2-402; new Section R3-2-401 adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking

at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-402. Mandatory Disease Reporting by Veterinarians and Veterinary Laboratories

- A.** All veterinarians and laboratories performing diagnostic services on animals shall:
- B.** Notify the State Veterinarian at (602) 542-4293 and diseasereporting@azda.gov, within four hours of diagnosing or suspecting any disease or clinical signs of disease listed below:

1. African horse sickness
 2. African swine fever
 3. African trypanosomiasis
 4. Anthrax
 5. Avian influenza
 6. Bovine Babesiosis
 7. Bovine spongiform encephalopathy
 8. Classical Swine Fever
 9. Contagious agalactia
 10. Contagious bovine pleuropneumonia
 11. Contagious caprine pleuropneumonia
 12. Crimean Congo Hemorrhagic Disease
 13. Dourine
 14. Enterovirus encephalomyelitis
 15. Equine infectious anaemia
 16. Equine Neurologic Diseases (Eastern, Western, Venezuelan, West Nile Virus, Equine Herpesvirus-1/ Equine Herpesvirus Myeloencephalopathy)
 17. Foot and Mouth Disease
 18. Glanders
 19. Heartwater (Ehrlichia ruminantium)
 20. Hemorrhagic septicemia (Pasteurella multocida)
 21. Hendra virus (Equine morbillivirus)
 22. Infectious haematopoietic necrosis of fish
 23. Japanese encephalitis
 24. Lumpy skin disease
 25. Malignant catarrhal fever
 26. Melioidosis (Burkholderia pseudomallei)
 27. Nairobi sheep disease
 28. Newcastle Disease
 29. Nipah
 30. Peste des Petits Ruminants
 31. Rabies
 32. Rabbit Hemorrhagic Disease
 33. Rift Valley Fever
 34. Rinderpest
 35. Schmallerberg virus/Akabane
 36. Senecavirus A
 37. Screwworm myiasis
 38. Sheep and goat pox
 39. Surra (Trypanosoma evansi)
 40. Swine Vesicular Disease
 41. Theileriosis (T. parva or T. annulata)
 42. Tuberculosis (Mycobacterium bovis)
 43. Tularemia
 44. Turkey rhinotracheitis (Avian metapneumovirus)
 45. Trypanosomiasis
 46. Viral hemorrhagic septicemia of fish
 47. Vesicular exanthema of swine virus
 48. Vesicular stomatitis
- B.** Notify the State Veterinarian at (602) 542-4293 and diseasereporting@azda.gov, within 24 hours of diagnosing or suspecting any disease or clinical signs of disease listed below:
1. Brucellosis (Brucella spp.)
 2. Chronic Wasting Disease in Cervids
 3. Contagious Equine Metritis

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4. Epizootic Lymphangitis
5. Equine Piroplasmiasis
6. Equine Viral Arteritis
7. Fowl typhoid (*Salmonella gallinarum*)
8. Ornithosis (Psittacosis, Avian Chlamydiosis, Chlamydia psittaci)
9. Pigeon Fever (*Corynebacterium pseudotuberculosis*)
10. Pseudorabies (Aujeszky's disease)
11. Q fever
12. Pullorum disease (*Salmonella pullorum*)
13. Scrapie
14. Sheep scabies
15. Strangles (*Strep equi* spp. *equi*)
16. Swine enteric coronavirus diseases
17. Trichomoniasis (*Trichomonas foetus*)

Aquatic Diseases

1. Crayfish plague
 2. Epizootic hematopoietic necrosis disease
 3. Epizootic ulcerative syndrome
 4. Gyrodactylosis
 5. Abalone Viral Ganglioneuritis
 6. Bonamiosis (*B. exitiosa/ostreae*)
 7. Marteiliiosis (*M. refringens*)
 8. Perkinsiosis (*P. marinus/olseni*)
 9. Salmonid alphavirus infection
 10. Infection with *Xenohaliotis californiensis*
 11. Infectious hematopoietic necrosis
 12. Infectious hypodermal and haematopoietic necrosis
 13. Infectious myonecrosis
 14. Infectious salmon anemia
 15. Koi herpesvirus disease
 16. Necrotizing hepatopancreatitis
 17. Red sea bream iridoviral disease
 18. Spring viremia of carp
 19. Taura syndrome
 20. Tilapia Lake Virus (TiLV)
 21. Viral hemorrhagic septicemia
 22. Viral nervous necrosis (VNN)
 23. White spot disease
 24. White tail disease
 25. Yellowhead
- C. Notify the State Veterinarian by email at diseasereporting@azda.gov or facsimile at (602) 542-4290 within 30 days after diagnosing any of the diseases listed below:
1. Anaplasmosis
 2. Avian infectious bronchitis
 3. Avian infectious laryngotracheitis
 4. Bluetongue
 5. Bovine cysticercosis
 6. Bovine genital campylobacteriosis
 7. Bovine viral diarrhea
 8. Camelpox
 9. Caprine arthritis/encephalitis
 10. Duck viral hepatitis
 11. Echinococcosis/hydatidosis
 12. Enzootic abortion of ewes
 13. Enzootic bovine leukosis (BLV)
 14. Epizootic hemorrhagic disease
 15. Equine Herpesvirus - 4
 16. Equine influenza
 17. Infectious bovine rhinotracheitis
 18. Infectious bursal disease
 19. Johne's disease
 20. Leishmaniasis

21. Leptospirosis
22. Maedi-visna (OPP)
23. Marek's disease
24. *Mycoplasma Gallisepticum*
25. *Mycoplasma Synoviae*
26. Myxomatosis in rabbits
27. Porcine cysticercosis
28. Porcine Reproductive and Respiratory Syndrome
29. Paratyphoid abortion in Ewes (*Salmonella abortusovis*)
30. Swine influenza
31. Trichinellosis (*Trichinella spiralis*)

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-402 renumbered from Section R3-9-402 (Supp. 91-4). Former Section R3-2-402 renumbered to R3-2-403; new Section R3-2-402 renumbered from R3-2-401 and amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-403. Quarantine for Diseased Animals

- A. A quarantine order shall be issued by the Director or his designee when the presence of a Foreign Animal Disease is suspected or diagnosed.
- B. A quarantine order may be issued by the Director or his designee on the advice of the State Veterinarian when the presence of a disease is suspected or diagnosed.
- C. The quarantine order may isolate specific animals, premises, counties, districts, or sections of the state and shall restrict the movement of animals.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-403 renumbered from Section R3-9-403 (Supp. 91-4). Former Section R3-2-403 repealed; new Section R3-2-403 renumbered from Section R3-2-402 and amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 135, effective December 15, 2016 (Supp. 16-4). New Section made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-404. Importation, Manufacture, Sale, and Distribution of Biologics

- A. Any person importing, manufacturing, selling, or distributing any biologic intended for diagnostic or therapeutic treatment of animals shall request, in writing, permission from the State Veterinarian.
- B. The State Veterinarian shall not approve the importation, manufacture, sale, or distribution of any biologic that will interfere with the state's animal disease control programs.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-404 renumbered from Section R3-9-404 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-

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- 1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-405. Depopulation of Animals Infected with a Foreign Animal Disease

When a Foreign Animal Disease is diagnosed, the State Veterinarian may order the owner, agent, or feedlot operator to immediately depopulate and dispose of all infected and exposed animals on the premises if necessary to prevent the spread of the disease among animals.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-405 renumbered from Section R3-9-405 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-406. Disease Control; Designated Feedlots

- A.** Designated feedlots are subject to the following restrictions:
- B.** A designated feedlot shall have a restricted feeding pen. A restricted feeding pen shall:
1. Be isolated from all other pens,
 2. Have separate loading and unloading chutes, alleys, and handling facilities from all other pens,
 3. Not share water or feeding facilities accessible to other areas,
 4. Be posted at all corners with permanently affixed signs stating "Restricted Feeding Area,"
 5. Have a minimum of eight feet between restricted and other pens and facilities, and
 6. Have no common fences or gates with other pens.
- C.** An operator may place diseased cattle or bison that are under state quarantine into a restricted feeding pen as follows:
1. All cattle or bison, except steers and spayed heifers, shall be branded with an "F" at least two inches in height, adjacent to the tailhead before entering the pen; and
 - a. Imported cattle or bison, of any age and from any area shall be transported under seal and shall be accompanied by an entry permit number and a Certificate of Veterinary Inspection or federal restricted movement document; or
 - b. Native Arizona cattle or bison shall be accompanied by an Arizona livestock inspection certificate, as approved by the State Veterinarian or designee.
- D.** An operator may move cattle or bison from a restricted feeding pen to slaughter or to another designated feedlot only by prior written approval of the State Veterinarian or APHIS veterinarian.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-406 renumbered from Section R3-9-406 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-407. Disease Control; Equine Infectious Anemia

- A.** The Arizona official test for EIA is either the agar-gel immunodiffusion test, known as the Coggins Test, or the Competitive Enzyme-Linked Immunosorbent Assay test, known as the CELISA test. The test shall be performed in a laboratory approved by APHIS, and required samples shall be drawn by an accredited veterinarian, the State Veterinarian, the State Veterinarian's designee, or an APHIS veterinarian.
- B.** Disposal of equine testing positive.
1. When an Arizona equine tests positive to EIA, the testing laboratory shall notify the State Veterinarian by telephone at (602) 542-4293 and email at diseasereporting@azda.gov, within four hours.
 2. The EIA-positive equine shall be quarantined at its current location, segregated from other equine, and shall not be moved unless authorized by the State Veterinarian. The equine shall be retested by the State Veterinarian, the State Veterinarian's designee, or an APHIS veterinarian within two weeks of the notification.
 3. Within 14 days of being notified by the testing laboratory of a positive test conducted under subsection (B)(2), the State Veterinarian or the State Veterinarian's designee shall brand the equine on the left side of its neck with "86A" not less than two inches in height.
 4. Within 10 days after being branded, the EIA-positive equine shall be:
 - a. Humanely destroyed,
 - b. Confined to a screened stall marked "EIA Quarantine" that is at least 200 yards from other equine, or
 - c. Consigned to slaughter at a slaughtering establishment. If consigned to slaughter, the equine shall be accompanied by a Permit for Movement of Restricted Animals, VS 1-27, issued by the State Veterinarian, the State Veterinarian's designee, or an APHIS veterinarian.
 5. Offspring of mares testing EIA-positive shall be quarantined, segregated from other equine, and tested for EIA at six months of age. Offspring testing positive shall be handled as prescribed in subsections (B)(3) and (B)(4).
 6. If an EIA-positive equine is located on premises other than those of the owner at the time a quarantine under this Section, the State Veterinarian may authorize movement of the EIA-positive equine to the owner's premises if requested by the owner. Movement shall be under the direct supervision of the State Veterinarian or the State Veterinarian's designee. If the owner lives in another state, the owner may move the equine to that state with the permission of the chief livestock health official of the state and APHIS.
- C.** The State Veterinarian shall require testing of any equine located in the same facility as the EIA-positive equine or any equine considered exposed to the EIA-positive equine. The owner of the equine tested shall pay the expenses for the testing.
- D.** The owner of any equine found to be EIA-positive shall not be indemnified by the state for any loss caused by the destruction or loss of value of the equine.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-407 renumbered from Section R3-9-407 (Supp. 91-4). Amended effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January

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1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-408. Disposition of Livestock Exposed to Rabies

Livestock bitten by a known or suspected rabid animal shall be handled using the methods prescribed in the National Association of State Public Health Veterinarians' Compendium of Animal Rabies Control, 2016 Part I, Section B. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-408 renumbered from Section R3-9-408 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-409. Rabies Vaccines for Animals

All animals in Arizona vaccinated against rabies shall be vaccinated as prescribed in the National Association of State Public Health Veterinarians' Compendium of Animal Rabies Control, 2016 Part I Section A. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective October 16, 1986 (Supp. 86-5). Amended effective January 6, 1989 (Supp. 89-1). Section R3-2-409 renumbered from Section R3-9-409 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-410. Trichomonas Testing Requirements

A. Definitions. For purposes of this Section, the following definitions shall apply.

"Accredited Veterinarian" means an individual who is currently licensed to practice veterinary medicine in the State of Arizona and is an Accredited Level II by the United States Department of Agriculture, Animal Plant Health Inspection Service.

"Approved Laboratory" means any laboratory designated and approved by the State Veterinarian for examining *T. foetus* samples and reporting all results to the State Veterinarian.

"Bull" means an intact male bovine 12 months of age and older and is not confined to a drylot dairy.

"Change of Ownership" means when a bull is sold, leased, gifted, or exchanged and changes premises for breeding purposes in Arizona.

"Commingle" means cattle of opposite sex in the same enclosure or pasture with a reasonable opportunity for sexual contact.

"Direct to Slaughter" means transporting an animal from site of testing to a sale yard or directly to a slaughter plant without unloading or commingling prior to arrival.

"Official *T. foetus* bull test" means the sampling of a bull by a licensed, accredited veterinarian. Such test must be conducted after at least seven days separation from all female bovine. The bull and sample must be officially and individually identified and documented for laboratory submission. The official laboratory test shall be a polymerase chain reaction (PCR), or other technologies as approved by the State Veterinarian and adopted through a Director's Administrative Order. The test is not considered official until results are reported by the testing laboratory.

"Official *T. foetus* laboratory testing" means the laboratory procedures that shall be approved by the State Veterinarian for identification of *T. foetus*.

"Positive *T. foetus* bull" means a bull that has had a positive official *T. foetus* bull test.

"Trichomonas foetus" OR "*T. foetus*" means a protozoan parasite that is the causative agent to the contagious venereal disease Trichomoniasis.

- B. Testing requirements for Official *T. foetus*.
 1. All Arizona origin bulls sold, leased, gifted, exchanged or otherwise changing possession for breeding purposes in Arizona shall be tested for *T. foetus* via Official *T. foetus* bull test prior to sale or change of ownership in the state, unless going to direct slaughter. *T. foetus* testing shall be performed on bulls prior to change of ownership of that bull.
 2. The Official *T. foetus* test shall be collected by an Accredited Veterinarian and performed through an Approved Laboratory.
 3. Pooled testing is not an official test.
 4. The *T. foetus* negative test is valid for 60 days after the test is performed, providing the bull is kept separated from all female bovine.
- C. Positive bull identification.
 1. When a positive *T. foetus* bull is identified, the Accredited Veterinarian shall notify the producer upon receipt of the positive test results.
 2. Regardless of R3-2-402, the Accredited Veterinarian and Approved Laboratory shall notify the State Veterinarian of a positive *T. foetus* bull within 24 hours of receiving the results. The State Veterinarian's Office, working in coordination with the regional livestock inspection staff, shall to the best of their ability notify the regional bovine producers about the positive test within 14 days upon notification of positive test. The State Veterinarian and/or livestock inspection staff is not required to reveal any details of the test just that there is a positive test in the region.
 3. The Accredited Veterinarian that performed the test shall return to place of testing to verify the Official Identification of the positive bull.
 4. The Accredited Veterinarian, or a person under direct supervision of the Veterinarian, shall brand the bull with an official "S" brand adjacent to the tailhead on the right hip.
 5. If the bull testing positive is not at the premises where the *T. foetus* testing occurred, the Accredited Veterinarian will immediately notify the State Veterinarian's Office.

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6. If an Accredited Veterinarian is unable to return to the premises in a time that is reasonable for sale of the bull, the producer shall take the positive *T. foetus* bull directly to the regional livestock sale yard.

- a. The producer shall immediately notify the sale yard of the positive *T. foetus* bull. Failure to notify the sale yard of the positive *T. foetus* bull will result in a violation of this Section and the producer shall be subject to the penalties of A.R.S. § 3-1205(D).
- b. Prior to sale at the sale yard, a Livestock Officer shall verify the official identification of the positive *T. foetus* test bull.
- c. After the official identification is verified, the bull shall be branded with an official "S" brand adjacent to the tailhead on the right hip. The branding shall be done under direct supervision of a Livestock Officer or Livestock Inspector.

7. If a bull arrives at a livestock auction without an Official *T. foetus* bull test, the bull shall be quarantined at the auction and tested at the expense of the owner or shall be branded with an "S" brand and be sold only for slaughter.

D. Disposal of bull testing positive.

1. A bull testing positive for *T. foetus* or branded with the official "S" brand shall go direct to slaughter or shall be placed under State Quarantine and fed in a restricted feeding pen within a designated feedlot according to R3-2-406.
2. The *T. foetus* positive bull shall not be commingled with any other female bovine. The bull shall go from the testing premises to direct slaughter or to the restricted feeding pen within 30 days of the positive *T. foetus* test.
3. All remaining herd bulls shall be under a Trichomonas Herd Management Program overseen by the Herd Veterinarian until two negative *T. foetus* tests are performed and documented.
4. "S" branded bulls purchased at a sale yard shall go direct to a slaughter plant without unloading or commingling prior to arrival.

E. Trespassing or Stray Bulls.

1. In the event of a trespassing or stray bull, the herd owner who locates the bull, may request an Official *T. foetus* bull test for that bull. In the event of a positive Official *T. foetus* bull test, subsections (B) and (C) shall apply.
2. The cost of the veterinary services and Official *T. foetus* bull test shall be the responsibility of the herd owner. In the event of a stray bull, the animal will be subject to A.R.S. §§ 3-1401 et seq.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020; new Section made by final rulemaking at 26 A.A.R. 812, effective June 8, 2020 (Supp. 20-2).

R3-2-411. Repealed

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 4812, effective December 7, 2000 (Supp. 00-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by exempt rulemaking under Laws 2016, Ch. 160, § 9 at 22 A.A.R. 2400, effective August 6, 2016 (Supp. 16-3). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

tary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by exempt rulemaking under Laws 2016, Ch. 160, § 9 at 22 A.A.R. 2400, effective August 6, 2016 (Supp. 16-3). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-412. Repealed

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-413. Sheep and Goats; Intrastate Movement

- A.** Before intrastate movement of a sheep more than 18 months of age, or a sheep or goat of any age not in a slaughter channel, the producer shall identify the animal to the flock of birth using official identification before leaving the flock of birth. A sheep or goat not in a slaughter channel includes an animal not for sale, transfer, or movement to:

1. A slaughter facility,
2. Custom slaughter, or
3. A feeding operation before movement to slaughter.

- B.** Subsection (A) does not apply if the first point of commingling with animals other than those in the flock of birth is an Arizona auction market that is an approved tagging site.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3628, effective January 1, 2003 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

ARTICLE 5. STATE-FEDERAL COOPERATIVE DISEASE CONTROL PROGRAM

R3-2-501. Tuberculosis Control and Eradication Procedures

- A.** Procedures for tuberculosis control and eradication in cattle, bison, and goats shall be as prescribed in 9 CFR Part 77 as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.
- B.** Procedures for tuberculosis control and eradication in cervidae not listed as restricted live wildlife in A.A.C. R12-4-406 shall be as prescribed in 9 CFR 77 Subpart C as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Amended subsection (A) effective October 16, 1986 (Supp. 86-5). Section R3-2-501 renumbered from Section R3-9-501 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-502. Repealed

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-502 renumbered from Section R3-9-502 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1). Section repealed by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the

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Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

R3-2-503. Brucellosis Control and Eradication Procedures

- A. Procedures for brucellosis control and eradication in cattle and bison shall be as prescribed in 9 CFR 78 as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.
- B. Procedures for brucellosis control and eradication in swine shall be as prescribed in 9 CFR 78 Subpart D as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.
- C. Procedures for brucellosis control and eradication in animals not listed as restricted live wildlife in A.A.C. R12-4-406, shall be as prescribed in the USDA publication, Brucellosis in Cervidae: Uniform Methods and Rules, effective September 30, 2003. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4).
Amended effective October 16, 1986 (Supp. 86-5).
Amended effective January 6, 1989 (Supp. 89-1). Section R3-2-503 renumbered from Section R3-9-503 (Supp. 91-4). Amended March 5, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-504. Pseudorabies Procedures for Eradication

Procedures for pseudorabies control and eradication in swine shall be as prescribed in 9 CFR 85 as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.

Historical Note

Adopted effective March 5, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-505. Scrapie Procedures for Eradication

The Department controls and eradicates scrapie using the procedures outlined in 9 CFR 79 as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

ARTICLE 6. HEALTH REQUIREMENTS GOVERNING ADMISSION OF ANIMALS**R3-2-601. Repealed****Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-601 renumbered from Section R3-9-601 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1).

Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-602. Importation Requirements

- A. All animals transported or moved into the state of Arizona, shall be accompanied by a valid, official Certificate of Veterinary Inspection from the state of origin, or a VS 9-3 form for National Poultry Improvement Plan flocks. All animals shall be imported in accordance with this Section and the species-specific Section in this Article. Any violation of this Article is subject to a hold order pursuant to R3-2-605.
- B. Livestock may not enter the state of Arizona unless accompanied by an Arizona entry permit number documented on the Certificate of Veterinary Inspection. This requirement applies regardless of the species, breed, sex, class, age, point of origin, place of destination, or purpose of the movement of the livestock entering the state, except:
 1. Equine;
 2. Livestock consigned directly to slaughter at a state or federally licensed slaughter establishment; or
 3. Livestock being transported through the state.
- C. An animal affected with or recently exposed to any infectious, contagious, or communicable disease, or which originates in a state or federal quarantine area, shall not be transported or moved into the state of Arizona unless a permit for the entry is first obtained from the Arizona State Veterinarian's Office. All conditions for the movement of animals from a quarantined area established by the quarantining authority or APHIS shall be met. Animals imported from a quarantine area may be subject to additional import requirements by the State Veterinarian prior to entry into Arizona.
- D. The owner or owner's agent shall obtain prior permission from the State Veterinarian to ship or move into the state of Arizona any animal from a lot or herd from which an animal shows clinical signs of disease or positive reaction to a test required for admission to Arizona.
- E. The Director may enter into an agreement to allow New Mexico livestock consigned directly to an Arizona livestock auction to enter the state on a New Mexico brand inspection certificate in place of a Certificate of Veterinary Inspection. If the agreement is entered, it shall be posted on the Arizona Department of Agriculture's website. In the event the agreement is terminated or expires, the Department shall put notice of the termination on the website. The livestock owner or owner's agent is responsible for ensuring that the agreement is current prior to shipping the livestock. This process is subject to the restrictions included in the agreement.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section

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R3-2-602 renumbered from Section R3-9-602 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-603. Repealed**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-603 renumbered from Section R3-9-603 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-604. Repealed**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-604 renumbered from Section R3-9-604 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-605. Hold Order for Animals Entering Illegally

- A.** Animals entering the state in violation of any Section under this Article, may be placed under a hold order at the risk and expense of the owner until released by an authorized representative of the State Veterinarian. Animals placed under a hold order for noncompliance with this Article may be released only after the State Veterinarian is satisfied by testing, dipping, or observation over time, that the animals are not a threat to the livestock industry.
- B.** The State Veterinarian may order that an imported animal failing to meet entry requirements be returned to the state of origin, consigned directly to slaughter, confined to a designated feedlot, or consigned to a feedlot in another state within two weeks of the request. Any extension to this time-frame must be approved in writing by the State Veterinarian.
- C.** If the owner or owner's agent fails to comply with an order to return an animal to the state of origin within the time-frame required in subsection (B), the Department shall require that the animal be immediately gathered and tested at the owner's risk and expense to avoid exposure of Arizona animals to disease. The owner shall pay the expenses no later than five days after receipt of the bill. Failure to do so will result in an auction of sufficient livestock to pay the expenses which shall be held within 10 days at public auction. If additional expenses occur due to lack of cooperation by the owner or the owner's agent, the Director shall order the further sale of livestock.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Former Section R3-9-605 renumbered to R3-2-605 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office

of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-606. Certificate of Veterinary Inspection

- A.** A Certificate of Veterinary Inspection is valid for not more than 30 days after the date of issue, except where otherwise noted in this Article, and shall contain:
1. The name and address of the Consignor and Consignee;
 2. The physical address of the origin of the animal;
 3. The physical address of the animal's final destination;
 - a. Entry permit number if applicable;
 - b. Official identification if applicable; and
 - c. Certificate of Veterinary Inspection individual certificate number.
 - d. Qualifying required tests with completion dates.
- B.** The Certificate of Veterinary Inspection shall be forwarded to the State Veterinarian in Arizona within 14 days of issue.
- C.** A VS form 17-30 is deemed a valid international CVI if the following conditions are met:
1. Accompanied by a valid brand inspection certificate from a southern border state with an entry permit number; and
 2. Official identification as documented on the VS form 17-30.
- D.** Official Certificates of Veterinary Inspection may be used in electronic or paper form.
- E.** Additions, deletions, and unauthorized or uncertified changes inserted or applied to a Certificate of Veterinary Inspection renders the certificate void and may be subject to state or federal penalties.
- F.** The veterinarian issuing a Certificate of Veterinary Inspection shall certify that the animals shown on the Certificate of Veterinary Inspection are free from evidence of any infectious, contagious, or communicable disease or known exposure.
- G.** An accredited veterinarian shall inspect animals for entry into the state.
- H.** The Director may limit the period for which a Certificate of Veterinary Inspection is valid to less than 30 days if advised by the State Veterinarian of the occurrence of a disease that constitutes a threat to the livestock industry.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-606 renumbered from Section R3-9-606 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 884, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020

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R3-2-607. Entry Permit Number

- A. An entry permit number for interstate movement may be obtained from the Office of the State Veterinarian, by calling (602) 542-4293 during the hours of 8 a.m. to 5 p.m. Monday through Friday, excluding state holidays. Any person applying for an entry permit number shall provide the following information:
1. The name and address of the Consignor and Consignee;
 2. The number and kind of animals;
 3. The physical address of the origin of shipment;
 4. The physical address of the shipment's final destination;
 5. The method of transportation; and
 6. Any other information required by the State Veterinarian.
- B. An entry permit number is valid for a maximum of 30 calendar days from the date of issuance unless otherwise indicated on the CVI.
- C. An entry permit number shall be issued if the animals listed on the Certificate of Veterinary Inspection are in compliance with this Article. To cope with changing disease conditions, the State Veterinarian may refuse to issue an entry permit number or may require additional conditions not specifically established in this Article if necessary to protect animal health in Arizona.
- D. The entry permit number issued shall be affixed or written on the Certificate of Veterinary Inspection, brand inspection certificate, and any other official documents as follows: "Arizona Permit No. _____" followed by the serialized number.
- E. The State Veterinarian shall refuse to grant an entry permit number to any person who repeatedly commits the following:
1. Giving false information concerning an entry permit number for transportation of animals,
 2. Failing to fulfill the conditions of an entry permit number, or
 3. Failing to obtain an entry permit number.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-607 renumbered from Section R3-9-607 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-608. Repealed**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-608 renumbered from Section R3-9-608 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-609. Diversion; Prohibitions

A person consigning, transporting, or receiving an animal into the state of Arizona shall not authorize, order, or carry out diversion of the animal to a destination or consignee other than as set forth on the Certificate of Veterinary Inspection and entry permit, if

required, without first obtaining permission from the State Veterinarian.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-609 renumbered from Section R3-9-609 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-610. Tests; Official Confirmation

A state or federal animal diagnostic laboratory or APHIS-approved laboratory shall perform or confirm any animal testing required by a state or federal authority as a condition for entry into Arizona.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-610 renumbered from Section R3-9-610 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

R3-2-611. Transporter Duties

- A. All owners and operators of railroads, trucks, airplanes, or other conveyances transporting animals into or through the state shall possess all of the importation documents required by this Article. These documents shall be attached to the waybill, or be in the possession of the vehicle driver, or person in charge of the animals. When a single Certificate of Veterinary Inspection and entry permit number is issued for animals being moved in more than one vehicle, the driver of each vehicle shall possess the original or a copy of the Certificate of Veterinary Inspection containing the entry permit number, if required.
- B. The owner or operator of a railroad car, truck, airplane, or other conveyance used to transport animals into or through the state shall maintain the conveyance in a clean and sanitary condition.
- C. The owners and operators of railroads, trucks, airplanes, or other conveyances who transport animals into the state in violation of this Section shall clean and disinfect the conveyance in which the animals were illegally brought into the state before using the conveyance for transporting more animals. The cleaning and disinfection shall be performed under the supervision of an authorized representative of the State Veterinarian or the USDA.
- D. The owners or operators of railroads, trucks, airplanes, or other conveyances shall follow the USDA requirements and Arizona Department of Agriculture rules and statutes, in the humane transport of animals into, within, or through the state.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-611 renumbered from Section R3-9-611 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is

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January 1, 2000 (Supp. 01-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2).

Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-612. Importation of Cattle and Bison

- A.** The Certificate of Veterinary Inspection for cattle and bison shall include:
1. A valid entry permit number.
 2. The number of cattle and bison covered by the Certificate of Veterinary Inspection, an accurate description and official identification, if applicable except for "F" branded heifers consigned to a designated feedlot identified by brand.
 3. The health status of the cattle and bison including:
 - a. The date of the inspection;
 - b. The dipping date, if applicable;
 - c. The date of negative results for required testing under this Article; and
 - d. The vaccination status as required by this Article.
 4. The method of transportation; and
 5. For bulls subject to testing under R3-2-612(I), a statement that the bulls:
 - a. Tested negative for *Tritrichomonas foetus* within 30 days prior to shipment using a polymerase chain reaction test; and
 - b. Have had no breeding activity during the interval between the collection of the samples and the date of shipment.
- B.** The owner of cattle and bison entering Arizona or the owner's agent shall comply with the requirements in this Article. Failure to comply with entry requirements will incur the following conditions:
1. Pay the expenses incurred by a hold order to test and retest the imported cattle or bison or return them to the state of origin.
 2. For imported beef breeding cattle, breeding bison, and dairy cattle, ensure that an accredited veterinarian applies official identification to each bovine or bison.
- C.** Arizona shall not accept:
1. Cattle or bison from brucellosis infected, exposed, or quarantined herds regardless of their vaccination or test status, or both, except:
 - a. Steers and spayed females, and
 - b. Cattle or bison shipped directly for immediate slaughter to an official state or federal slaughter establishment;
 2. Cattle or bison of unknown brucellosis exposure status, unless consigned for feeding purposes to a designated feedlot;
 3. Dairy cattle from a state or region within a foreign country without brucellosis status comparable to a Class-Free State, or without tuberculosis status comparable to an Accredited-Free State;
 4. Dairy and dairy cross steers, and dairy and dairy cross spayed heifers from Mexico;
 5. Beef breeding cattle or breeding bison from a state or region within a foreign country without brucellosis status comparable to a Class A State, or without tuberculosis status comparable to a Modified Accredited State.
- D.** Brucellosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from other states.
1. Brucellosis testing is not required in dairy and beef cattle from a brucellosis Class-Free State that does not have free-ranging brucellosis infected bison or wildlife.
 2. Brucellosis not required for any cattle or bison consigned to a designated feedlot that are branded with an "F" adjacent to the tail head as long as the State Veterinarian grants permission to apply the "F" brand upon arrival. All "F" branded cattle or bison that leave the designated feedlot shall be shipped directly to:
 - a. An official state or federal slaughter establishment for immediate slaughter,
 - b. Another designated feedlot, or
 - c. Another state if shipping is permitted by the State Veterinarian in the state of destination.
 3. All female dairy cattle four months of age or older, imported into Arizona, shall be official calfhood vaccinates, officially identified, certified, and legibly tattooed except for the following:
 - a. Show cattle for exhibition,
 - b. Cattle consigned directly to an official state or federal slaughter establishment for immediate slaughter, and
 - c. Cattle consigned for feeding purposes to a designated feedlot with an entry permit number.
 4. For beef breeding cattle, breeding bison, and dairy breeding cattle from a Class A state the owner or owner's agent:
 - a. Shall ensure that the cattle remain under quarantine and isolation until the cattle test negative for brucellosis. The test shall be performed no earlier than 45 days and no later than 120 days after entry.
 - b. Shall retest dairy cattle if the State Veterinarian determines there is a potential risk of the introduction of brucellosis in the state.
 - c. Is not required to quarantine or test for brucellosis official calfhood vaccinates less than 18 months of age, if permission is granted by the State Veterinarian.
 5. The owner or owner's agent:
 - a. Shall notify the State Veterinarian within seven days of moving cattle or bison that are under quarantine from the destination listed on the import permit and Certificate of Veterinary Inspection.
 - b. Shall notify the State Veterinarian at the time animals are retested for brucellosis, if the animals are under quarantine and are not moved from the destination listed on the import permit and Certificate of Veterinary Inspection.
 - c. Is not required to notify the State Veterinarian if the cattle or bison are shipped directly to an official state or federal slaughter establishment for immediate slaughter.
- E.** Tuberculosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from other states.
1. No tuberculosis test is required for:
 - a. Beef breeding cattle or breeding bison, from a tuberculosis accredited Free State if the state accredited status is documented on the Certificate of Veterinary Inspection and entry permit; or
 - b. Steers and spayed heifers.

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2. Beef breeding cattle and breeding bison from a Tuberculosis Modified Accredited State or Tuberculosis Class Free State with a Tuberculosis Quarantine in effect, shall test negative for Bovine Tuberculosis within 60 days prior to entry into Arizona.
 3. All dairy breeding cattle greater than 120 days of age shall test negative for Bovine Tuberculosis within 60 days prior to entry into Arizona.
- F. Brucellosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from Mexico.**
1. Prior to entry into Arizona, beef breeding cattle, breeding bison, or dairy cattle from Mexico shall meet the requirements of 9 CFR 93.424 through 93.427, as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007.
 2. The owner or owner's agent shall ensure that beef breeding cattle, breeding bison, and dairy cattle from Mexico remain under import quarantine and isolation until tested negative for brucellosis. The test shall not be performed earlier than 60 days nor later than 120 days after entry into Arizona. All cattle or bison consigned to a designated feedlot shall be branded with an "F" adjacent to the tail head before entry into Arizona unless the State Veterinarian grants permission to apply the "F" brand on arrival. Unless neutered, all beef breeding cattle, breeding bison, and dairy cattle leaving the designated feedlot shall go directly to an official state or federal slaughter establishment for immediate slaughter or to another designated feedlot. The owner of the designated feedlot shall ensure that official identification records are kept on all incoming consignments and then submit the records monthly to the State Veterinarian. An accredited veterinarian shall identify, on a form approved by the State Veterinarian, all cattle and bison leaving the designated feedlot. A copy of the form shall accompany the cattle or bison to slaughter and a copy shall be submitted to the State Veterinarian.
 3. Dairy cattle from Mexico shall test for brucellosis again 30 days after calving, unless the dairy cattle were consigned directly to a feedlot.
- G. Tuberculosis testing requirements for cattle and bison imported into Arizona from Mexico.**
1. Prior to entry into Arizona, cattle and bison from Mexico shall meet the requirements of 9 CFR 93.424 through 93.427 as revised on January 1, 2018, incorporated by reference in subsection (F)(1).
 2. Steers and spayed heifers from states or regions in Mexico shall not enter the state if they have not been determined by the State Veterinarian to have fully implemented the Control, Eradication, or Free Phase of the bovine tuberculosis eradication program of Mexico.
 3. Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have fully implemented the Control Phase of the bovine tuberculosis eradication program of Mexico shall not be imported into Arizona without permission of the State Veterinarian.
 4. Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have fully implemented the Eradication Phase of the bovine tuberculosis eradication program of Mexico may be imported into Arizona, if they have either:
 - a. Tested negative for tuberculosis in accordance with procedures equivalent to the 9 CFR Part 77 as amended on January 9, 2013 within 60 days before entry into the United States, or
 - b. Originated from a herd that is equivalent to an accredited herd in the United States and are moved directly from the herd of origin across the border as a single group and not commingled with other cattle or bison before arriving at the border.
- 5. Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have achieved the Free Phase of the bovine tuberculosis eradication program of Mexico may move directly into Arizona without testing or further restrictions if they are moved as a single group and not commingled with other cattle before arriving at the border.**
- 6. Beef breeding cattle and breeding bison from states or regions in Mexico may be imported into Arizona if the State Veterinarian determines the Eradication or Free Phase of the bovine tuberculosis eradication program of Mexico has been fully implemented and the breeding cattle and breeding bison remain under quarantine and isolation until retested negative for tuberculosis in accordance 9 CFR Part 77 as revised on January 1, 2018. The test shall be performed not earlier than 60 days but not later than 120 days after entry unless consigned to a designated feedlot for feeding purposes only. Unless neutered, all beef breeding cattle or breeding bison consigned to a designated feedlot shall be branded with an "F" adjacent to the tail head before entry into Arizona, unless permission is granted by the State Veterinarian to apply the "F" brand on arrival. All beef breeding cattle or breeding bison leaving the designated feedlot shall go directly to an official state or federal slaughter establishment for immediate slaughter or to another designated feedlot. The owner of the designated feedlot shall ensure that official identification records are kept on all incoming consignments and submit the records monthly to the State Veterinarian. An accredited veterinarian shall identify, on a form approved by the State Veterinarian, all beef breeding cattle and breeding bison leaving the designated feedlot. A copy of the form shall accompany the cattle and bison to slaughter and a copy shall be submitted to the State Veterinarian.**
- H. Bovine scabies requirements.**
1. The owner or owner's agent shall ensure that no cattle or bison affected with or exposed to scabies is shipped, trailed, driven, or otherwise transported or moved into Arizona except cattle or bison identified and moving under a VS Form 1-27 and seal for immediate slaughter at an official state or federal slaughter establishment.
 2. The owner or owner's agent of cattle or bison from an official state or federal scabies quarantined area shall comply with the requirements of 9 CFR 73, Scabies in Cattle, as revised on January 1, 2018, before moving the cattle or bison into Arizona. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.
 3. The State Veterinarian may require that breeding and feeding cattle and bison from known scabies infected areas and states be dipped or treated even if the animals are not known to be exposed. The State Veterinarian shall require that dairy cattle be dipped only if the animals are

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known to be exposed; otherwise an accredited veterinarian's examination and certification shall be sufficient.

- I. Trichomoniasis requirements for bulls imported into Arizona from other states.
1. The owner or owner's agent shall ensure bulls:
 - a. Test negative for *Tritrichomonas foetus* within 30 days prior to shipment using a polymerase chain reaction test or a diagnostic test approved by the state veterinarian, except for bulls:
 - i. Less than 12 months of age,
 - ii. Consigned directly to a state or federal licensed slaughter facility,
 - iii. Consigned directly to a dairy,
 - iv. Consigned directly to an exhibition or rodeo,
 - v. Consigned directly to a licensed feedlot for castration on arrival,
 - vi. Branded with an "F" adjacent to the tailhead and consigned directly to a designated feedlot for feeding and later movement directly to slaughter, and
 - b. Have no breeding activity during the interval between the collection of a sample and the date of shipment.
 - c. The following statements documented on the CVI in reference to R3-2-612(A)(5):
 - i. Test negative for *Tritrichomonas foetus* within 30 days prior to shipment using a polymerase chain reaction test; and
 - ii. Have had no breeding activity during the interval between the collection of the samples and the date of shipment.
 2. An accredited veterinarian approved to collect samples for *Tritrichomonas foetus* testing by the state animal health official in the state of origin shall collect the *Tritrichomonas foetus* test samples.
 3. A laboratory approved to conduct tests for *Tritrichomonas foetus* by the state animal health official in the state of origin shall perform the test for *Tritrichomonas foetus*.
- J. For purposes of this Section beef breeding cattle means intact beef cattle.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-612 renumbered from Section R3-9-612 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1). Amended effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 14 A.A.R. 884, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-613. Importation of Swine

- A. A Certificate of Veterinary Inspection for swine shall include:
1. A valid entry permit number;
 2. The following statements recorded on the CVI:
 - a. The swine listed on this CVI have never been fed garbage; and
 - b. The swine listed on this CVI have not been vaccinated for pseudorabies;
 3. Official Identification; and
 4. If applicable, the validated brucellosis-free herd number and last test date for swine originating from a validated brucellosis-free herd.

- B. Brucellosis test requirements. Swine imported into Arizona from other states shall:
1. Originate from a validated swine brucellosis-free herd or from a swine brucellosis-free state; or
 2. Test negative for brucellosis within 30 days before entry.
- C. For purposes of this Section, breeding swine means intact swine that have had breeding activity.
- D. It is unlawful for any person to import into the state of Arizona live feral swine. Any person or corporation owning or possessing a live feral swine in this state shall at all times keep such feral swine in a safe and suitable enclosure so that it may not run at large or damage the person or property of others. For purposes of this Section, feral swine means a hog, boar, or pig that appear to be untamed, undomesticated, or in a wild state; or appear to be contained for commercial hunting or trapping.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective June 29, 1984 (Supp. 84-3). Section R3-2-613 renumbered from Section R3-9-613 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 4812, effective December 7, 2000 (Supp. 00-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-614. Importation of Sheep and Goats

- A. A Certificate of Veterinary Inspection for sheep and goats shall include:
1. A valid entry permit number; and
 2. A statement that:
 - a. The sheep or goats are not infected with bluetongue, or exposed to scrapie, and do not originate from a scrapie-infected or source flock; and
 - b. The sheep or goats test negative for *Brucella ovis* if a test is required by subsection (B); and if applicable
 - c. Breeding rams have been individually examined and are free of gross lesions of ram epididymitis.
- B. A breeding ram six months of age or older shall test negative for *Brucella ovis* within 30 days of entry or originate from a certified brucellosis-free flock. An exhibition ram that returns to the out-of-state flock of origin within five days of the conclusion of the exhibit is exempt from the testing requirement of this subsection.
- C. Arizona native commercial flocks participating in a *Brucella ovis* control program through testing performed by an accredited and licensed veterinarian may return to Arizona from another state without testing, provided the flock has not commingled with other flocks.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-614 renumbered from Section R3-9-614 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020

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(Supp. 20-2).

R3-2-615. Importation of Equine

- A. A Certificate of Veterinary Inspection for equine shall include:
1. An accurate identification for each equine including age, sex, breed, color, name, brand, tattoo, scars, microchip if any, and distinctive markings; and
 2. A statement that the equine has a negative test for EIA, including:
 - a. The date and results of the test;
 - b. The name of the testing laboratory; and
 - c. The laboratory accession number.
- B. Equine entering the state are not required to obtain an entry permit number.
- C. All equine six months of age or older shall, using a test established in R3-2-407(A), test negative for EIA within 12 months before entry. Testing expenses shall be paid by the owner.
- D. Extended Equine Certificates of Veterinary Inspection (EECVI) are valid for the life of the certificate (up to 6 months) in the state of Arizona. The equine listed on the EECVI shall be officially identified with a microchip.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-615 renumbered from Section R3-9-615 (Supp. 91-4). Amended effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-616. Importation of Cats and Dogs

A dog or cat shall be accompanied by a Certificate of Veterinary Inspection that documents the animal is currently vaccinated against rabies if older than three months of age according to the requirements of the National Association of State Public Health Veterinarians' Compendium of Animals Rabies Control, incorporated by reference in R3-2-409.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-616 renumbered from Section R3-9-616 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-617. Importation of Poultry

Poultry entering the state shall appear healthy, not originate from a poultry quarantine area, comply with all interstate requirements of APHIS, and be accompanied by a Certificate of Veterinary Inspection or Form 9-3 from the National Poultry Improvement Program.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-617 renumbered from Section R3-9-617 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Repealed by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired

December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-618. Importation of Psittacine Birds

- A. The owner or the owner's agent of a psittacine bird entering Arizona shall obtain a Certificate of Veterinary Inspection issued by a veterinarian within 30 days of entry, certifying:
1. The bird is not infected with the agent that causes avian chlamydiosis, and
 2. The bird was not exposed to birds known to be infected with avian chlamydiosis within the past 30 days.
- B. The Certificate of Veterinary Inspection shall accompany the psittacine bird at the time of entry into Arizona.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-618 renumbered from Section R3-9-618 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Repealed by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-619. Repealed**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-619 renumbered from Section R3-9-619 (Supp. 91-4). Section repealed by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

R3-2-620. Importation of Zoo Animals

- A. An owner or owner's agent may transport or move zoo animals into the state of Arizona if the animals are accompanied by an official Certificate of Veterinary Inspection, and consigned to a zoo or in the charge of a circus or show.
- B. The owner, or owner's agent, of livestock except swine and equine in a "Petting Zoo" shall have the livestock tested for tuberculosis within 12 months before importation. A negative test result is required for entry into Arizona.
- C. A business that transports or exhibits zoo animals shall be licensed by the Arizona Game and Fish Department.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-620 renumbered from Section R3-9-620 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-621. Expired**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date

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is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 135, effective December 15, 2016 (Supp. 16-4).

R3-2-622. Expired**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 135, effective December 15, 2016 (Supp. 16-4).

ARTICLE 7. LIVESTOCK INSPECTION**R3-2-701. Department Livestock Inspection**

- A. A Division employee shall inspect range cattle, as defined in R3-2-702(A), at a ranch if the owner or agent of livestock is:
 1. Moving cattle out-of-state,
 2. Transferring cattle ownership, or
 3. Shipping cattle for custom slaughter.
- B. An owner or agent of cattle cannot be issued both non-range and range self-inspection certificates.
- C. With prior approval from a Division employee, livestock can be moved to a licensed custom slaughter facility using the livestock owner's or agent's or feedlot operator's self-inspection certificate. A Division employee must validate the self-inspection certificate prior to slaughter.
- D. The Department shall not issue a self-inspection certificate to an owner or agent of livestock or feedlot operator if that individual has been convicted of a felony under A.R.S. Title 3 within the three-year period before the date on the self-inspection application. The Department may deny self-inspection to an applicant if within the five-year period before the date on the self-inspection application, the applicant was convicted of any A.R.S. Title 3 offense or an A.R.S. Title 13 offense related to livestock. A Division employee shall inspect livestock if an applicant is denied self-inspection authority.
- E. During fiscal year 2023, livestock officers and inspectors shall collect from the person in charge of cattle, dairy cattle, or sheep inspected a service charge of \$10 plus the per head inspection fee set out in A.R.S. § 3-1337 for making inspections for the transfer of ownership, sale, slaughter or transportation of the animals.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-701 renumbered from Section R3-9-701 (Supp. 91-4). Section R3-2-701 repealed; new Section R3-2-701 adopted effective February 4, 1998 (Supp. 98-1). Error in subsection (A)(3) corrected under R1-1-109, filed with the Office of the Secretary of State October 18, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1). Amended by exempt rulemaking at 16 A.A.R. 1331, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1756, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 19 A.A.R. 3127, effective September 14, 2013 (Supp. 13-3). Amended by exempt rulemaking at 20 A.A.R. 2449, effective July 24, 2014 (Supp. 14-3). Amended by exempt rulemaking pursuant to Laws

2015, Ch. 10, § 14, at 21 A.A.R. 2404, effective July 3, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 1937, effective August 9, 2017 (Supp. 17-2). Amended by final exempt rulemaking at 24 A.A.R. 2219, effective August 3, 2018 (Supp. 18-3). Amended by final exempt rulemaking at 25 A.A.R. 2081, effective August 27, 2019 (Supp. 19-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2). Amended by final exempt rulemaking at 26 A.A.R. 1471, effective August 25, 2020 (Supp. 20-3). Amended by final exempt rulemaking at 27 A.A.R. 1264, effective September 29, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 28 A.A.R. 2017 (August 12, 2022), effective September 24, 2022 (Supp. 22-3).

R3-2-702. Livestock Self-inspection**A. Definitions.**

"Dairy" means an owner or agent of a place or premise where one or more lactating animals are kept for milking purposes and from which a part or all of the milk is provided, sold, or offered for sale that meets both of the following conditions: the livestock is not permitted to range and the dairy is permitted by the Department. If these conditions are met, then a Division employee may grant the applicant dairy status.

"Description" means sex, breed, color, and markings, as applicable to the type of livestock.

"Exhibition" means an event including a fair, show, or field day that has as its primary purpose the opportunity for a member of a livestock organization, including 4-H and FFA, to display an animal raised by the individual in a judged competition.

"Feedlot" means an operator of a beef cattle feedlot or feed yard in which the livestock is not permitted to range and that is licensed by the Department. If these conditions are met, then a Division employee may grant the applicant feedlot status.

"Livestock" means cattle, sheep, goats, and swine.

"Livestock broker" means an owner or agent who engages in the business of buying and selling livestock and has immediate possession of the livestock for 10 days or less in which the livestock is not permitted to range. If these conditions are met, then a Division employee may grant the applicant livestock broker status.

"Non-range" means any owner or agent of an enclosed property that is 100 acres or less that meets all of the following conditions: the fence enclosing the livestock is well maintained, the livestock is not permitted to range, and the owner or agent of the livestock lives where the livestock are kept. If these conditions are met, then a Division employee may grant the applicant non-range status.

"Range" means every character of lands, enclosed or unenclosed, outside of cities and towns, upon which livestock is permitted by custom, license or permit to roam and feed. A.R.S. § 3-1201(7)

"Range cattle" means cattle customarily permitted to roam upon the ranges of the state, whether public domain or in private control, and not in the immediate actual possession or control of the owner although occasionally placed in enclosures for temporary purposes. A.R.S. § 3-1201(8)

B. Application.

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1. Owners or agents of livestock or feedlot operators shall request a book of self-inspection certificates from the Department. The applicant shall submit a written application form obtained from the Department and provide the following information:
 - a. Name, mailing address, physical address, telephone number, and email address;
 - b. Name of business and type of livestock operation;
 - c. Whether the applicant has been convicted of a violation of A.R.S. Title 3, or a violation of A.R.S. Title 13 related to livestock within the past five years, and if so, the case number, court, charge, and sentence;
 - d. Recorded brand number;
 - e. Individual or individuals designated to sign self-inspection certificates, if applicable; and
 - f. Signature and date.
 2. The holder of a self-inspection book shall advise the Department within 30 days of any change to the information provided on an application form.
 3. The holder of a self-inspection book shall renew registration with the Department every three years from the date the initial or renewal application form is signed.
 4. If a holder with self-inspection privileges has been convicted of a criminal violation under A.R.S. Title 3, or a violation of Title 13 related to livestock, that holder shall notify the Department immediately and their privileges shall be revoked.
 5. Prior to a Department employee issuing a book of self-inspection certificates, the owner shall submit the following payment amount and the Department shall receive the payment in full prior to issuing the book:
 - a. \$25.00 for a twenty five page feedlot or livestock broker book;
 - b. \$20.00 for a twenty page dairy book; or
 - c. \$10.00 for a ten page non-range, range, sheep, goat, or swine book.
- C. Self-inspection certificate.**
1. An owner or agent of livestock or feedlot operator shall provide the following information, as applicable, on a self-inspection certificate whenever livestock subject to self-inspection are moved or ownership is transferred:
 - a. Name, address, and signature, of the owner or agent of livestock or feedlot operator;
 - b. Date of the shipment or transfer of ownership;
 - c. If moved, location from which and to which the livestock are moved, including the name of the auction, feedlot, arena, slaughter establishment, pasture, or other premises, and physical location;
 - d. Name of transporter;
 - e. Number and description of livestock;
 - f. Official identification of each dairy cattle and sexually intact cattle over 18 months of age shipped out of state and back tag numbers of culled dairy cattle;
 - g. Brand number, expiration date, and location;
 - h. Name and address of buyer;
 - i. Number of head of cattle sold for which Beef Council fees are payable under A.R.S. §§ 3-1236 and 3-1238.
 2. The owner or agent of livestock or feedlot operator shall complete a self-inspection certificate, except when livestock are subject to inspection by a Division employee under R3-2-701, and distribute copies of the certificate as follows:
 - a. One copy and any fees that are owed under subsection (C)(1)(i) shall be sent to the Department within 10 days after the end of the month in which it was used;
 - b. If the livestock are shipped, the original certificate shall accompany the livestock whenever they are in transit and one copy shall be retained by the person transporting the livestock; or
 - c. If ownership of the livestock is transferred without shipment, two copies shall be provided to the new owner or agent of livestock or feedlot operator; and one copy shall be retained by the seller.
 3. A certificate may be used once to either transfer livestock ownership or to move livestock to a specific destination. If the livestock are diverted to a destination other than that stated on the self-inspection certificate, the certificate is void. The owner or agent of livestock, or feedlot operator shall complete a new certificate and send both the voided and new certificates to the Department within 10 days after the end of the month in which the certificates are used or voided.
 4. An owner or agent of livestock or feedlot operator shall use a self-inspection certificate only with a shipment of livestock matching the description for which the certificate is issued and only for the self-inspection issued date. If any of the information on the self-inspection certificate changes, the certificate is void and the owner or agent of livestock or feedlot operator shall complete a new certificate.
 5. An altered, erased, completed but unused, or defaced self-inspection certificate is void. A voided certificate shall be returned to the Department within 10 days after the end of the month in which it is voided.
 6. Upon request, certificates shall be returned to the Department by the owner or agent of livestock or feedlot operator. If an operation licensed for self-inspection is sold, leased, transferred, or otherwise disposed of, the owner or agent of livestock or feedlot operator shall notify the Department and return all self-inspection certificates to the Department within 30 days of the transaction.
 7. If the owner or agent of livestock or feedlot operator cannot find an unused or used certificate, they must sign an affidavit provided by the Department verifying the certificate is lost and cannot be found. New certificates will not be issued until the signed affidavit has been received by the Department.
- D. Sale of livestock.** A seller shall document a sale by completing a self-inspection certificate as prescribed in subsection (C) and providing a bill of sale to the purchaser as required under A.R.S. § 3-1291.
- E. Feedlot receiving form.**
1. The operator of a feedlot shall document receipt of incoming cattle on a form obtained from the Department. The operator shall include the following information on the form:
 - a. Name of feedlot and location;
 - b. Month and year for which report is made;
 - c. Number of cattle received, date received, and name and address of owner;
 - d. Description of the cattle;
 - e. If not Arizona native cattle, the import permit and Certificate of Veterinary Inspection numbers;

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- f. If native Arizona cattle, self-inspection certificate number or Department inspection certificate number; and
- g. Pen number to which cattle are initially assigned.
- 2. The operator shall return the completed form within 10 days after the end of the month of the reporting period.
- F. Quarantine. Livestock under quarantine by the Department shall not be shipped or sold by use of a self-inspection certificate.
- G. Violations. The Department shall process violations of this Section as prescribed under A.R.S. § 3-1203(D).

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-702 renumbered from Section R3-9-702 (Supp. 91-4). Section R3-2-702 repealed; new Section R3-2-702 adopted effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1). Amended by exempt rulemaking under Laws 2016, Ch. 160, § 9 at 22 A.A.R. 2400, effective August 6, 2016 (Supp. 16-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-703. Seasonal Self-inspection Certificate

Exhibition cattle, sheep, goats, and swine.

- 1. An applicant for a seasonal self-inspection certificate prescribed under A.R.S. § 3-1346 shall request a seasonal self-inspection certificate from the Department. The applicant shall provide the following information, as applicable:
 - a. Name, mailing address, physical address if different from mailing address, telephone number, and email address;
 - b. Name of 4-H or FFA group, and group leader;
 - c. Physical description of livestock;
 - d. Official identification of livestock, except for native cattle born and raised in Arizona;
 - e. Permit number and Certificate of Veterinary Inspection number for livestock imported from another state;
 - f. Name of seller and self-inspection certificate number or Department inspection certificate number for livestock purchased from an Arizona seller; and
 - g. Signature and date of signature of the owner or lessee. If the owner or lessee is under 18 years of age, a signature of the parent or guardian and date of signature are required.
- 2. The Department employee who records the information required in subsection (1) shall advise the applicant of the required fee prescribed under A.R.S. § 3-1346(A). The Department shall issue a seasonal self-inspection certificate upon receipt of the fee.
- 3. An exhibitor shall provide the following information, as applicable, on a seasonal self-inspection certificate whenever livestock subject to seasonal self-inspection is moved or ownership is transferred:
 - a. Name, address, telephone number, email address, and signature;
 - b. Date of movement;
 - c. Name of exhibition and location;
 - d. Final disposition of the livestock (sale, death, or retention) and date of occurrence; and
 - e. If the livestock is sold, name, address, and phone number of purchaser (person or slaughter plant).

- 4. The holder of a seasonal self-inspection certificate shall return the certificate to the Department within two weeks of the sale or slaughter of the livestock or at the end of the show season if the livestock is retained.

Historical Note

Adopted effective November 27, 1987 (Supp. 87-4). Section R3-2-703 renumbered from Section R3-9-703 (Supp. 91-4). Section R3-2-703 repealed; new Section R3-2-703 adopted effective February 4, 1998 (Supp. 98-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1). Amended by exempt rulemaking under Laws 2016, Ch. 160, § 9 at 22 A.A.R. 2400, effective August 6, 2016 (Supp. 16-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-704. Emergency Expired**Historical Note**

Adopted effective February 4, 1998 (Supp. 98-1). Section repealed by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1). Section made by emergency rulemaking at 24 A.A.R. 3589, with an immediate effective date of December 13, 2018, valid for 180 days (Supp. 18-4). Emergency expired (Supp. 20-2).

R3-2-705. Repealed**Historical Note**

Adopted effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Section repealed by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1).

R3-2-706. Repealed**Historical Note**

Adopted effective February 4, 1998 (Supp. 98-1). Section repealed by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1).

R3-2-707. Ownership and Hauling Certificate for Equines; Fees

The fee for a new, transferred, or replacement Ownership and Hauling Certificate for Equines as prescribed under A.R.S. §§ 3-1344(B) and 3-1345(B) is \$10 per certificate.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 3932, effective August 22, 2002 (Supp. 02-3).

R3-2-708. Equine Rescue Facility Registration

- A. "Arizona Equine Rescue Standards" means the American Association of Equine Practitioners Care Guidelines for Equine Rescue and Retirement Facilities, 2004 Edition. This material, which includes the Veterinary Checklist for Rescue/Retirement Facilities, is incorporated by reference, does not include any later amendments or editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, Arizona 85007. A copy of this material may also be obtained from the American Association of Equine Practitioners web site at http://www.aiep.org/pdfs/rescue_retirement_guidelines.pdf. The American Association of Equine Practitioners is located at 4033 Iron Works Parkway, Lexington, Kentucky 40511.
- B. An equine rescue facility shall pay the annual registration fee and file the following documents with the Department's Ani-

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mal Services Division for the facility to be included on the Department's registry of equine rescue facilities:

1. An application form containing the facility's name, physical and mailing address, and contact person and the contact person's phone number and email address.
 2. A copy of documents filed with the Arizona Corporation Commission demonstrating the facility's current status as a nonprofit corporation in good standing in this state.
 3. A letter from a licensed veterinarian, dated within 15 days of filing, certifying that the facility is not inadequate with respect to any of the Arizona Equine Rescue Standards and attaching a signed copy of the completed Arizona Equine Rescue Standards' veterinary checklist.
- C. Registration is valid for one year. Registration may be renewed annually by complying with subsection (B).
- D. The annual registration fee is \$75.
- E. A nonprofit corporation owning multiple equine rescue facilities must file the letter and checklist described in subsection (B)(3) and pay the annual registration fee for each location it wants included on the registry.
- F. The Department shall remove a facility from the registry if it determines that the facility is not presently incorporated as a nonprofit corporation in this state or is inadequate with respect to any of the Arizona Equine Rescue Standards.

Historical Note

New Section made by final rulemaking at 16 A.A.R. 876, effective July 3, 2010 (Supp. 10-2). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

ARTICLE 8. DAIRY AND DAIRY PRODUCTS CONTROL**R3-2-801. Definitions**

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

"3-A Sanitary Standards" and "3-A Accepted Practices," as published by the International Association for Food Protection, effective on or before October 15, 2017, means the criteria for design, materials, construction and use of dairy processing equipment. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007 and is also available at <http://www.3-A.org>.

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

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

"Fluid milk" means milk and any other product made by the addition of a substance to milk or to a liquid form of milk product if the milk or other product is produced, processed, distributed, sold or offered or exposed for sale for human consumption.

"Fluid trade product" means any trade product as defined in A.R.S. § 3-661(5) that resembles or imitates any fluid milk product.

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

"Frozen desserts mix" or "mix" means any frozen dessert before being frozen.

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

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

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

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

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

"PMO" means the Grade A Pasteurized Milk Ordinance, 2017 Revision. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007. A copy of the incorporated material may also be viewed at <http://agriculture.az.gov>.

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

Historical Note

Former Regulations 1-11. Section R3-2-801 renumbered from R3-5-01 (Supp. 91-4). R3-2-801 renumbered to R3-2-803; new Section R3-2-801 adopted effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 7 A.A.R. 2215, effective May 9, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 12 A.A.R. 3030, effective September 30, 2006 (Supp. 06-3). Amended by final rulemaking at 14 A.A.R. 889, effective May 3, 2008 (Supp. 08-1). Amended by emergency rulemaking at 20 A.A.R. 1134, effective May 2, 2014, for 180 days (Supp. 14-2). Emergency expired. Amended by exempt rulemaking at 21 A.A.R. 2407, effective September 22, 2015 (Supp. 15-3). Amended by final rulemaking at 22 A.A.R. 2169, effective October 2, 2016 (Supp. 16-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-802. Milk and Milk Products Standards

Unless specifically mentioned in A.R.S. Title 3, Chapter 4, Article 1, or in this Article, all milk and milk products, except frozen desserts, sold or distributed for human consumption shall meet the PMO standards for production, processing, storing, handling, and transportation.

Historical Note

Former Regulations 1, 2. Section R3-2-802 renumbered from R3-5-02 (Supp. 91-4). Section repealed; new Sec-

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tion adopted effective December 2, 1998 (Supp. 98-4).

R3-2-803. Milk and Milk Products Labeling

- A. The manufacturer or processor shall ensure that milk and milk products listed in A.R.S. § 3-601(10), and Sections 1 and 2 of the PMO are designated by the name of the product and shall conform to its definition.
- B. The manufacturer or processor of milk and milk products shall conform with the labeling requirements in A.R.S. §§ 3-601.01 and 3-627, Section 4 of the PMO, and 21 CFR 101, 131, and 133, amended April 1, 2017. This CFR material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department.
- C. The name of the manufacturer or processor shall be on all cartons or closures where it can be easily seen. A manufacturer or processor that has plants in other states shall use a code number or letter to designate the state in which a carton or closure is manufactured or processed. If a manufacturer or processor has a plant within Arizona, the Dairy Supervisor shall issue a code number or letter for each plant and shall keep a record of the number or letter issued. Manufacturers and processors shall include the Arizona code, 04, with the plant code assigned by the Dairy Supervisor.
- D. If milk or milk products are manufactured or processed and packaged at a plant for other retailers and the container or closure is not labeled the same as the manufacturer's or processor's like product, the manufacturer or processor shall include the statement "Manufactured or Processed at (name and address of plant or code number or letter)" on the carton or closure. The carton or closure may also contain the statement, "Distributed by: (name of person or firm)."
- E. Any person planning to use a new or modified label on a container shall submit the proposed label to the Dairy Supervisor for review.
 1. If the proposed label does not meet labeling standards specified in subsection (B), the Dairy Supervisor shall note the required changes on the proposed label, and sign and return the proposed label to the applicant.
 2. A person who requests additional time to use the inventory amounts of slow moving cartons or closures before using a modified label shall submit a written request to the Dairy Supervisor. The Dairy Supervisor may approve continued use of the existing cartons and closures if:
 - a. The use does not present a public health issue, and
 - b. The information on the cartons and closures is not misleading.

Historical Note

Former Regulations 1 - 21; Amended effective August 4, 1978 (Supp. 78-4). Section R3-2-803 renumbered from R3-5-03 (Supp. 91-4). R3-2-803 renumbered to R3-2-804; new Section R3-2-803 renumbered from R3-2-801 and amended effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-804. Trade Products

- A. Any fluid trade product containing milk solids shall be regulated as a fluid milk product.
- B. Advertising, display, and sale:
 1. Any retail food store may submit its methods and techniques for the advertising, display, and sale of trade products and real products to the Dairy Supervisor to determine compliance with this Section.

2. No food establishment shall sell or provide any patron or employee, for use as food, any trade product or food whose main ingredient is a trade product, unless one of the following disclosures is posted for each trade product, in a prominent place on the premises, or is plainly visible on each menu where other food items are described:
 - a. "_____ served here
(brand or common name of trade product)
instead of _____."
(common name of dairy product)
 - b. "Nondairy products served here."
 3. No food establishment shall advertise or otherwise represent to the public that it serves, or uses in the preparation of a food, a real product when it actually serves or uses a trade product.
- C. Labeling: Except as follows, all labels shall comply with the PMO and 21 CFR 101, 131, and 133.
1. The Dairy Supervisor shall approve a new or modified trade product label before the label is used. The applicant shall file a written request with duplicate copies of the proposed label and any supporting materials necessary to establish the truthfulness, reasonableness, relevancy, and completeness of the label.
 2. Unless each ingredient of a trade product is homogenized or pasteurized, the whole product shall not be labeled or advertised as an homogenized or pasteurized product. Individual ingredients that are homogenized or pasteurized may be identified as homogenized or pasteurized in the listing of ingredients.
 3. Except for combined ingredients constituting less than 1% of the whole product or unless each ingredient of a trade product qualifies as grade A, the whole product shall not be labeled or advertised as a grade A product. Ingredients that qualify as grade A may be identified as grade A in the listing of ingredients.
 4. Any trade product produced outside the state and labeled as prescribed in R3-2-802 and R3-2-803, may be sold within the state provided that the product meets the requirements of A.R.S. §§ 3-663 and 3-665.

Historical Note

Former Regulations 1 - 8; Amended effective December 7, 1976 (Supp. 76-5). Correction, subsection (A)(2) through (H) omitted, Supp. 76-5 (Supp. 79-4). Section R3-2-804 renumbered from R3-5-04 (Supp. 91-4). R3-2-804 renumbered to R3-2-805; new Section R3-2-804 renumbered from R3-2-803 and amended effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-805. Grade A Raw Milk For Consumption

- A. All cattle and other dairy animals from which Grade A raw milk is produced shall be tested and found free of tuberculosis before any milk is sold. All herds shall be tested for tuberculosis at least every 12 months. All cattle and other dairy animals from which Grade A raw milk is produced shall be tested and found free of brucellosis before any milk is sold, and shall be tested every 12 months or have negative brucellosis ring tests of the milk at least once each month, or both, as determined by the State Veterinarian.
- B. Grade A raw milk shall be cooled immediately after completion of milking to 45° F or less and shall be maintained at that temperature until delivery.

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- C. Grade A raw milk shall be bottled on the farm where it is produced. Raw milk products authorized under A.R.S. § 3-606, except for hard cheeses aged 60 days or more as defined in 7 CFR 58.439, shall be processed, manufactured and packaged on the farm where the milk is produced. Bottling and capping shall be done in a sanitary manner on approved equipment. Hand-capping is prohibited. Caps and cap stock shall be kept in sanitary containers until used.
- D. All vehicles used for the distribution of Grade A raw milk shall prominently display the distributor's name.
- E. Grade A raw milk shall be labeled as prescribed in R3-2-803 and A.R.S. § 3-606.

Historical Note

Former Regulations 1, 2. Section R3-2-805 renumbered from R3-5-05 (Supp. 91-4). Section R3-2-805 repealed; new Section R3-2-805 renumbered from R3-2-804 and amended effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-806. Parlors and Milk Rooms**A. Construction Plans.**

- 1. Any person constructing or extensively altering a parlor or milk room shall submit the plans and specifications to the Dairy Supervisor for written approval before work begins. The Dairy Supervisor shall approve or deny the plans within 10 business days.
- 2. Plans shall consist of a scaled plot design with elevations and pertinent dimensions.
- 3. Any deviations from the requirements in this Section and from approved plans and specifications may be made only after written approval of the Dairy Supervisor.

B. Site.

- 1. The parlor and milk room shall be located in a place free from contaminated surroundings.
- 2. Feed racks, calf pens, bull pens, hog pens, poultry pens, horse stables, horse corrals, and shelter sheds shall not be closer than 100 feet to the milk room or closer than 50 feet to the parlor.

C. Surroundings.

- 1. Dirt or unpaved corrals and unpaved lanes shall not be closer than 25 feet to the parlor or closer than 50 feet to the milk room; corrals shall be constructed to remove runoff from the lowest point of the grade.
- 2. A paved (concrete or equivalent) ramp or corral shall be provided to allow the animals to enter and leave the parlor. This paved area shall be curbed sufficiently high enough to contain waste material and water used to clean this area.

D. Drains and waste disposal systems shall be adequate to drain the volume of water used in rinsing and cleaning, as well as the waste created by animals in the parlor. Instead of natural drainage, automatic pumps or other means shall be provided for drainage disposal.**E. Milk room.**

- 1. The milk room shall consist of one or more rooms for the handling of the milk and the cleaning, sanitization, and storage of the milk-handling equipment. Hot and cold running water outlets shall be provided as needed for sanitation. There shall be a minimum of five feet between a farm milk tank at the widest point and the milk room wall where the wash vats are installed. Except for currently installed milk tanks, there shall be at least three feet

between any farm tank or farm tank appurtenance and the milk room walls.

- 2. Passageway. The passageway between the milk room and parlor shall have at least a 3-foot clearance for ingress and egress. Equipment such as milk receivers, dump tanks, or coolers that are part of an enclosed milk line system may be installed in the passageway if:
 - a. A 3-foot clearance is allowed for the walkway;
 - b. Space is provided between walls and equipment to permit the disassembly of equipment for cleaning or inspection;
 - c. The passageway between the parlor and the milk room may be closed at one end. The parlor may be separated from the passageway by a pipe rail fence if the slope of the parlor floor is away from the passageway. If the slope of the parlor floor is toward the passageway, a concrete wall between the passageway and parlor floor of at least 12 inches in height shall be provided.
 - d. Rustless pipe sleeves with tight-fitting flanges and protective closures shall be installed where the milk lines, hoses for tankers, and wash lines go through the walls of the passageway.
- 3. Floors.
 - a. The floors of the milk room, and passageway, if provided, shall be constructed of four-inch thick concrete, or other impervious material troweled smooth. The milk room floor shall slope at least 1/4 inch per 12 inches to a vented trapped drain. The passageway floor shall slope at least one inch per 10 feet toward a drain or gutter. All floor and wall junctions shall have at least a two-inch radius cove.
 - b. Drainage from the milk room may be independent from or connected to the parlor drainage. Floor drains shall be vented, have a water trap, and a clean-out plug. All floor drains and pipes under the milk room and parlor floor shall meet all applicable plumbing codes.
- 4. Walls and ceilings.
 - a. All walls and ceilings shall be constructed of a light colored, impervious material with a smooth finish. If concrete block or masonry construction is used, all voids below the floor line shall be filled with concrete.
 - b. The main ceiling height shall allow sufficient room for access to, and sampling from, the bulk milk storage tank.
- 5. Doors and windows.
 - a. All opening windows shall have at least 16-inch mesh screen.
 - b. Exterior doors of the milk room shall open outward, be solid, self-closing, and tight fitting. Any door from the passageway shall be a solid door, metal covered on both sides of the bottom half. Wooden door jambs or frames shall terminate six inches above the floor, and the concrete floor cove shall extend to the jambs or frames.
 - c. All working areas in the milk room shall contain at least 30 foot-candles of natural and/or artificial lighting.
- 6. Ventilation. The milk room shall provide adequate ventilation to minimize condensation on ceilings, walls and equipment. Vents shall be protected from the penetration of insects, dust and other contaminants. The milk room

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shall contain one or more ceiling vents. Ceiling vents shall not be installed directly above bulk milk storage tanks.

7. Tanker loading area. A tanker-loading area, at least 10 feet by 12 feet, paved, curbed, and sloped to drain, shall be provided adjacent to the milk room where milk is transferred from a farm tank to a milk tanker. If a tanker is used instead of a farm tank, a tanker shelter shall be provided that complies with the construction, light, drainage, and general maintenance requirements of the milk room.
8. Farm tank installations. All farm tanks for the cooling and storing of milk shall be installed in the milk room. Bulk milk tanks equipped with agitator shaft opening seals may, if approved by the Dairy Supervisor, be bulk-headed through a wall.

F. Parlor.

1. Floors.
 - a. The floors shall be constructed of four-inch thick concrete or other, light-colored, impervious material, finished smooth. The floors, alleys, gutters, mangers, and curbs shall slope lengthwise toward a drain or gutter. The cow standing platform in the elevated stall parlor shall slope sufficiently to provide for adequate drainage and cleaning.
 - b. Floor and wall junctions shall have at least a two-inch radius cove and shall be an integral part of the floor.
 - c. The cow standing platform, litter alley, holding corral and concrete lane shall be treated to prevent slipping.
2. Walls. All walls shall be constructed of a light-colored, impervious material. If necessary, means shall be provided to prevent the entrance of swine, fowl and other prohibited animals. All walls shall be finished smooth on the inside with the top ledge rounded on open walls. If a parlor wall forms a part of the holding corral or an entrance or exit lane, it shall be finished smooth on the outside. If a concrete block or masonry construction is used, all voids below the floor line shall be filled with concrete. In elevated stall parlors, the wall under the cow standing platform adjacent to the milking area shall be finished smooth and designed to prevent leakage.
3. Stalls. A tandem stall and a herringbone stall shall have a smooth, flat, non-absorbent splash panel behind each cow.
4. Light. Natural and/or artificial light shall be at least 30 foot-candles at the floor level and located to minimize shadows in the milking area.
5. Gutters.
 - a. All parlors shall have gutters to catch the defecation of cows while in the stall and for any water used for rinsing.
 - b. Pipe used for parlor gutter drainage shall be at least four inches in diameter and meet applicable plumbing codes.
6. Curbs.
 - a. In elevated stall parlors, the cow standing platform shall be curbed on the side next to the milking alley and the curb shall be at least six inches in height with the top rounded to retain the elevated stall floor washings. This curb may be lowered to not less than two inches at the area where the milking machines

are applied. Metal curbs shall be free of voids and sealed to stall and floor or wall.

- b. Floor level parlors shall contain a curb under the stanchion line at least six inches wide, 12 inches high from the stall floor, except if metal mangers are used the top of this curb shall be rounded.
7. Stanchions.
 - a. The stanchion shall be metal or other impervious, easily cleanable material.
 - b. Mangers and feed boxes in all types of parlors shall be constructed of impervious materials, finished smooth, and provided with drainage outlets at low points.
8. Ventilation. Adequate ventilation shall be provided in the parlor, holding corral, and wash area, if roofed.
- G.** Roof drainage from parlors and milk rooms shall not drain into a corral unless the corral is paved and properly drained.
- H.** If animals are fed in the parlor, feed storage facilities shall be provided. Feed storage rooms, when installed, shall be partitioned from the parlor and shall be fly and rodent proof. The feed discharge area of the bulk feed storage shall be concrete or other impervious material that is curbed and drained. Bulk feed may discharge directly into the parlor. A bulk feed tank located opposite the passageway shall be at least six feet from the milk room. Overhead feed storage is permissible if it is fly, rodent, and dust tight. Feed shall be conveyed to the manger or feed box in a tightly closed dust-free system. Overhead metal feed tanks may be used.
- I.** Facilities to store dairy supplies shall be provided. Only supplies that come in contact with the milk or milk contact surface of the milk-handling equipment may be stored in the milk room and shall be protected from toxic materials, vectors, and dust.

Historical Note

Former Regulations 1 - 11. Section R3-2-806 renumbered from R3-5-06 (Supp. 91-4). Section amended effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 22 A.A.R. 2169, effective October 2, 2016 (Supp. 16-3).

R3-2-807. Frozen Dessert Plant and Processing Standards**A. Plant and Processing Standards.**

1. The plant area shall be clean, orderly and free from refuse, rubbish, smoke, dust, air pollution and strong or foul odors originating on the premises. A drainage system shall be provided for the rapid drainage of water away from the building. If unsatisfactory conditions occur in the plant area, with respect to smoke, dust, air pollution, or odors, provision shall be made to protect the frozen desserts and ingredients from contamination.
2. Sewage and industrial waste shall be disposed in accordance with the provisions of the state or county environmental laws. Refuse, unless in appropriate containers, shall not accumulate on the premises.
3. Roads, driveways, yards, and parking areas adjacent to the plant shall be paved or treated to prevent dust and shall be smooth and well drained to prevent accumulation of stagnant liquid.
4. Buildings.
 - a. The building exterior and interior shall be kept clean and in good repair.
 - b. In processing and packaging areas, outside doors, windows, skylights, transoms, or other openings shall be protected and operated to preclude the

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entrance of dust, insects, vermin, rodents, and other animals. Outside doors shall be self-closing whenever practical. Window sills on new construction shall slope inward at least 45-degrees. Outside conveyor openings and other outside openings shall be protected by doors, screens, flaps, fans, or tunnels. Pipes shall be sealed where they extend through exterior walls. Outside pipe openings shall be covered when not in use.

- c. Rooms. All rooms, compartments, coolers, freezers, and dry storage space in which any raw material, packaging or ingredient supplies, or finished products are handled, processed, manufactured, packaged, or stored shall be constructed to ensure clean and orderly operations.
 - i. Boiler and tool rooms shall be separate from rooms where milk products are received, where processing and packaging is done, or where equipment, facilities, and containers are washed and stored.
 - ii. Toilets and dressing rooms shall be conveniently located and toilets shall not open directly into any room where milk products, ingredients, or frozen desserts are handled, processed, packaged, or stored. Toilet and dressing room doors shall be self-closing. Toilets and dressing rooms shall be well vented to the outer air, and contain hand-washing facilities, hot and cold running water, soap, single-service towels or air dryers. Hand-washing signs shall be posted. Fixtures shall be kept clean and in good repair.
 - iii. Rooms for receiving milk and other raw ingredients and materials shall be separated from the processing area to avoid contamination of frozen desserts in the processing operations, except that products in cans or other closed containers may be received and transferred to a cooler or other storage without being received in a separate room.
 - iv. If tank truck deliveries of milk, milk products, or frozen desserts mix are made, other than occasional deliveries, a tank truck room large enough to accommodate the entire truck shall be provided with equipment for cleaning. A covered outside unloading pad may be used for truck tankers with filter dome vents, if washing and sanitizing facilities are provided. If a tank truck room is not located on the premises of an existing plant, facilities for washing and sanitizing tank trucks shall be provided at another location where the washing and sanitizing facility is free from dust and extreme weather conditions.
 - v. Except for existing processing and packaging rooms, there shall be at least three feet clearance between installations and the wall to prevent overcrowding and to facilitate cleaning. Existing facilities not meeting this requirement shall be permitted if cleaning can be accomplished and permission is obtained from the Dairy Supervisor or the Dairy Supervisor's designee. All processing and packaging rooms shall be equipped with hand-washing facilities including hot and cold running water, soap, single-service towels, or air-dryer.
- vi. Refrigeration rooms and units shall be constructed of impervious material and shall be kept clean and sanitary.
- vii. Separate rooms shall be provided so that the manufacturing, processing, and packaging are separate from the cleaning and sterilizing of utensils and containers.
- viii. No person shall reside or sleep in a frozen desserts plant or in any room connected with it. No animal shall be kept or permitted in a frozen desserts plant.
- d. Walls and ceilings shall be constructed of smooth, washable, impervious material. They shall be light-colored, kept clean and sanitary, and refinished when discolored. A darker color material may be used to a height not exceeding 60 inches from the floor.
- e. Floors shall be an impervious, smooth-surfaced material that may be flushed clean with water. Except for hardening rooms, floors shall slope 3/16 to 1/4 inch per foot to one or more trapped outlets. No open channel drainage is permitted in new construction or in extensive remodeling of existing plants. Floor drains are not required in freezers used for storing frozen desserts or frozen ingredients. However, the floors shall be sloped to drain to at least one exit and shall be kept clean. Floors in new construction or extensive remodeling shall be joined and coved with the walls to form water-tight joints. Smooth wood floors may only be permitted in rooms where there will be no spillage of product or ingredients, such as rooms where wrapped or packaged frozen products are packed in multiple-pack containers. Toilets and dressing rooms shall have impervious floors and smooth walls.
- f. Plumbing shall be installed to prevent back-up of sewage or odors into the plant.
- g. All rooms and compartments, including storage space for materials, ingredients, and packages, and toilets and dressing rooms, shall be ventilated to maintain sanitary conditions, and to minimize or eliminate condensation and odors.
- h. Lighting, whether natural or artificial, shall be well distributed in all rooms and compartments. Light bulbs and fluorescent tubes shall be protected so that broken glass cannot fall into any product or equipment.
 - i. Rooms where frozen desserts are handled, processed, manufactured, or packaged, or where equipment or utensils are washed, shall have at least 30 footcandles of light on all working surfaces;
 - ii. Areas where dairy products are examined for condition and quality shall have at least 50 footcandles of light; and
 - iii. All other rooms shall have at least 20 footcandles of light 30 inches above the floor.
- i. Containers for collecting and holding waste other than dry waste paper and other dry packaging material shall be constructed of metal or other impervious material, covered with tight-fitting lids or covers, and emptied or disposed of daily or at least once

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- during the shift. Clothing, tools, equipment, and other material not used with the frozen desserts operations shall not accumulate in the work areas or in the storage rooms.
- j. A room or other space separate from any room or space where milk products or frozen desserts are received, handled, processed, packaged, or stored, shall be provided where employees may change and store clothing. This area shall contain hand-washing facilities, with hot and cold running water, soap or other detergents, and single-service towels or air dryers. Self-closing containers shall be provided for used towels and other wastes.
 - k. Approval of plans. Plans shall be submitted to the Dairy Supervisor, for any new or remodeled frozen dessert manufacturer, to be reviewed for compliance with this Section. The Dairy Supervisor may allow variances to the requirements in this Section, if protection from contamination is provided for all products handled.
5. Water and steam.
- a. Potable hot and cold water shall be available in sufficient quantity for all plant operations and facilities. Non-potable water may be used for boiler feed and condenser water, if the water lines are separated from the water lines carrying the potable water supply and the equipment is constructed to preclude contamination of any product or product contact surface. If water for washing frozen desserts equipment and utensils and for use in rehydration or as an ingredient in any frozen desserts is obtained from other than a regulated municipal supply, a bacteriological examination shall be made of the water supply at least once every six months by a laboratory acceptable to the Dairy regulatory program to determine potability. If the examination indicates contamination of the water supply, a device shall be installed to eliminate the contamination.
 - b. If steam is used, it shall be provided in sufficient volume and pressure for the operation of equipment or for sterilization, or both. Steam that comes in contact with frozen desserts, ingredients, or with the product contact surface, shall be steam of culinary quality as prescribed in Appendix H, Part III, Culinary Steam – Milk and Milk Products, of the PMO.
6. Equipment and utensils.
- a. New equipment shall meet applicable 3-A Sanitary Standards. All equipment, including connections, coming in contact with frozen desserts or ingredients during processing, manufacturing, handling, or packaging, shall be made of stainless steel. No equipment shall be permitted that is rusted, corroded, or in any other condition that may result in contamination of the frozen desserts. Non-metallic parts with product contact surfaces shall consist of material that meets 3-A Sanitary Standards for Plastic or Rubber and Rubber-like Materials or shall be of plastic approved by the United States Food and Drug Administration. Equipment, apparatus, and piping shall be easily accessible for cleaning and shall be kept in good repair and free from cracks and corroded surfaces. Stationary equipment, including welded sanitary lines and apparatus that permit in-place-cleaning, may be used if prior approval from the Dairy Supervisor has been obtained. C-I-P piping and welded sanitary pipeline systems shall be permitted if engineered and installed according to 3-A Accepted Practices for Permanently Installed Sanitary Product and Solution Pipelines and Cleaning Systems. If rigid pipelines are not practical, plastic pipelines listed in the 3-A Accepted Practices may be used. Product pumps shall be sanitary and easily dismantled for cleaning or shall be constructed to allow C-I-P procedures. All parts of interior surfaces of equipment, pipes (except C-I-P piping), or fittings, including valves and connections shall be accessible for inspection. The Dairy Supervisor may require other equipment, apparatus or piping if stationary equipment, apparatus or piping cannot or is not being effectively cleaned-in-place.
 - b. Equipment for storage and distribution of liquid sweetening agents shall be constructed of metals, alloys, or other material that will withstand corrosive action by the ingredient. The equipment and the ingredients shall be protected from contamination.
 - c. Pasteurizing equipment shall meet the standards prescribed in the PMO and 3-A Accepted Practices for Sanitary Construction, Installation, Testing and Operation of High-Temperature-Short-Time Pasteurizers and 3-A Sanitary Standards for Non-Coiled Type Batch Pasteurizers. Batch-type pasteurizers shall be provided with close-coupled outlet valves protected against leakage and shall be equipped with thermometers that record the information of each day's operation on separate charts. Air space thermometers and indicating thermometers shall be provided to check the recording thermometers. The recording thermometer chart shall contain the date, the identity of the pasteurizing number, the batch and product name, and the signature of the employee responsible for this information. The record shall be kept on file at the plant for at least six months. The accuracy of the recording thermometer shall be checked daily using the indicating thermometer and the time and temperature shall be documented on the recording chart. Chart recorders and thermometers for batch pasteurizers shall be tested and sealed by the Dairy Supervisor or the Supervisor's designee after testing and seals shall not be removed without immediately notifying the Dairy Supervisor or the Supervisor's designee.
 - d. Every plant shall contain hardening rooms, refrigerating rooms, or refrigerated cabinets with space for storage of frozen desserts and perishable ingredients.
 - e. All utensils used in the receiving, storing, processing, manufacturing, packaging, and handling of frozen desserts or any ingredients shall be of smooth, stainless steel, or plastic listed in the 3-A Accepted Practices and shall have flush seams. Utensils that are badly worn, rusted, or corroded or that cannot be rendered clean and sanitary by washing shall not be used. Lead solder shall not come in contact with milk or milk products or frozen desserts.
7. Cleaning and sanitizing.
- a. Cleaning and sanitizing. Equipment, sanitary piping and utensils used in receiving, storing, processing, manufacturing, packaging, and handling frozen des-

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serts and ingredients, and all product contact surfaces of homogenizers, high pressure pumps, packing glands on agitators, pumps and vats, and lines shall be kept clean. Before use, all equipment coming in contact with milk products or frozen desserts shall have a bactericidal or sanitizing treatment. Equipment not designed for C-I-P cleaning shall be disassembled, thoroughly cleaned and sanitized. Biodegradable dairy cleaners, wetting agents, detergents, sanitizing agents, or other similar material that does not adversely affect or contaminate the frozen desserts or ingredients may be used. Steel wool or metal sponges shall not be used to clean any equipment or utensils with product contact surfaces. C-I-P cleaning shall be used only on equipment and pipeline systems designed, engineered, and installed for that type of cleaning. Other equipment and areas in the plant shall be thoroughly cleaned with appropriate methods that prevent potential contamination of ingredients, packaging and frozen desserts. Exhaust stacks, elevators and elevator pits, conveyors and similar facilities shall be inspected and cleaned regularly.

- b. Equipment shall be sanitized by using one of the following methods:
 - i. Using 180° F water for at least two minutes.
 - ii. Using steam under pressure for at least two minutes or until all parts of the equipment being sanitized have reached 180° F, or the condensate off the equipment remains at 180° F for at least two minutes.
 - iii. Using chlorine with a residual of at least 50 ppm after one minute contact with equipment, or if sprayed, with a residual of at least 100 ppm after five minutes.
 - iv. Using any other sanitizing substance prescribed in Appendix F of the PMO.
8. Pasteurization and cooling.
 - a. All frozen desserts mix, except for flavoring agents used in frozen desserts, shall be pasteurized.
 - b. Frozen desserts mix shall be pasteurized by heating every particle as described in Table 1.
 - c. Continuous flow pasteurizers, high-temperature-short-time and higher-heat-shorter-time, shall have all public health controls sealed against access and alteration. The seals shall be applied by the Dairy Supervisor or the Supervisor's designee after testing and shall not be removed without immediately notifying the Dairy Supervisor or the Supervisor's designee. The system shall be designed to meet the requirements of the PMO.
 - d. After pasteurization all mix shall be cooled immediately to 45° F or less and shall be maintained at that temperature until frozen. Milk, cream, and other fluid milk products other than sterilized, evaporated or sweetened condensed milk in hermetically sealed containers shall be stored at 45° F or less.
 - i. Refrigerated vehicles or approved insulated containers shall be used when transporting frozen desserts mix from the manufacturing or other plant to a retail manufacturer, and
 - ii. Mix shall be moved from coolers or refrigeration units in a manufacturing plant to freezers by using pipes, tubing, or other means listed in

the Permanently Installed Product and Solution Pipelines and Cleaning Systems Used in Milk and Milk Product Processing Plants section of the 3-A Accepted Practices.

9. Storage.
 - a. Utensils and equipment. Utensils and portable equipment used in processing, handling, or packaging of frozen desserts shall be stored above the floor in clean, dry locations and in a self-draining position on racks constructed of impervious, corrosion-resistant material.
 - b. Supplies and containers. Whenever possible, supplies shall be kept in a room separate from the processing, handling, and packaging of frozen desserts and under conditions that result in keeping the materials clean and free from dust, moisture, insects, rodents, or other possible contamination. Supplies shall be arranged to permit cleaning of the area and easy inspection and access. Insecticides and rodenticides shall be plainly labeled, segregated, and stored in a separate room or cabinet away from the edible material or packaging supplies. Caps, parchment papers, wrappers, liners, gaskets, and single-service sticks, spoons, covers, and containers for frozen desserts or ingredients shall be stored only in sanitary tubes, wrappings, or cartons and kept in a clean, dry place until used and shall be handled in a sanitary manner.
 - c. Raw milk products. Raw products for use in frozen desserts that are conducive to bacterial growth shall be handled and stored to minimize bacterial growth. When stored, raw products shall be maintained at 45° F or lower until processing commences.
 - d. Non-refrigerated products. Products such as non-fat dry milk and other frozen desserts ingredients that do not require refrigeration for proper storing shall be placed in dry storage to be easily accessible for inspection and removal, and for adequate cleaning of the room. Dunnage, pallets or other similar method of elevation shall be used. Frozen desserts or ingredients shall not be stored with any product that would damage them or impair their quality. Opened containers of ingredients shall be protected from contamination.
 - e. Refrigerated products. All products that require refrigeration shall, except as otherwise specified, be stored under conditions of temperature and humidity that best maintain quality and condition. Products shall not be stored directly on wet floors or be exposed to foreign odors or conditions such as dripping or condensation that may cause package or product damage.
10. Notification of change in products to be manufactured. Any person manufacturing only frozen desserts with butterfat, or only frozen desserts with fats other than butterfat, and uses the other type of fat shall first notify the Dairy Supervisor.
11. Clearing lines and equipment. If the same equipment is used for processing, pasteurizing, and packaging frozen desserts made with dairy products and frozen desserts made with vegetable fats, oils, or proteins, any remaining product shall be completely removed from the lines and equipment and sanitized before introducing another product into the lines and equipment. All equipment and lines

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shall be sanitized either at the end or beginning of each day's operations.

12. Packaging and containers.

- Frozen desserts shall be packaged in commercial containers using packaging material that protects the product from contamination. The packaging, cutting, molding, dispensing, and other handling or preparation of frozen desserts and their ingredients shall be in a sanitary manner. Frozen dessert containers shall be filled at the place of pasteurization using approved mechanical equipment. Existing manual processes may be permitted if done in a manner that prevents all contact surface contamination and is approved by the Dairy Supervisor.
- Multi-use containers for frozen desserts shall be kept clean and dry. If used for transporting frozen desserts, the containers shall be:
 - Rinsed immediately after emptying,
 - Cleaned upon return to the plant, and
 - Protected from contamination during storage.
- Metal cans and containers shall be free from rust and corrosion.
- Paper and plastic containers, liners, covers, or other materials coming in contact with frozen desserts shall be free from contamination.
- Single-service containers shall not be reused.

B. Personnel.

- Plant employees shall wash their hands before beginning work and upon returning to work after using toilet facilities, eating, smoking, or otherwise soiling their hands. Employees shall keep their hands clean and follow good hygienic practices while on duty. Expectorating or using tobacco in rooms or compartments where frozen desserts or ingredients are exposed is prohibited. Clean, white, or light-colored, washable outer garments shall be worn by all employees engaged in handling dairy products, mix or frozen desserts. Hair coverings for head and facial hair shall be worn by all employees engaged in the processing, pasteurizing, packaging, handling, and storage of frozen desserts, product containers, and utensils.
- Frozen desserts shall be handled so that there is no direct contact between an employee's hands and the product.
- A person who has a discharging or infected wound, sore or lesion on hands, arms or other exposed portions of the body shall not work in any plant processing or packaging room or in any capacity resulting in contact with milk products or frozen desserts or equipment used in the processing or handling of milk products or frozen desserts. An employee returning to work following illness from a communicable disease shall provide a certificate from a physician attesting to the employee's complete recovery before processing or handling milk products or frozen desserts.

C. Quality standards.

- Milk products used in the manufacture of frozen desserts shall meet the following standards:

Product	Standard Plate Count Not to Exceed
Raw Milk	500,000 per ml.
Pasteurized Milk	50,000 per ml.
Raw Cream	500,000 per ml.
Pasteurized Cream	100,000 per ml.

- Butter, 80% cream, plastic cream, mixtures of butterfat, sugar or sweetening agent, moisture and flavoring, con-

densed milk, mixes and all other similar products shall meet the following standards:

Bacterial Standards	Not to Exceed
Standard Plate Count	50,000 per gram
Coliform Count	20 per gram
Yeast Count	50 per gram
Mold Count	50 per gram

- Powdered non-fat dry milk, dry whey, and dry buttermilk shall meet the PMO standards.
- Fats and oils other than from milk shall meet the standards of the United States Food, Drug and Cosmetic Act as amended, or those of any applicable state regulation for fats and oils of food grade standards.
- Frozen desserts in broken or opened containers or in containers from which the product has been partially used may be returned to the plant for examination but shall not be used or sold for making frozen desserts.
- All reconstituted frozen desserts shall be pasteurized before packaging.

D. Labeling.

- All packages of frozen desserts, including cans or other containers of frozen desserts mix but not including frozen desserts packaged in accordance with a customer's request and in the presence of the customer, shall be labeled as prescribed in the federal Food, Drug and Cosmetic Act, as amended.
- Each frozen dessert package shall contain:
 - The code number assigned by the Dairy Supervisor, identifying the specific manufacturing plant; or
 - The name and address of the frozen dessert manufacturer.

- License suspension. The Dairy Supervisor may suspend the license of a frozen dessert plant whenever the bacteria count, coliform determination, yeast or mold count exceeds the quality standards for frozen desserts in three out of the last five samples taken on separate days. In addition, the Dairy Supervisor may suspend the permit of a frozen dessert plant for failure to comply with any of the provisions of this Section.

Historical Note

Adopted effective December 7, 1976 (Supp. 76-5).
 Amended effective December 5, 1977 (Supp. 77-6). Section R3-2-807 renumbered from R3-5-07 (Supp. 91-4).
 Amended effective December 2, 1998 (Supp. 98-4).
 Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

Table 1. Pasteurization

Batch (Vat) Pasteurization	
Temperature	Time
69°C (155°F)	30 minutes
Continuous Flow (HTST) Pasteurization	
Temperature	Time
80°C (175°F)	25 seconds
83°C (180°F)	15 seconds
Continuous Flow (HHST) Pasteurization	
89°C (191°F)	1.0 seconds
90°C (194°F)	0.5 seconds
94°C (201°F)	0.10 seconds
96°C (204°F)	0.05 seconds

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100°C (212°F)	0.01 seconds
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Historical Note

Table 1 made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2). Table 1 heading added for clarity (Supp. 21-3).

R3-2-808. Frozen Desserts Reconstituted from Powdered Mixes

Except for R3-2-807(A)(8), retail establishments that reconstitute frozen desserts from powdered mixes and dispense the desserts on the premises shall comply with the requirements prescribed in R3-2-807 and the following standards:

1. All equipment, containers, and utensils shall be washed and air-dried after each use and shall be sanitized before each use, in accordance with the sanitation standards established in subsection R3-2-807(A)(7)(b).
2. When not in use, all equipment, utensils, and containers shall be stored above the floor in a clean, dry location free from dust, moisture, insects, rodents, or other possible sources of contamination.
3. Excess quantities of the reconstituted frozen dessert shall not be made from the powdered mix in advance and stored outside the dispensing machine.
4. Frozen desserts shall be reconstituted according to the directions provided by the powdered mix manufacturer.

Historical Note

Adopted effective May 11, 1977 (Supp. 77-3). Section R3-2-808 renumbered from R3-5-08 (Supp. 91-4). Section R3-2-808 renumbered to Section R3-2-809; new Section R3-2-808 adopted effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-809. Medicinal, Chemical, and Radioactive Residues in Milk

A. All dairies shall comply with the following procedures to exclude medicinal, chemical, and radioactive residues from milk intended for human consumption:

1. Identify all cows that have been treated with or have consumed medicinal, chemical, and radioactive agents capable of being secreted in milk;
2. Maintain a written record of the date of treatment, type, and quantity of the medicine or chemical administered to each cow;
3. Milk all treated cows last, or with separate equipment to prevent contamination of the wholesome milk supply;
4. Clean and sanitize all equipment, utensils, and containers used in the handling of milk from the treated cows before the equipment is used in the handling of any milk intended for human consumption; and
5. Discard all milk from the treated cows for the period of time recommended by the attending veterinarian or as indicated on the package or label of the medicine used in the treatment of the cow.

B. Enforcement.

1. When the residue of a chemical, medicinal, or radioactive agent is found in the milk of a dairy and the Dairy Supervisor determines that the residue may be deleterious to human health, the Director shall immediately suspend the dairy from further selling, offering for sale, or distributing milk for human consumption until:
 - a. The Dairy Supervisor determines that the practice causing the contamination of the milk has been cor-

rected and the dairy is in compliance with the procedures established in subsection (A);

- b. Any milk that has not been excluded from human consumption as required by subsection (A) is appropriately discarded; and
 - c. The first milk shipment following suspension indicates negative test results for medicinal, chemical, or radioactive residues.
2. If the Dairy Supervisor determines that a dairy is not in compliance with the procedures established in subsection (A), the Dairy Supervisor may suspend the dairy until the prescribed procedures are observed.

Historical Note

Section R3-2-809 renumbered from R3-2-808 and amended effective December 2, 1998 (Supp. 98-4).

R3-2-810. License Fees

During fiscal year 2023, an applicant shall pay the following fee to obtain or renew a dairy license:

1. For a license to operate a milk distributing plant or business: \$300 plus \$2,500 per pasteurizer.
2. For a license to operate a manufacturing milk processing plant: \$100.
3. For a license to engage in the business of producer-distributor as an interstate milk shipper listed facility: \$150 plus \$2,500 per pasteurizer.
4. For a license to engage in the business of producer-distributor: \$150.
5. For a license to engage in the business of producer-manufacturer: \$25.
6. For a license to engage in the manufacture of trade products: \$100.
7. For a license to engage in the business of selling at wholesale milk or dairy products, or both: \$100.
8. For a license to sample milk or cream: an initial fee of \$50 and a renewal fee of \$30.

Historical Note

New Section made by exempt rulemaking at 16 A.A.R. 1331, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1756, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 19 A.A.R. 3127, effective September 14, 2013 (Supp. 13-3). Amended by exempt rulemaking at 20 A.A.R. 2449, effective July 24, 2014 (Supp. 14-3). Amended by exempt rulemaking pursuant to Laws 2015, Ch. 10, § 14, at 21 A.A.R. 2404, effective July 3, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 1937, effective August 9, 2017 (Supp. 17-2). Amended by final exempt rulemaking at 24 A.A.R. 2219, effective August 3, 2018 (Supp. 18-3). Amended by final exempt rulemaking at 25 A.A.R. 2081, effective August 27, 2019 (Supp. 19-3). Amended by final exempt rulemaking at 26 A.A.R. 1471, effective August 25, 2020 (Supp. 20-3). Amended by final exempt rulemaking at 27 A.A.R. 1264, effective September 29, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 28 A.A.R. 2017 (August 12, 2022), effective September 24, 2022 (Supp. 22-3).

R3-2-811. Dairy Farm Permit

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- A. A dairy farm, as defined in the PMO, may apply for a PMO milk producer permit by submitting the following information about the dairy farm on a form provided by the Department:
1. Legal name,
 2. Physical and mailing address,
 3. Telephone number,
 4. Owner's name,
 5. Herd size,
 6. Daily milk production,
 7. Water source,
 8. Waste water disposal system,
 9. Number of bulk storage tanks, and
 10. Certification that the dairy farm facilities comply with Grade A requirements.
- B. An applicant for a dairy farm permit shall demonstrate compliance with the minimum standards set out in the PMO by a Department inspection.
- C. A permittee shall maintain compliance with the minimum standards set out in the PMO and shall be subject to inspection by the Department in accordance with the PMO.
- D. The Department may suspend a permit for a permittee's failure to comply with the minimum standards and may revoke a permit if the permittee fails to correct deficiencies within a reasonable time.
- E. Dairy farm permits are not transferable.
- b. An indoor or outdoor controlled environment, which can consist of multi-tiered aviaries, partially-slatted systems, single-level all litter floor systems, or other systems, and which allows egg-laying hens to have:
- i. Unrestricted freedom to roam;
 - ii. An environment that allows them to exhibit natural behaviors, including, at a minimum, scratch areas, perches, nest boxes, and dust bathing areas; and
 - iii. An environment in which farm employees can provide care while standing within the hens' usable floor space.
7. "Leaker" means an individual egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exuding or free to exude through the shell.
8. "Lot" means any quantity of two or more eggs.
9. "Lot Consolidation" means the removal of damaged eggs from cartons labeled by a producer or producer dealer and replacement of the damaged eggs with eggs of the same grade, size, brand, expiration date and source.
10. "Multi-tiered aviaries" means cage-free housing systems in which egg-laying hens have unfettered access to multiple elevated flat platforms that provide the egg-laying hens with usable floor space both on top of and underneath the platforms.
11. "Partially-slatted systems" means cage-free housing systems in which egg-laying hens have unfettered access to elevated flat platforms under which manure drops through the flooring to a pit or litter removal belt below.
12. "Pasteurized in-shell eggs" means eggs that have been pasteurized with the shell intact by any method approved by the Federal Food and Drug Administration or the department.
13. "Repacking" means changing the identity of a lot of eggs by removing them from the original container labeled by a packer and placing them into another container not labeled by the packer at the point of origin with the same grade, size, lot number, source and/or brand.
14. "Single-level all-litter floor systems" means cage-free housing systems bedded with litter, in which egg-laying hens have limited or no access to elevated flat platforms.
15. "Spot-check" sample means any sample less than a representative sample described in the chart in R3-2-903(B).
16. "Ultimate consumer" means a person consuming eggs or egg products and a restaurant using eggs in the preparation of a meal.
17. "Usable floor space" means the total square footage of floor space provided to each egg-laying hen, as calculated by dividing the total square footage of floor space provided to the egg-laying hens in an enclosure by the number of egg-laying hens in that enclosure. "Usable floor space" shall include both ground space and elevated level flat platforms upon which hens can roost, but shall not include perches or ramps.
18. "UEP" means United Egg Producers.
19. "United Egg Producers Animal Husbandry Guidelines" means the United Egg Producers Animal Husbandry Guidelines for U.S. Egg Laying Flocks, 2017 Edition. This material is incorporated by reference, does not include any later amendments or editions, and is available for inspection at the Department of Agriculture, 1688 W.

Historical Note

New Section made by emergency rulemaking at 20 A.A.R. 1134, effective May 2, 2014, for 180 days (Supp. 14-2). Emergency expired; new Section made by exempt rulemaking at 21 A.A.R. 2407, effective September 22, 2015 (Supp. 15-3).

ARTICLE 9. EGG AND EGG PRODUCTS CONTROL**R3-2-901. Definitions and Interpretation Guidance**

- A. In addition to the definitions provided in A.R.S. §§ 3-701, 3-703 and 3-704, the following shall apply to this Article:
1. "Business owner or operator" means any person who owns ten percent or more of a business, or a person who controls the operations of a business.
 2. "Check" means an individual egg that has a broken shell or crack in the shell but with its shell membranes intact and its contents do not leak. A "check" is considered to be lower in quality than a "dirty."
 3. "Dirty" means a shell that is unbroken and that has dirt or foreign material adhering to its surface, which has prominent stains, or moderate stains covering more than 1/32 of the shell surface if localized, or 1/16 of the shell surface if scattered.
 4. "Egg-laying hen" means any hen that produces eggs for human consumption.
 5. "Egg products":
 - a. Means eggs, in raw or pasteurized form, that are removed from the shell in a liquid, frozen, dried, or freeze-dried state, but are not fully cooked.
 - b. May consist of whole eggs, yolks, whites, or any blend of yolk and white, with or without additives, if eggs are the main ingredient.
 6. "Housed in a cage-free manner" means confined in a housing system that provides egg-laying hens with all of the following:
 - a. The amount of usable floor space per egg-laying hen equal to or greater than that required by the 2017 edition of the United Egg Producers' Animal Husbandry Guidelines for U.S. Egg-Laying Flocks: Guidelines for Cage-Free Housing.

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Adams St., Phoenix, AZ 85007, or the United Egg Producers at 1720 Windward Concourse, Ste. 230, Alpharetta, GA 30005.

20. "United Egg Producers Certified" means a company that has achieved United Egg Producers Certified status pursuant to the requirements prescribed by the United Egg Producers Animal Husbandry Guidelines.
 21. "United Egg Producers Certified logo" means the official symbol and accompanying language used to identify eggs produced by United Egg Producers Certified companies.
 22. "United Egg Producers Cage Free Certified logo" means the official symbol and accompanying language used to identify cage-free eggs produced by United Egg Producers Certified companies.
- B.** Wherever appropriate, and if not expressly indicated, words in the singular form shall be construed to include the plural and vice versa. Nouns and pronouns in masculine, feminine and neuter genders shall be construed to include any other gender.
- C.** Examples shall not be construed to limit, expressly or by implication, the matter they illustrate.
- D.** The word "includes" and its derivatives means "includes, but is not limited to" and corresponding derivative expressions.

Historical Note

Former Rule 1; Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R3-6-01 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-901 (Supp. 82-1). Section R3-6-101 renumbered to R3-2-901 (Supp. 91-4). Section repealed, new Section adopted effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2). Amended by final rulemaking at 28 A.A.R. 802 (April 22, 2022), effective October 1, 2022 (Supp. 22-2).

R3-2-902. Standards, Grades, and Weight Classes for Eggs; Pasteurized In-Shell Eggs

- A.** Standards for Eggs. All standards, grades, and weight classes of quality for chicken eggs in the shell shall meet the grades for eggs as prescribed in AMS 56, United States Standards, Grades, and Weight Classes for Shell Eggs, revised as of July 20, 2000. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007 and the United States Department of Agriculture, Agricultural Marketing Service, Poultry Programs, STOP 0259, Room 3944-South, 1400 Independence Ave., S.W., Washington, DC 20250-0259, or online at www.ams.usda.gov/grades-standards/eggs. "AMS" means Agricultural Marketing Service, United States Department of Agriculture.
- B.** Standards for Pasteurized In-Shell Eggs. It is unlawful for a producer, producer dealer, dealer, or retailer to sell, offer for sale, or expose for sale pasteurized in-shell eggs that are packed for human consumption unless both of the following conditions are met:
1. Quality and weight classes:
 - a. The eggs used to produce pasteurized in-shell eggs shall meet Consumer Grades A or AA and Weight Classes for Eggs of subsection (A).
 - b. At destination:
 - i. Pasteurized in-shell eggs shall contain no more than 7 percent (9 percent for Jumbo size) Checks and not more than 1 percent Leakers, Dirties, or Loss (due to meat or blood spots) in any combination, except that such Loss may not exceed 0.30 percent. Other types of Loss are not permitted.
 - ii. In lots of two or more cases, no individual case may exceed 10 percent Checks.
 - c. Pasteurized in-shell eggs shall meet the weight classes as indicated in Table I. Weight Classes for Pasteurized In-Shell Eggs.
2. Labeling requirements. Except as provided in subsection (B)(2)(j), it is unlawful for an egg producer, producer dealer, dealer or retailer to sell, offer for sale, or expose for sale pasteurized in-shell eggs that are packed for human consumption unless each container intended for sale to the ultimate consumer is labeled on one outside top, side, or end with all of the following:
- a. The consumer container is conspicuously labeled "KEEP REFRIGERATED" or with words of similar meaning as approved by the Department. Consumer container labeling that complies with the safe handling instructions required by Section 101.17 of Title 21 of the Code of Federal Regulations shall be deemed to comply with this subsection.
 - b. The consumer container is conspicuously labeled "produced from" in conjunction with the appropriate consumer grade in letters no smaller than 1/2 size of the labeled consumer grade. The use of the consumer grade without the qualifier "produced from" is not permitted.
 - c. The words "Best By", or "Use by" immediately followed by the month and day in bold type. Months shall be abbreviated Jan, Feb, Mar, Apr, May, Jun, Jul, Aug, Sep, Oct, Nov or Dec. The "Use by," or "Best before" date shall not exceed 75 days from the date on which the pasteurized in-shell eggs were pasteurized, excluding the date of pasteurization. Processors of in-shell eggs that subject the eggs to the pasteurization process shall establish a sell-by date by completion of an appropriate shelf stability study that includes public health and safety criteria. The processor shall retain the study on file at the processing plant and make it available to the Department upon request.
 - d. If the pasteurized in-shell eggs are repacked, the original "Best By" or "Use by" date shall apply.
 - e. A Julian pack date which is the consecutive day of the year on which the pasteurized in-shell eggs were pasteurized.
 - f. The identification number of the plant of origin.
 - g. A conspicuous identification of the eggs as "pasteurized."
 - h. All state and federal labeling requirements.
 - i. This Section does not apply to pasteurized in-shell eggs that are packaged for export.
 - j. Subsection (B) does not apply to pasteurized in-shell eggs that are packaged for interstate commerce or pasteurized in-shell eggs that are packaged for military sales if exported to a state or federal agency that requires a different format for the sell-by or best-if-used-by date on pasteurized in-shell eggs, and the processor is utilizing that format.

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Historical Note

Former Rule 2; Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R3-6-02 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-902 (Supp. 82-1). Section R3-6-102

renumbered to R3-2-902 (Supp. 91-4). Section repealed, new Section adopted effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 14 A.A.R. 892, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

Table I. Weight Classes for Pasteurized In-Shell Eggs

Weight Classes for Pasteurized In-Shell Eggs			
Size or weight class	Minimum net weight per dozen (ounces)	Minimum net weight 30 per dozen (pounds)	Minimum net weight for individual eggs at rate per dozen (ounces)
Jumbo	30	56	29
Extra large	27	50 1/2	26
Large	24	45	23
Medium	21	39 1/2	20
*A lot average tolerance of 3.3 percent for individual eggs in the next lower weight class is permitted as long as no individual case within the lot exceeds 5 percent.			

Historical Note

Table I. Weight Classes for Pasteurized In-Shell Eggs made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-903. Sampling: Schedule and Methods for Evidence

- A. An inspector may conduct random spot-check sampling of a lot of eggs to determine whether the lot meets minimum quality and weight standards and is in compliance with R3-2-907.
- B. Representative egg sampling, under A.R.S. § 3-710(G), shall be based on Table II. A lot that does not meet minimum quality or weight standards or is not in compliance with R3-2-907 shall receive a warning notice hold tag.
 1. An inspector may draw additional samples to determine whether the lot meets the minimum requirements.
 2. When loose eggs are out of the case, the sample shall be based on a carton.
 3. Eggs shall be sampled on a 30-dozen-case basis. When eggs are packed in other lot quantities, an inspector shall convert the quantity of eggs to the equivalent 30-dozen-case basis to establish the official sample size.

Historical Note

Former Rule 3; Amended effective March 17, 1976 (Supp. 76-2). Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R3-6-03 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-903 (Supp. 82-1). Section R3-6-103 renumbered to R3-2-903 (Supp. 91-4). Section repealed, new Section R3-2-903 renumbered from R3-2-906 and amended effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2). Amended by final rulemaking at 28 A.A.R. 802 (April 22, 2022), effective October 1, 2022 (Supp. 22-2).

Table II. Minimum Number of Cases and Cartons Comprising a Representative Sample

Lot size of cartons	Minimum eggs for inspection	Lot size of 30 doz. per case	Minimum cases for inspection ¹
1 - 4 cartons	All	1 case	1 case
5 - 30 cartons inclusive	50	2 - 10 cases inclusive	2 cases
31 - 120 cartons inclusive	100	11 - 25 cases inclusive	3 cases
120 - 210 cartons inclusive	200	26 - 50 cases inclusive	4 cases
211 - 315 cartons inclusive	300	51 - 100 cases inclusive	5 cases
		101 - 200 cases inclusive	8 cases
		201 - 300 cases inclusive	11 cases
		301 - 400 cases inclusive	13 cases
		401 - 500 cases inclusive	14 cases
		501 - 600 cases inclusive	16 cases
		For each additional 50 cases or fraction of a case in excess of 600 cases	1 case

¹An inspector shall take 100 eggs from each case for inspection.

Historical Note

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Table II was made under new Section R3-2-903 renumbered from R3-2-906 and amended effective July 13, 1995 (Supp. 95-3); it was last amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). The table and historical notes were moved out of R3-2-903 to maintain the numbering codification scheme of tables made at 26 A.A.R. 781 (Supp. 20-2).

R3-2-904. Quarterly Report Periods

Quarterly reports are due as prescribed in A.R.S. § 3-716(D). The quarterly report periods for inspection fees are:

1. July 1 to September 30,
2. October 1 to December 31,
3. January 1 to March 31, and
4. April 1 to June 30.

Historical Note

Former Rule 4; Amended effective March 17, 1976 (Supp. 76-2). Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R3-6-04 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-904 (Supp. 82-1). Section R3-6-104 renumbered to R3-2-904 (Supp. 91-4). Section repealed, new Section R3-2-904 renumbered from R3-2-907 and amended effective July 13, 1995 (Supp. 95-3).

R3-2-905. Inspection Fee Rate

- A. All dealers, producer-dealers, manufacturers, and producers shall pay an inspection fee at the rate of 3.0 mills (.00300) per dozen on all shell eggs sold as prescribed in A.R.S. § 3-716(A).
- B. All dealers, producer-dealers, manufacturers, and producers shall pay an inspection fee at the rate of 3.0 mills (.00300) per pound on all egg products sold as prescribed in A.R.S. § 3-716(A).
- C. For scheduled continuous grading, certification, and inspection services. The following rates apply to continuous grading service on a resident basis and continuous grading service on a nonresident basis per grader:
 1. Regular rate: \$38.00/hour;
 2. Overtime rate: \$57.00/hour;
 3. Holiday rate: \$58.00/hour.
- D. For plant survey, unscheduled temporary, certification, auditing and appeal grading services. The following rates apply to temporary and auditing service per grader:
 1. Regular rate: \$57.00/hour;
 2. Overtime rate: \$85.00/hour;
 3. Holiday rate: \$87.00/hour.

Historical Note

Former Rule 5; Former Section R3-6-05 renumbered as Section R3-2-905 (Supp. 82-1). Section R3-6-105 renumbered to R3-2-905 (Supp. 91-4). Section repealed, new Section R3-2-905 renumbered from R3-2-908 and amended effective July 13, 1995 (Supp. 95-3). Amended by emergency rulemaking at 12 A.A.R. 4063, effective October 1, 2006 for 180 days (Supp. 06-4). Emergency renewed at 13 A.A.R. 1509, effective April 9, 2007 for 180 days (Supp. 07-2). Amended by final rulemaking at 13 A.A.R. 1639, effective June 30, 2007 (Supp. 07-2). Amended by final rulemaking at 28 A.A.R. 802 (April 22, 2022), effective October 1, 2022 (Supp. 22-2).

R3-2-906. Violations and Penalties

- A. A dealer, producer-dealer, manufacturer, producer, or retailer, at each individual location, is subject to the penalties in subsection (B) for any of the following violations:
 1. Category A:
 - a. Making a false or misleading statement relating to advertising or selling eggs and egg products;
 - b. Acting as a dealer, producer-dealer, producer, or manufacturer without a valid license;
 - c. Selling shell eggs with an incorrect or incomplete expiration date, or without an expiration date;
 - d. Selling grade AA or grade A eggs after the expiration date on the carton, case, or container. Selling pasteurized in-shell eggs without or past the "Best By" or "Use by" date;
 - e. Failing to maintain records and reports required by this Article;
 - f. Failing to label a carton, case, or container with one size, one grade, one brand name, or, as required under R3-2-907;
 - g. Moving eggs or an egg case, carton, or container with a warning tag or notice, or removing a warning tag or notice without permission from the Director;
 - h. Refusing to submit egg or egg product, an egg case, carton, container, subcontainer, lot, load, or display of eggs to inspection; or
 - i. Refusing to stop, at the request of an authorized representative of the Department, any vehicle transporting eggs or egg products;
 - j. Selling eggs that have not been produced in accordance with the standards prescribed under R3-2-907;
 - k. Failing to raise egg-laying hens in this state in accordance with the standards prescribed under R3-2-907.

2. Category B:
 - a. Extending the expiration date of shell eggs as defined in A.R.S. § 3-701(13); or
 - b. Advertising, representing, or selling out-of-state eggs as local eggs.
3. Category C:
 - a. Failing to ensure that shell eggs for human consumption are kept refrigerated at an ambient temperature not higher than 45° F;
 - b. Failing to ensure that frozen egg products for human consumption, labeled for storage at 0° F or below, are kept under refrigeration at a temperature of 0° F or lower;
 - c. Failing to ensure that liquid egg products for human consumption are kept refrigerated at a temperature not higher than 40° F; or
 - d. Failing to meet the sanitary standards egg processing of R3-2-908.

- B. Any violation of this Article or of A.R.S. Title 3, Chapter 5, Article 1 not listed in subsection (A) is subject to a Category A civil penalty.

- C. Under A.R.S. § 3-739, the civil penalty for a violation of subsection (A) is in Table III.

Historical Note

Former Rule 6; Amended effective February 19, 1982. Former Section R3-6-06 renumbered as Section R3-2-906 (Supp. 82-1). Section R3-6-106 renumbered to R3-2-906 (Supp. 91-4). Former Section R3-2-906 renumbered to R3-2-903, new Section adopted effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 4058, effective October 7, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2,

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2003 (Supp. 03-2). Amended by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2). Amended by made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2). Amended by final rulemaking at 28 A.A.R. 802 (April 22, 2022), effective October 1, 2022 (Supp. 22-2).

Table III. Violations and Penalties

Number of Violations	Category A	Category B	Category C
1	Warning	Warning	Warning
2	\$50	\$50	\$100
3	\$100	\$100	\$200
4		\$150	\$400
5		\$200	\$500
6		\$250	
7		\$300	

Historical Note

Table III made by made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2). Heading added for clarity (Supp. 21-3).

R3-2-907. Poultry Husbandry; Standards for Production of Eggs and Biosecurity Requirements

- A.** Until September 30, 2022, all egg-laying hens in this state shall be raised according to UEP Animal Husbandry Guidelines.
- B.** Until September 30, 2022, all eggs sold in this state produced by hens shall be from hens raised according to the UEP Animal Husbandry Guidelines. All eggs shall display the UEP Certified logo on their cases, cartons, and containers, or the egg dealer shall annually provide the Department with a copy of a current independent third-party audit that demonstrates that the eggs were produced by hens raised according to UEP Animal Husbandry Guidelines.
- C.** Beginning October 1, 2022, all egg-laying hens in this state shall be housed in accordance with the UEP Animal Husbandry Guidelines and shall be provided with no less than one square foot of usable floor space per egg-laying hen.
- D.** Beginning October 1, 2022, all eggs and egg products sold in this state shall be from hens that are housed in accordance with the UEP Animal Husbandry Guidelines and provided with no less than one square foot of usable floor space per egg-laying hen.
- E.** Beginning no later than January 1, 2025, all egg-laying hens in this state shall be housed in a cage-free manner.
- F.** Beginning no later than January 1, 2025, all eggs and egg products sold in this state shall be from hens housed in a cage-free manner.
- G.** Subsections (A) through (F) do not apply to egg producers or business owners or operators operating or controlling the operation of one or more egg ranches each having fewer than 20,000 egg-laying hens producing eggs. Subsections (A) through (E) also do not apply to any hens that are raised cage-free or any eggs produced by hens that are raised cage-free.
- H.** Beginning no later than October 1, 2022, in order to sell eggs or egg products within the state, a business owner or operator must have a certificate from the Supervisor certifying that the eggs or egg products are produced in compliance with subsections (C) through (F), or are exempt under subsection (G). The Supervisor will certify that eggs and egg products are produced in compliance with subsections (C) through (G) if the

eggs or egg products are accompanied by documentation from a government or private third-party inspection and continuous process verification service that the Supervisor deems acceptable establishing that the eggs or egg products were produced in compliance with this Section. The immediate container of eggs and egg products shall be plainly and conspicuously marked with the words "ARS 710J" in bold-faced type not less than one-eighth inch in height; or in another manner pre-approved by the Department.

- I.** It shall be a defense to any action to enforce this Rule that a business owner or operator relied in good faith upon a written certification by the supplier that the eggs or egg products at issue were derived from an egg-laying hen which was housed in compliance with this Section.
- J.** All producers and producer dealers with operations within the state shall have a written biosecurity plan in place. At a minimum each producer and producer dealer shall:
 - 1. Restrict access to all areas where poultry are housed or kept.
 - 2. Take steps to ensure that contaminated material is not transported into any poultry barns.
 - 3. Cover and secure feed in a manner that prevents wild bird, rodents or other animals from accessing the feed.
 - 4. Cover and properly contain poultry carcasses, used litter, or other disease-containing organic materials that prevents wild birds, rodents or other animals from accessing the material and movement of the materials by the wind.
 - 5. Keep houses in good repair and all areas to which the birds have access should be kept free of materials hazardous to the birds.
- K.** The biosecurity plan shall contain the following:
 - 1. Methods for the disposal and handling of poultry manure.
 - 2. Procedures for prevention, control and eradication of vectors for poultry diseases.
 - 3. Procedures for the detection, control and treatment of poultry diseases.
 - 4. Methods for the disposal and handling of culled birds and entire flocks under normal cyclic operations and following emergency depletion as a result of disease.
 - 5. A facility poultry disease control and prevention plan which includes standard operating procedures with respect to specific measures to control and prevent disease including but not limited to structural and operational disease control and prevention provisions.
 - 6. Procedures to prevent cross contamination between nest run and in line eggs.
 - 7. Procedures to prevent the introduction and transmittal of diseases by vehicles and any other forms of transportation.
 - 8. Signed agreements with all employees containing biosecurity procedures regarding contact with outside poultry and wild birds.
- L.** A producer and producer dealer shall allow the Department to enter the premises during normal working hours to inspect the biosecurity plan documents and the biosecurity that is implemented.

Historical Note

Former Rule 7; Former Section R3-6-07 renumbered as Section R3-2-907 (Supp. 82-1). Section R3-6-107 renumbered to R3-2-907 (Supp. 91-4). Section R3-2-907 renumbered to R3-2-904 effective July 13, 1995 (Supp. 95-3). New Section made by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2). Amended by made by final rulemaking at 26 A.A.R. 781,

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effective June 8, 2020 (Supp. 20-2). Amended by final rulemaking at 28 A.A.R. 802 (April 22, 2022), effective October 1, 2022 (Supp. 22-2).

R3-2-908. Sanitary Standards; Egg Processing

- A. All egg producers and retail locations where lot consolidation is conducted in this state shall meet the facility and sanitary operation requirements prescribed by the Regulations Governing the Voluntary Grading of Shell Eggs, 7 CFR 56, effective March 30, 2008. This material is incorporated by reference, does not include any later editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, AZ 85007.
- B. No person other than a producer or producer dealer shall repack eggs. All eggs sold to the ultimate consumer must be pre-packaged with all required labeling requirements of this Article and A.R.S. Title 3 Chapter 5. A producer, producer dealer shall not pack or repack eggs that have been in retail distribution channels.
- C. A retailer may lot consolidate eggs labeled for the ultimate consumer by a packer. A daily log with lot information is required and shall include volume consolidated, grade, size, brand, lot and source.

Historical Note

Former Rule 8; Amended effective October 1, 1979 (Supp. 79-5). Former Section R3-6-08 renumbered as Section R3-2-908 (Supp. 82-1). Amended effective January 1, 1985 (Supp. 84-6). Amended effective December 30, 1987 (Supp. 87-4). Amended effective March 23, 1990 (Supp. 90-1). Section R3-6-108 renumbered to R3-2-908 (Supp. 91-4). Section R3-2-908 renumbered to R3-2-905 effective July 13, 1995 (Supp. 95-3). New Section made by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2). Amended by made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-909. Repealed**Historical Note**

Former Rule 9; Former Section R3-6-09 renumbered as Section R3-2-909 (Supp. 82-1). Section R3-6-109 renumbered to R3-2-909 (Supp. 91-4). Section repealed effective July 13, 1995 (Supp. 95-3).

ARTICLE 10. AQUACULTURE**R3-2-1001. Definitions**

In addition to the definitions provided in A.R.S. § 3-2901, the following shall apply unless the context otherwise requires:

1. "Certificate of Aquatic Health" is an official document from an issuing state or an equivalent form published by the United States Fish and Wildlife Service or the United States Department of Agriculture attesting that the live aquatic animals described thereon have been inspected and are free of the diseases and causative agents set forth in R3-2-1009.
2. "Department" means the Arizona Department of Agriculture.

Historical Note

Adopted effective May 3, 1993 (Supp. 93-2).

R3-2-1002. Fees for Licenses; Inspection Authorization and Fees

- A. License fees are established as follows:
 1. Aquaculture facility: \$100 annually.

2. Fee fishing facility: \$100 annually.
3. Aquaculture processor: \$100 annually.
4. Aquaculture transporter: \$100 annually.
5. Special licenses: \$10 annually.

- B. An expired license may be renewed within 90 days after expiration by payment of a \$50 late fee.
- C. Upon request of the licensee, the Department shall assess the licensed facility and, if applicable, certify the facility is free from infectious diseases and causative agents listed in R3-2-1009 before issuing a Certificate of Aquatic Health. All expenses properly incurred in the certification procedure of the inspection, including time, travel, and laboratory expenses, shall be paid to the Department by the licensee requesting certification.

Historical Note

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

R3-2-1003. General Licensing Provisions

- A. An applicant for a license to operate an aquaculture facility or a fee fishing facility, or to operate as an aquaculture processor or aquaculture transporter shall provide the following information on a form furnished by the Department:
 1. Whether the applicant is an individual, corporation, partnership, cooperative, association, or other type of organization;
 2. The name and address of the applicant;
 3. A corporation shall specify the date and state of incorporation;
 4. The principal name of the business, and all other business names that may be used;
 5. The name, mailing address, and telephone number of the applicant's authorized agent;
 6. The street address or legal description of the location of the facility to be licensed; and
 7. The signature of the person designated in subsection (A)(5), and the date the application is completed for submission to the Department.
- B. The Department shall grant a license when all conditions are met and assign a Department establishment number to each facility.
- C. All licenses expire on December 31 for the year issued.
- D. A licensee shall advise the Department in writing of any change in the information provided on the application during the license year. This information shall be provided within 30 calendar days of the change.
- E. To prevent the spread of diseases and causative agents listed in R3-2-1009, the Department may inspect and take samples from any facility or shipment being transported. A licensee shall notify the Department within 72 hours of becoming aware of the presence of any disease or causative agent listed in R3-2-1009. Aquatic animals found to be infected with a disease or causative agent listed in R3-2-1009 are prohibited from interstate or intrastate movement without prior written Department approval.
- F. The Department shall quarantine or seize aquatic animals, alive or dead, plants, or products for examination or diagnostic study when there is a potential for spread of a disease or causative agent listed in R3-2-1009, or any other disease or causative agent that could constitute a threat to aquatic animals or plants of the state. The Department shall issue a written notice to the licensee specifying:
 1. The reason for the Department's action; and

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2. The licensee's right to request a hearing as prescribed in A.R.S. § 3-2906.
- G. A licensee shall conspicuously mark all quarantined aquatic products and quarantined areas in a manner specified by the Department.
- H. A licensee shall pay all diagnostic, quarantine, and destruction costs.

Historical Note

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

R3-2-1004. Specific Licensing Provisions; Aquaculture Facility; Fee Fishing Facility; Special License Facility

- A. In addition to the application requirements in R3-2-1003, an applicant for a license to operate an aquaculture facility, a fee fishing facility, or a special license facility under A.R.S. § 3-2908(A) shall provide the following information on a form provided by the Department:
 1. Water sources, transmission, and conveyances;
 2. Method used to dispose of tailing waters and solid wastes;
 3. Number and size of ponds, raceways, and tanks, if applicable;
 4. Whether hatchery facilities are included;
 5. A list of all animals and plants to be authorized under the license by genus, species, and common name.
- B. An application to culture or possess an aquatic animal or plant that has not previously occurred in the drainage where the facility is located shall be accompanied by a written proposal. The applicant's proposal shall include:
 1. Anticipated benefits from introducing the species;
 2. Anticipated adverse effects from introducing the species, as it may affect indigenous or game fish, including hybridization;
 3. Anticipated diseases inherent to introducing the species;
 4. Suggestions for post-introduction evaluation of status and impacts of the introduced species; and
 5. Structural and operational methods implemented to prevent escape of the species, if applicable.
- C. Each body of water serving a facility shall be contained within the boundaries of the land owned or leased by the licensee.
- D. A facility using public waters having natural or artificial inlets, rivers, creeks, washes, or canals shall provide mechanical screening approved by the Department to prevent live aquatic animals and plants, including eggs and fry, from escaping beyond the aquaculture facility boundaries or into public bodies of water.
- E. An applicant for a special license under A.R.S. § 3-2908(A) shall also provide the following information to the Department at the time of application:
 1. A written narrative describing the project in detail, the project purpose, the hypothesis, and the project duration; and
 2. The proposed disposition of the aquatic animals or plants upon completion of the project.
- F. The Department shall consider the recommendations of the Arizona Game and Fish Department, under A.R.S. § 3-2903, when determining whether to issue a license or an import permit under R3-2-1010. The Department may issue a license excluding some of the aquatic animal or plant species listed in the application.

Historical Note

Adopted effective May 3, 1993 (Supp. 93-2). Amended

by final rulemaking at 10 A.A.R. 673, effective April 3, 2004 (Supp. 04-1).

R3-2-1005. Fee Fishing Facility

A licensee shall not allow an aquatic animal to be removed from a fee fishing facility unless:

1. The aquatic animal is dead, and
2. The licensee provides the person removing the aquatic animal with written proof of sale identifying the:
 - a. Facility, by name, address, and Department establishment number issued under R3-2-1003(B);
 - b. Date of harvest; and
 - c. Number and species of aquatic animals transported from the facility.

Historical Note

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 673, effective April 3, 2004 (Supp. 04-1).

R3-2-1006. Processor License

- A. In addition to complying with the application requirements of R3-2-1003, applicants for a license to operate as an aquaculture processor as defined in A.R.S. § 3-2901(12) shall provide the following information on a form furnished by the Department:
 1. Water sources, transmission, conveyances, and annual consumption in gallons or acre feet;
 2. Method used to dispose of tailing waters and solid wastes;
- B. A processing facility shall operate in a clean and sanitary condition during all periods of operation. The following are the minimum requirements for such establishments.
 1. Each establishment shall have sanitary floors and walls impervious to water.
 2. All outside windows and doors shall be screened.
 3. There shall be a supply of potable water.
 4. There shall be a sewage disposal system of such a type as not to be a breeding place for insects and not to constitute a hazard or to endanger public health.

Historical Note

Adopted effective May 3, 1993 (Supp. 93-2).

R3-2-1007. Transporter License; Transport; Delivery

- A. In addition to the application requirements in R3-2-1003, an applicant for a license to operate as an aquaculture transporter of live aquatic animals as defined in A.R.S. § 3-2901(15) shall, on a form provided by the Department:
 1. Designate whether the license is for interstate or intrastate transport, or both;
 2. List aquatic transporting equipment to be used, including tanks and vehicles, and vehicle license number; and
 3. State prior year volume or anticipated annual tonnage of live aquatic animals transported.
- B. A transporter shall ensure that the aquatic transporting equipment has adequate water and oxygen at a temperature and in a quantity normal for the health of the live aquatic animals and shall be clearly marked, "Live Fish."
- C. In addition to a copy of the Certificate of Aquatic Health, a transporter shall transport each container of live aquatic animals within the state with a document identifying:
 1. Consignor's name, address, and telephone number;
 2. Consignee's name, address, and telephone number;
 3. Quantity and size of the aquatic animal being transported;
 4. Genus, species, and common name of the aquatic animal being transported;

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5. Date of shipment; and
6. Department establishment number.

- D.** A transporter shall deliver live aquatic animals only to a retail outlet, as prescribed at A.R.S. § 3-2907(J) or to a person listed in R3-2-1010(B).

Historical Note

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 673, effective April 3, 2004 (Supp. 04-1).

R3-2-1008. Repealed**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2). Section repealed by final rulemaking at 10 A.A.R. 673, effective April 3, 2004 (Supp. 04-1).

R3-2-1009. Disease Certification

- A.** A licensee requesting and receiving a Certificate of Aquatic Health shall have their facility inspected and all live aquatic animals, fertilized eggs and milt shall be found free of, but not limited to, the following diseases and causative agents:
1. Causative agent: Egtved Virus. Disease: VHS, Viral Hemorrhagic Septicemia of Salmonids.
 2. Causative agent: Infectious Hematopoietic Necrosis Virus. Disease: IHN, Infectious Hematopoietic Necrosis of Salmonids.
 3. Causative agent: Infectious Pancreatic Necrosis Virus. Disease: IPN, Infectious Pancreatic Necrosis of Salmonids.
 4. Causative agent: *Ceratomyxa shasta*. Disease: Ceratomyxosis of Salmonids.
 5. Causative agent: *Rhabdovirus carpio*. Disease: Spring Viremia of carp. Certification is required in this case only when the original origin of the shipment is from outside the United States.
 6. Causative agent: *Renibacterium salmoninarum*. Disease: BKD, Bacterial Kidney Disease of Salmonids.
 7. Causative agent: *Aeromonas salmonicida*. Disease: Furunculosis.
 8. Causative agent: *Myxobolus cerebralis*. Disease: Whirling Disease of Salmonids.
- B.** The Department may require inspection for any disease or causative agent not listed in subsection (A) when there is evidence that the disease or causative agent may constitute a threat to aquatic animals or plants, aquatic wildlife or the aquaculture industry. The Department shall send written notice to all licensees pursuant to this Chapter when implementing this subsection, naming the disease or causative agent of concern. Action to quarantine or seize aquatic animals or plants pursuant to this subsection shall not be subject to delay pending such written notice.

Historical Note

Adopted effective May 3, 1993 (Supp. 93-2).

R3-2-1010. Importation of Aquatic Animals

- A.** The owner, or owner's agent, importing live aquatic animals into the state shall ensure the animals are accompanied by the following:
1. A Certificate of Aquatic Health as defined in R3-2-1001, based upon an inspection of the originating facility within the 12 months preceding the shipment;
 2. A transporter license issued under R3-2-1007; and

3. An import permit number issued by the Department under this Section, legibly written or typed on the certificate of aquatic health.

- B.** The owner, or owner's agent, of live aquatic animals, except those imported by a retail outlet as prescribed in A.R.S. § 3-2907(J), shall ensure that the animals are consigned to or in the care of:
1. An Arizona resident;
 2. An aquaculture facility, fee fishing facility, or special license holder licensed by the Department;
 3. A holder of an aquatic wildlife stocking permit issued by the Arizona Game and Fish Department; or
 4. A holder of any aquatic animal license issued by the Arizona Game and Fish Department.
- C.** The owner, or owner's agent, may obtain an import permit number from the Department, Office of the State Veterinarian, by providing the following information:
1. Consignor's name, address, and telephone number;
 2. Consignee's name, address, and telephone number;
 3. Consignee's Department establishment number issued by the Department or a copy of an aquatic wildlife stocking permit or the license issued by the Arizona Game and Fish Department;
 4. Origin of the shipment;
 5. Genus, species, and common name of aquatic animals to be imported; and
 6. Quantity and size classification of aquatic animals to be imported.
- D.** An import permit number remains valid for 15 calendar days from the date of issuance by the Department.
- E.** The Department shall refuse entry to any shipment that does not comply with this rule.
- F.** The Department shall quarantine and require destruction of any shipment, after its arrival, that it determines is infected with or was previously exposed to any causative agent or disease listed in R3-2-1009.

Historical Note

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

ARTICLE 11. VOLUNTARY EGG GRADING PROGRAM**R3-2-1101. Definitions**

For the purpose of this Article, unless the context otherwise requires, the terms in this Section shall have the following meaning:

"Acceptable" means suitable for the purpose intended.

"Administrator" means the supervisor as defined in A.R.S. § 3-701.

"Ambient temperature" means the air temperature maintained in an egg storage facility or transport vehicle.

"AMS" means Agricultural Marketing Service, United States Department of Agriculture.

"Applicant" means any person or entity who requests any grading service.

"Appeal grading" means a re-grading requested by a recipient who is dissatisfied with an initial grading decision.

"Associate Director" means the associate director of the animal service division.

"Auditing services" means the act of providing independent verification of written quality assurance and value added stan-

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dards for production, processing and distribution of eggs. Auditing services are performed by graders authorized by the Administrator to perform such audits and the service provided will be in accordance with the provisions of this Article for grading services, as appropriate.

“Cage mark” means any stain-type mark caused by an egg coming in contact with a material that imparts a rusty or blackish appearance to the shell.

“Case” means, when referring to containers, an egg case, as used in commercial practice in the United States, holding 30 dozens of eggs.

“Class” means any subdivision of a product based on essential physical characteristics that differentiate between major groups of the same size, kind, species, or method of processing.

“Chick papers” means the papers in which chicks are delivered.

“Condition” means any condition (including, but not being limited to, the state of preservation, cleanliness, soundness, wholesomeness, or fitness for human food) of any product which affects its merchantability.

“Consumer grades” means U.S. Grade AA, A, and B.

“Controlling person” means a person at least 21 years of age legally accountable for operations and management of the egg production plant.

“Department” or “AZDA” means the Arizona Department of Agriculture.

“Director” means the Director of the Arizona Department of Agriculture.

“Egg grading service” means the personnel who are actively engaged in the administration, application, and direction of egg grading programs and services pursuant to this Article.

“Eggs” means eggs of domesticated chickens.

“Eggs of current production” means eggs that are no more than 21 days old.

“Grademark” means the official identification symbol used to identify eggs officially graded by AZDA in accordance with this Article.

“Grader” means any employee assigned by AZDA to investigate and certify in accordance with this Article, the class, quality, quantity, or condition of products.

“Grading or grading service” means the determination by a grader that a product meets the standards of this Article regarding the class, quality, quantity, or condition of the product for the purpose of issuing a grade or grading certificate. Such determination may be performed by examining all product units or representative samples drawn by the grader; may be performed as a temporary, resident or non-resident grading service; and includes regrading performed in response to an appeal of a previous grading decision.

“Grading certificate” means a statement, either written or printed, issued by a grader pursuant to this Article, relative to the class, quantity, quality, or condition of products.

“Holiday or legal holiday” means the legal public holidays specified by State of Arizona Accounting Manual (SAAM).

“Identify” means to apply a grademark to products or the containers thereof.

“Interested party” means any person financially interested in a transaction involving any grading, appeal grading, or regrading of any product.

“Office of grading” means the office of any resident grader at the plant.

“Official AZDA certificate” means any form of certification, either written or printed, used under this Article to certify with respect to the sampling, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).

“Official AZDA memorandum” means any initial record of findings made by an authorized person in the process of grading or sampling pursuant to this Article, any processing or plant-operation report made by an authorized person in connection with grading or sampling under this Article, and any report made by an authorized person of services performed pursuant to this Article.

“Official AZDA mark” means the grademark and any other mark, or any variations in such marks approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product, stating that the product was graded, or indicating the appropriate U.S. grade or condition of the product, or for the purpose of maintaining the identity of products graded under this Article, including but not limited to, those set forth in R3-2-1111.

“Official identification” means any AZDA standard designation of class, grade, quality, size, quantity, or condition specified in this Article or any symbol, stamp, label, logo, or seal indicating that the product has been officially AZDA graded and/or indicating the class, grade, quality, size, quantity, or condition of the product approved by the Supervisor and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

“Official plant” means the facilities used for a shell egg operation that has been approved by AZDA for grading purposes.

“Origin grading” means a grading made on a lot of eggs at a plant where the eggs are graded and packed.

“Packaging” means the primary or immediate container in which eggs are packaged and which serves to protect, preserve, and maintain the condition of the eggs.

“Packing” means the secondary container in which the primary or immediate container is placed to protect, preserve, and maintain the condition of the eggs during transit or storage.

“Person” means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

“Plant” means the facilities used for a shell egg operation.

“Potable water” means water that has been approved by the State health authority or agency or laboratory acceptable to the Administrator as safe for drinking and suitable for food processing.

“Product or products” means eggs of the domesticated chicken.

“Quality” means the inherent properties of any product which determine its relative degree of excellence.

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“Quality assurance inspector” means any designated company employee other than the plant owner, manager, foreman, or supervisor, authorized by the State supervisor to examine product and to supervise the labeling, dating, and lotting of officially graded eggs and to assure that such product is packaged under sanitary conditions, graded by authorized personnel, and maintained under proper inventory control until released by an employee of the Department.

“Recipient” means the individual or entity whose application for grading services has been approved by the Department.

“Resident grading service” means continuous supervision, in an official plant, of the handling or packaging of any product.

“Sampling” means the act of taking samples of any product for grading or certification.

“SE” means *Salmonella* Enteritidis.

“Shell protected” means eggs which have had a protective covering such as oil applied to the shell surface. The product used shall be acceptable to the Food and Drug Administration.

“Shipped for retail sale” means eggs that are forwarded from the processing facility for distribution to the ultimate consumer.

“State supervisor” means the immediate supervisor of a Grader.

“Washed ungraded eggs” means eggs which have been washed and that are either sized or unsized, but not segregated for quality.

Historical Note

Section R3-2-1101 recodified from R3-2-101 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). New Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1102. General Provisions

- A.** Administration. The Administrator shall perform such duties as the Associate Director may require in the enforcement or administration of the provisions of this Article. The Administrator is authorized to waive for limited periods any particular provisions of this Article to permit experimentation so that new procedures, equipment, and processing techniques may be tested to facilitate definite improvements and at the same time to determine full compliance with the spirit and intent of this Article. The AZDA and its officers and employees shall not be liable in damages through acts of commission or omission in the administration of this Article.
- B.** Basis of grading service.
 1. Grading service with respect to the determination of the quality of products shall be on the basis of the United States Standards, Grades, and Weight Classes for shell eggs. However, grading service may be rendered with respect to products which are bought and sold on the basis of institutional contract specifications or specifications of the recipient; and such service, when approved by the Administrator, shall be rendered on the basis of such specifications. The supervision of packaging shall be in accordance with such instructions as may be approved or issued by the Administrator.
 2. Whenever grading service is performed on a representative sample basis, such sample shall be drawn and consist

of not less than the minimum number of cases as indicated in:

- a. R3-2-903 for stationary lots; or
 - b. QAD 700 Shell Egg Graders Handbook Section 8 on-line sampling of Shell Eggs (8-30-2016).
3. Accessibility of product. Each product for which grading service is requested shall be so conditioned and placed as to permit a proper determination of the class, quality, quantity, or condition of such product.
- C.** Prerequisites to grading. Grading of products shall be rendered pursuant to this Article and under such conditions and in accordance with such methods as may be prescribed or approved by the Administrator.
 - D.** Supervision. All plant grading service shall be subject to supervision at all times by an AZDA grader. Such service shall be rendered in accordance with instructions issued by the Administrator where the facilities and conditions are satisfactory for the conduct of the service and the requisite graders are available.
 - E.** Other applicable regulations. Compliance with this Article shall not excuse failure to comply with any other applicable Federal, State, or local laws or regulations.

Historical Note

Section R3-2-1102 recodified from R3-2-102 (Supp. 97-1). Amended effective October 8, 1998 (Supp. 98-4).

Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1103. Equipment and Facilities for Graders

Equipment and facilities to be furnished by the recipient for use of graders in performing service on a resident basis shall include, but not be limited to, the following:

- A.** An accurate metal stem thermometer.
- B.** An accurate means to determine pH level of wash water.
- C.** Test kits for checking the concentration level of the solution used for sanitizing eggs and monitoring the concentration level of potable water treatment compounds in plants having chlorinators. The kit must be designed for testing the compound being used.
- D.** Protective equipment including, general purpose gloves and safety glasses to all egg graders who are monitoring the strength of potable water treatment compounds and egg sanitizing solutions, unless plant employees are trained to perform the testing under the direct supervision of the grader.
- E.** Electronic digital-display scales graduated in increments of 1/10-ounce or less for weighing individual eggs and test weights for calibrating such scales. Plants packing product based on metric weight must provide scales graduated in increments of one gram or less.
- F.** Electronic digital-display scales graduated in increments of 1/4-ounce or less for weighing the lightest and heaviest consumer packages packed in the plant and test weights for calibrating such scales.
- G.** Scales graduated in increments of 1/4-pound or less for weighing shipping containers and test weights for calibrating such scales.
- H.** Test weights sufficient in size to verify the accuracy of the lightest and heaviest unit of measurement weighed on any given scale located in the plant.
- I.** Two candling lights that provide a sufficient combined illumination through both the aperture and downward through the

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bottom to facilitate accurate interior and exterior quality determinations.

- J. A candling booth adequately darkened and located in close proximity to the work area that is reasonably free of excessive noise. The booth must be sufficient in size to accommodate two graders, two candling lights, and other necessary grading equipment.
- K. If deemed necessary by the supervisor, a cart or method of conveyance for the transportation of samples to and from the candling booth.
- L. Furnished office space, suitable wireless internet connection, a desk and file or storage cabinets (equipped with a satisfactory locking device), suitable for the security and storage of official supplies, and other facilities and equipment as may otherwise be required. Such space and equipment must meet the approval of the Administrator.

Historical Note

Section R3-2-1103 recodified from R3-2-103 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1104. Schedule of Operation of Official Plants

Grading operating schedules for services performed pursuant to this Article shall be requested in writing and be approved by the Administrator. Normal operating schedules for a full week consist of a continuous eight-hour period per day (excluding not to exceed one hour for lunch), five consecutive days per week, within the administrative workweek, Saturday through Friday, for each shift required. Less than eight-hour schedules may be requested and will be approved if a grader is available. Clock hours of daily operations need not be specified in the request, although as a condition of continued approval, the hours of operation shall be reasonably uniform from day to day. Graders are to be notified by management one day in advance of any change in the hours grading service is requested.

Historical Note

Section R3-2-1104 recodified from R3-2-104 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1105. Application for Grading Service

- A. An application for AZDA grading service may be made by egg producer or a producer dealer with operations located in Arizona.
- B. Form of application. Each application for grading or sampling a specified lot of any product shall include such information as may be required by the Administrator in regard to the product and the premises where such product is to be graded or sampled. The applicant shall designate the employees of the applicant who will be authorized to provide information to the AZDA grader or graders as may be necessary for the performance of the grading service.
- C. Application for grading service in official plants; approval. Any person desiring to process and pack products in a plant under grading service must receive approval of such plant and facilities as an official plant prior to the rendition of such service. When a signed application for service has been received, the State supervisor or the supervisor's assistant shall complete a plant survey pursuant to this Article. An application for

grading service shall be approved when the application has been filed for grading service; a successful plant survey is completed; and all required facility or equipment modifications are completed.

- D. Denial of service. An application for grading service may be denied by the Administrator when:
 - 1. The applicant fails to meet the requirements of this Article prescribing the conditions under which the service is made available.
 - 2. The product is owned by or located on the premises of a person currently denied the benefits of this Article.
 - 3. Any individual holding office or a responsible position with or having a substantial financial interest or share in the applicant is currently denied the benefits of the Act or was responsible in whole or in part for the current denial of the benefits of this Article to any person or entity.
 - 4. The Administrator determines that the application is an attempt on the part of a person currently denied the benefits of this Article to obtain grading services.
 - 5. The applicant, after an initial survey has been made in accordance with this Article, fails to bring the grading facilities and equipment into compliance with this Article within a reasonable period of time.
 - 6. Notwithstanding any prior approval whenever, before initiation of service, the applicant fails to fulfill commitments concerning the initiation of the service.
 - 7. It appears that performing the services specified in this Article would not be in the best interests of the public welfare or of the Government.
 - 8. It appears to the Administrator, in his sole discretion, that prior commitments of the Department or lack of resources necessitate denial of service.
- E. Debarment. An applicant may be permanently debarred for the following reasons:
 - 1. The giving or offering, directly or indirectly, of a bribe, or any money, loan, gift, or anything of value to an employee of the Department to obtain any benefit or special treatment;
 - 2. Taking any action that falsely brings the Department in disrepute or that creates the appearance of impropriety;
 - 3. Knowingly making a false or misleading statement of a material fact to the Department;
 - 4. Using any official identification, grademark, stamp, symbol, label, seal, or identification without authority from the Department;
 - 5. Forging, counterfeiting, or falsely simulating any grading certificate, symbol, stamp, label, seal, or identification authorized pursuant to this Article;
 - 6. Use of an official grademark, certificate, symbol, stamp, label, seal, or identification without authority;
 - 7. Failure to make an official plant or product accessible for grading service;
 - 8. Interference with the performance of duty of an AZDA grader, licensee, contractor, or employee.
 - 9. Failure to pay a Department invoice within 30 days after issuance of the invoice; or
 - 10. Any other violation of any provision of the statutes, rules and regulations of the Department that threatens the health, safety, or welfare of the public.
- F. Notification. An applicant shall be promptly notified of the reasons for a denial of service. A written petition for reconsideration of such denial may be filed by the applicant with the Administrator if postmarked or delivered within 10 days after the receipt of notice of the denial. Such petition shall state spe-

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cifically the errors alleged to have been made by the Administrator in denying the application. Within 20 days following the receipt of such a petition for reconsideration, the Administrator shall approve the application or notify the applicant of the reasons for the denial thereof. Service of notice may be accomplished by regular mail and/or email.

- G.** Withdrawal of application. An application for grading service may be withdrawn by the applicant at any time before the service is performed, provided that the applicant pays all expenses incurred by the AZDA in connection with such application.

Historical Note

Section R3-2-1105 recodified from R3-2-105 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1106. Authority of Applicant

- A.** Proof that an authorized controlling person is applying for any grading service may be required at the discretion of the Administrator. Such proof may include, but is not limited to:
1. Documentation, as specified under A.R.S. § 41-1080(A), of the applicant's lawful presence in the U.S.
 2. Proof of business entity structure of the plant.
 3. Proof of ownership interest or position held in the plant.
 4. Documentation of designated authority from the business entity under which the plant operates.
- B.** The approved recipient of grading services must notify the Department of a change of control or ownership of the official plant within 15 days after such change is effective.

Historical Note

Section R3-2-1106 recodified from R3-2-106 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1107. Order of Service

AZDA grading service shall be performed, insofar as practicable and subject to the availability of qualified graders, on a first-come, first-served basis, except that precedence may be given to an application for an appeal grading.

Historical Note

Section R3-2-1107 recodified from R3-2-107 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1108. Types of Grading Service

- A.** Scheduled continuous grading service on a resident basis and continuous grading service on a nonresident basis. Service on a resident basis has a scheduled tour of duty, while service on a nonresident basis has a nonscheduled tour of duty, but is of a reoccurring nature. Both of these services are performed when an applicant requests that an AZDA/inspector grader be stationed in the applicant's processing plant and grade eggs in accordance with U.S. Standards. The applicant agrees to comply with the facility, operating, and sanitary requirements of resident service. The charges for resident grading services are

based on the hours of the regular tour of duty. Eggs graded under AZDA resident grading service are only eligible to be identified with the official grademarks shown in R3-2-1111 when processed and graded under the supervision of a grader/inspector, or quality assurance inspector as provided in R3-2-1114.

- B.** Unscheduled temporary grading service. Temporary grading service is performed when an applicant requests resident grading on a fee basis. The applicant must meet all of the facility, operating, and sanitary requirements of resident service. Charges or fees are based on the time and expenses needed to perform the work. Eggs graded under temporary grading service are only eligible to be identified with the official AZDA grademarks when they are processed and graded under the supervision of a grader or quality assurance inspector as provided in R3-2-1114.
- C.** Auditing service. Auditing service is performed when an applicant requests independent verification of written quality assurance and value added standards for production, processing, and distribution of eggs. Charges or fees are based on time, travel, and expenses needed to perform the work.
- D.** The Department shall determine the number of graders needed to perform grading services. Recipients shall not ask AZDA graders to assume plant managerial responsibilities.

Historical Note

Section R3-2-1108 recodified from R3-2-108 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1109. Suspension of Grading Service or Plant Approval for Correctable Cause

- A.** Provision of grading services is a privilege and not a right. Any plant approval of grading services given pursuant to this Article may be suspended by the Administrator for:
1. Failure to maintain grading facilities and equipment in a satisfactory state of repair, sanitation, or cleanliness.
 2. The use of operating procedures which are not in accordance with this Article;
 3. Alterations of grading facilities or equipment which have not been approved in accordance with this Article; or
 4. Any reasons listed under R3-2-1105(D) "Denial of Service," or required by any other need to protect public health, safety, or welfare.
- B.** Suspension may occur prior to the right to have a hearing in cases in which immediate suspension is required to protect public health, safety, or welfare. Whenever it is feasible to do so, written notice in advance of such suspension of plant approval shall be given to the person concerned and shall specify a reasonable period of time in which corrective action must be taken. If advance written notice is not given, the action shall be promptly confirmed in writing after the suspension and the reasons therefor shall be stated, except in instances where the person has already corrected the deficiency. During such period of suspension, grading service shall not be rendered. After appropriate corrective action is taken, grading service will be restored immediately, or as soon thereafter as a grader can be made available.
- C.** If the grading facilities or methods of operation are not brought into compliance within a reasonable period of time as specified by the Administrator, the Administrator shall send formal notice of the suspension pursuant to A.R.S. Title 41,

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Chapter 6, Article 10. Any suspension shall continue in effect pending the outcome of a hearing unless otherwise ordered by the Administrator.

- D. Upon suspension of grading service, all grademarks (labels, seals, tags, or packaging material bearing other official identification), shall, under the supervision of a person designated by the AZDA, be destroyed, obliterated, or sequestered in a manner acceptable to the AZDA.
- E. In any case where grading service is suspended under this Section, the person concerned may thereafter apply for grading service once the conditions giving rise to the suspension or withdrawal have been remediated.

Historical Note

Section R3-2-1109 recodified from R3-2-109 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1110. Authority to Use Official Insignia

- A. Authority to use official AZDA grademarks. Authority to use an AZDA grademark on products is granted only to recipients who utilize the services of a grader or quality assurance inspector in accordance with this Article. Packaging materials bearing official identification marks shall be approved pursuant to R3-2-1110 to R3-2-1111, inclusive, and shall be used only for the purpose for which approved and prescribed by the Administrator. Any unauthorized use or disposition of approved labels or packaging materials which bear any official AZDA identification may result in cancellation of grading service, denial of the permission to use of labels or packaging materials bearing official identification, or denial of other benefits of the Act pursuant to the provisions of R3-2-1105 D.
- B. Approval of official identification. No label, container, or packaging material which bears official identification may contain any statement that is false or misleading. No label, container, or packaging material bearing official identification may be printed or prepared for use until the printers' or other final proof has been approved by the Administrator in accordance with this Article. It is the recipient's responsibility to ensure label compliance with the Federal Food, Drug, and Cosmetic Act, the Fair Packaging and Labeling Act, and the regulations promulgated under this Article. The use of finished labels must be approved as prescribed by the Administrator. A grader may apply official identification stamps to shipping containers if they do not bear any statement that is false or misleading. If the label is printed or otherwise applied directly to the container, the principal display panels of such container shall for this purpose be considered as the label. The label shall contain the name, address, and ZIP Code of the packer or distributor of the product, the name of the product, a statement of the net contents of the container, and the AZDA grademark.
- C. Nutritional labeling. Nutrition information must be included on the labeling of each unit container of consumer packaged eggs in accordance with the General Regulations for the Enforcement of the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act, located at 21 CFR §§ 101.1 to 101.108. The nutrition information included on labels is subject to review by the Food and Drug Administration prior to approval by the Department.
- D. Refrigeration labeling. All containers bearing official AZDA "Grade AA" or "Grade A" identification shall be labeled to

indicate that refrigeration is required, for example, "Keep refrigerated," or words of similar meaning.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1111. Form of AZDA Grademark and Information Required

- A. Form of official identification symbol and grademark. The logo set forth in Illustration 1 shall be the official identification symbol for purposes of this Article and when used, imitated, or simulated in any manner in connection with eggs, shall be *prima facie* evidence that the product has been officially graded in compliance with this Article.
- B. Eggs with consumer grades. Except as otherwise authorized, the AZDA grademark used to officially identify AZDA consumer-graded eggs shall be of the form and design indicated in Illustrations 2 through 4. The logo shall be of sufficient size so that the printing and other information contained therein is legible and in approximately the same proportion as shown in these figures. No variation may be used for the color scheme of Illustration 4.
- C. The "Produced From" AZDA grademark. The Illustration 5 grademark may be used to identify products for which there are no official U.S. grade standards (for example, pasteurized shell eggs, and/or hard boiled eggs), provided that these products are approved by the Department and are prepared from AZDA compliant Consumer Grade AA or A eggs. The Illustration 5 grademark may utilize any one of the designs shown in Illustrations 2 through 4. The "Produced From" text outside the symbol shall be conspicuous, legible, and in approximately the same proportion and close proximity to the symbol as shown in Illustration 5.
- D. Information required on AZDA grademark. Except as otherwise authorized by the Administrator, each AZDA grademark shall include the letters "AZDA" and the U.S. grade of the product it identifies, such as "Grade AA," as shown in Illustration 2. Such information shall be printed with the symbol and the wording within the symbol in contrasting colors in a manner such that the design is legible and conspicuous on the material upon which it is printed.
- E. Product class. The size or weight class of the product, such as "Large," may appear within the grademark as shown in Illustration 3. If the size or weight class is omitted from the grademark, it must appear prominently on the main panel of the carton.
- F. Plant number. The plant number of the official plant preceded by the letter "P" must be shown on each carton or packaging material.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020

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(Supp. 20-2).

2020 (Supp. 20-2).

Illustration 1. AZDA**Historical Note**

Illustration 1 made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

Illustration 2. AZDA Grade AA**Historical Note**

Illustration 2 made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

Illustration 3. AZDA Grade AA Large**Historical Note**

Illustration 3 made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9,

Illustration 4. AZDA AA Grade**Historical Note**

Illustration 4 made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

Illustration 5. AZDA Grade AA Produced From Shell Eggs Produced From**Historical Note**

Illustration 5 made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-4-1112. Lot Marking of Officially Identified Eggs

Each carton identified with the AZDA grademarks shown in R3-2-1111 shall be legibly lot-numbered on the consumer package and the carton, and may also be shown on the individual egg. The lot number shall be the consecutive day of the year (Julian date) on which the eggs were packed (for example, 132), except other lot-numbering systems may be used when submitted in writing and approved by the Administrator.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1113. Retention Directives

A grader may use retention tags or other devices and methods as approved by the Administrator for the identification and control of eggs which are not in compliance with this Article or are held for further examination, and for any equipment, utensils, rooms or

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compartments which are found unclean or otherwise in violation of this Article. Any such item shall not be released until in compliance with this Article and retention identification shall not be removed by anyone other than a grader.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1114. Prerequisites to Packaging Eggs Identified with Grademarks

Quality assurance inspector required. The official grademark identification of any product as provided in this Article shall be done only under the supervision of a grader or quality assurance inspector. The grader or quality assurance inspector shall have supervision over the use and handling of all material bearing any official grademark identification.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1115. Grading Requirements of Eggs Identified with AZDA Grademarks

- A. Eggs to be identified with the AZDA grademarks illustrated in R3-2-1111 must be individually graded by a grader.
- B. In order to be officially identified with an AZDA consumer grademark, eggs shall:
 1. Be of current production;
 2. Be produced and processed within the borders of Arizona;
 3. Not possess any undesirable odors or flavors;
 4. Not have previously been shipped for retail sale;
 5. Meet consumer Grade A or Grade AA, as prescribed in AMS 56, United States Standards, Grades, and Weight Classes for Shell Eggs, revised as of July 20, 2000, which is incorporated by reference, does not include any later amendments or editions of the incorporated matter, is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007, and can be found online at https://www.ams.usda.gov/sites/default/files/media/Shell_Egg_Standard%5B1%5D.pdf;
 6. Be produced and packaged in a facility in accordance with the Food and Drug Administration, Department of Health and Human Services' requirements for the Production, Storage, and transportation of Shell Eggs as specified in 21 CFR §§ 118.1 to 118.12, revised as of April 1, 2011, which is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007;
 7. Be produced and packaged in a facility that meets the Regulations Governing the Inspection of Eggs under the Egg Products Inspection Act (EPIA), as specified in 7 CFR §§ 57.1 to 57.970, revised as of April 12, 2006, which is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007;
 8. Be produced in a facility that has implemented a SE environmental monitoring program which includes testing for SE in chick papers and in the house environment when the pullets are 14-16 weeks of age, 40-45 weeks of age, four to six weeks post-molt, and pre-depopulation.

9. Be produced in a facility that has implemented and maintained a vaccination program to protect against SE infection, which includes a minimum of two attenuated live vaccinations and one killed or inactivated vaccination, or an alternative vaccination program that has been approved by the Department after having been demonstrated in the Department's estimation to be equally effective.

- C. Management at an official plant is responsible for notifying the AZDA grader whenever contaminated or adulterated eggs are present in the official plant. Any eggs identified as contaminated or adulterated must be properly labeled and controlled by plant management. This includes eggs originating from a layer house with an SE-positive environment or eggs testing positive for the presence of SE. Failure to control, detain and/or notify the grader of the presence of contaminated or adulterated eggs in the official plant will constitute a violation of this Article. Department employees are authorized to inspect lay houses and review plant documents to determine compliance with this Article.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1116. Payment of Fees and Charges

- A. Fees and charges for any grading service shall be paid by the recipient by check, draft, or money order payable to the "Arizona Department of Agriculture Egg Program." AZDA may require that fees and charges shall be paid in advance, and shall include travel, per diem, or other expenses incurred by the Department in connection with providing grading services.
- B. The cost of an appeal grading or review of a grader's decision shall be borne by the appellant on a unscheduled temporary basis at rates set forth in R3-2-1117, plus travel, per diem, or other expenses. If the appeal grading or review of a grader's decision discloses that a material error was made in the original determination, no fee or expenses will be charged for the regrading.
- C. Invoices for services previously rendered will be issued no later than the 10th day following the end of the period in which the service was rendered and are payable in full upon receipt.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1117. Charges for Grading Service

- A. Scheduled continuous grading service. The following rates apply to continuous grading service on a resident basis and continuous grading service on a nonresident basis per grader:
 1. Regular rate: \$38.00/hour
 2. Overtime rate: \$57.00/hour
 3. Holiday rate: \$58.00/hour
- B. Plant survey, unscheduled temporary, auditing and appeal grading services. The following rates apply to temporary and auditing service per grader:
 1. Regular rate: \$57.00/hour
 2. Overtime rate: \$85.00/hour
 3. Holiday rate: \$87.00/hour
- C. Reapplication after termination of service by recipient. If a recipient causes termination under R3-2-1105(D), and reapplies within 12 months from the date of termination, there will

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be an additional re-application fee of \$300 in addition to the above fees.

- D. Extra charges.** The following extra charges shall be assessed:
1. All hours worked by an assigned grader or another grader in excess of the approved tour of duty, worked on a non-scheduled workday, or worked on a State holiday outside of the approved tour of duty, will be considered as overtime, at the rate of time and one-half.
 2. For all hours of work performed in a plant without an approved tour of duty, the charge will be the temporary grading service.
- E. No charges.** No charges will be assessed:
1. Solely because of a change in name or ownership of the official plant, unless the recipient of services fails to notify the Department within the time limit specified in R3-2-1105, in which case the above charges will apply.
 2. When the assigned grader is temporarily reassigned by AZDA to perform grading service for another service recipient.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1118. Termination by Recipient

Grading services under this Article shall be unilaterally terminated by the recipient of such service when:

- A.** Service is not installed within six months from the date the application is filed due to inaction by the applicant or recipient on Department requirements.
- B.** Service remains inactive for a period of more than six months due to a recipient's request for removal of a grader and the recipient does not accept reassignment of another grader by the Department.
- C.** The recipient is terminated for cause based on violations listed in R3-2-1105(D).

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1119. Mutual Termination

- A.** The Department and the recipient of service may mutually agree to termination of the service, under the following terms:
- B.** Previously paid fees will not be returned to the service recipient.
- C.** Pending charges will be paid in full for completed work of the Department.
- D.** A pending application will be considered terminated, but a new application may be filed at any time, without penalty.
- E.** Termination shall not take effect until the end of a 30-days' notice period, unless the parties agree otherwise.
- F.** The mutual decision to terminate and any related agreements are documented in writing.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1120. Appeals

- A.** Appeal grading. An appeal grading may be requested by any recipient or authorized designee or other interested party ("appellant") who is dissatisfied with the determination by a grader of the class, quality, quantity, or condition of any prod-

uct as evidenced by the AZDA grademark and accompanying label, or as stated on a grading certificate.

1. The appeal shall be filed with the original grader's immediate supervisor.
2. Initial review of the appeal shall be made by the original grader's immediate supervisor, or by one or more licensed graders assigned by the immediate supervisor to review the appeal.
2. An appeal may be made orally or in writing. If made orally, written confirmation is required. The appellant shall clearly state the reasons for requesting the appeal grading and a description of the product, or the decision which is questioned. If such appeal request is based on the results stated on an official certificate, the original and all available copies of the certificate shall be provided to the grader assigned to perform the appeal grading.
3. The appellant's request for the appeal grading may be refused when it appears to the reviewer that the reasons given in the request are frivolous or not substantial, the quality or condition of the product has undergone a material change since the original grading, the original lot has changed in some manner, or the appellant has not materially complied with the requirements of this Article. In such case, the appellant shall be promptly notified of the reason or reasons for such refusal.
4. If an appeal grading is granted, it shall be performed by a grader other than the original grader. Whenever practical, an appeal grading shall be conducted jointly by two independent graders.
5. The following procedures shall be used for appeal grading:
 - a. The appeal sample shall consist of product taken from the original sample container plus an equal number of samples selected at random.
 - b. When the original samples are not available or have been altered, such as the removal of undergrades, the appeal sample size for the lot shall consist of double the samples required in R3-2-1102.
 - c. Eggs shall not have been moved from the original place of grading and must have been maintained under adequate refrigeration.
6. Immediately after an appeal grading is completed, an appeal certificate shall be issued to show that the original grading was upheld, modified, or rejected. Such certificate shall supersede any previously issued certificate for the product involved and shall clearly identify the number and date of the superseded certificate. The issuance of the appeal certificate may be withheld until any previously issued certificate and all copies have been returned when such action is deemed necessary to protect the interest of the Department. When the appeal grader assigns a different grade to the lot, the existing AZDA grademark shall be changed or obliterated as necessary. When the appeal grader assigns a different class or quantity designation to the lot, the labeling shall be corrected.
- B.** Appeal for suspension, termination or denial of service or debarment. Any person whose grading service is suspended, terminated, denied service, or debarred, may request a hearing before an administrative law judge pursuant to A.R.S. Title 41, Chapter 6, Article 10. The decision of the administrative law judge is subject to review by the Director as provided by A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R.

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916, with an immediate effective date of April 9, 2020
(Supp. 20-2).

R3-2-1121. AZDA Grading Certificates

- A.** Forms. AZDA grading certificates and sampling report forms (including appeal grading certificates and regrading certificates) shall be issued on forms approved by the Administrator.
- B.** Issuance.
1. Resident grading basis. Certificates will be issued only upon request therefor by the applicant or AZDA. When requested, a grader shall issue a certificate covering product graded by such grader. In addition, a grader may issue a grading certificate covering product graded in whole or in part by another grader when the grader has knowledge that the product is eligible for certification based on personal examination of the product or official grading records.
 2. Other than resident grading. Each grader shall, in person or by the grader's authorized agent, issue a grading certificate covering each product graded by such grader. A grader's name may be signed on a grading certificate by a person other than the grader, if such person has been designated as the authorized agent of such grader by the Administrator, provided that:
 - a. The certificate is prepared from an official memorandum of grading signed by the grader; and
 - b. A notarized power of attorney authorizing such signature has been issued to such person by the grader and is on file in the office of grading. In such case, the authorized agent shall sign both the agent's name and the grader's name, for example, "John Doe by Mary Roe."
- C.** Disposition. The original and required or requested copies of the grading certificate, immediately upon issuance, shall be delivered, mailed, or electronically submitted to the recipient or the recipient's designee. One copy is required to be sent and the recipient may request additional copies. Other copies shall be filed and retained in accordance with the disposition schedule for grading program records.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R.
916, with an immediate effective date of April 9, 2020
(Supp. 20-2).

R3-2-1122. Minimum Facility and Operating Requirements for Egg Grading and Packing Plants

- A.** For grading services that are provided on a resident or temporary basis, QAD 700 Shell Egg Graders Handbook Section 02 through Section 08, revised as of August 30, 2016. This material is incorporated by reference, does not include any later amendments or editions of the incorporate matter, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007; and the following minimum facility and operating conditions will be required:
- B.** Applicants must comply with all applicable Federal, State and local government occupational safety and health regulations.
- C.** Processing facilities are required to have a documented and implemented Quality Management System that meets Title 21, Part 117 of the U.S. Code of Federal Regulations "Current Good Manufacturing Practice, Hazard Analysis, and Risk-based Preventive Controls for Human Foods," revised as of April 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporate matter, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007.

- D.** General requirements for premises, buildings and plant facilities.

1. The outside premises shall be free from refuse, rubbish, waste, unused equipment, and other materials and conditions which constitute a source of odors or a harbor for insects, rodents, and other vermin.
2. The outside premises adjacent to grading, packing, cooler, and storage rooms must be constructed to provide proper drainage to prevent conditions that may constitute a source of odors or propagate insects or rodents.
3. Buildings shall be of sound construction so as to prevent, insofar as practicable, the entrance or harboring of vermin.
4. Grading and packing rooms shall be of sufficient size to permit installation of necessary equipment and conduct grading and packing in a sanitary manner. These rooms shall be kept reasonably clean during grading and packing operations and shall be thoroughly cleaned at the end of each operating day.
5. The floors, walls, ceilings, partitions, and other parts of the grading and packing rooms including benches and platforms shall be constructed of materials that are readily cleanable, maintained in a sanitary condition, and impervious to moisture in areas exposed to cleaning solutions or moist conditions. The floors shall be constructed as to provide proper drainage.
6. Adequate toilet accommodations that are conveniently located and separated from the grading and packing rooms are to be provided. Handwashing facilities shall be provided with hot and cold running water, an acceptable handwashing detergent, and a sanitary method for drying hands. Toilet rooms shall be ventilated to the outside of the building and be maintained in a clean and sanitary condition. Signs shall be posted in the toilet rooms instructing employees to wash their hands before returning to work. In new or remodeled construction, toilet rooms shall be located in areas that do not open directly into processing rooms.
7. A separate refuse room or a designated area for the accumulation of trash must be provided in plants which do not have a system for the daily removal or destruction of such trash.
8. Adequate packing and packaging storage areas are to be provided that protect packaging materials and are dry and maintained in a clean and sanitary condition.

- E.** Grading and packing room requirements.

1. The egg grading or candling area shall be capable of adequate darkening to make possible the accurate quality determination of the candled appearance of eggs. There shall be no light source or reflection of light that interferes with, or prohibits the accurate quality determination of eggs in the grading or candling areas.
2. The grading and candling equipment shall provide adequate light to facilitate quality determinations. When needed, other light sources and equipment or facilities shall be provided to permit the detection and removal of stained and dirty eggs or other undergrade eggs.
3. The grading and candling equipment must be sanitarily designed and constructed to facilitate cleaning. Such equipment shall be kept reasonably clean during grading and packing operations and be thoroughly cleaned at the end of each operating day.

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4. Egg weighing equipment shall be constructed of materials to permit cleaning; operated in a clean, sanitary manner; and shall be capable of ready adjustment.
 5. Adequate ventilation, heating, and cooling shall be provided where needed.
- F. Cooler room requirements.**
1. Cooler rooms holding eggs that are identified with a consumer grade shall be refrigerated and capable of maintaining an ambient temperature no greater than 45 °F (7.2 °C).
 2. Accurate thermometers shall be provided for monitoring cooler room temperatures.
 3. Cooler rooms shall be free from objectionable odors and from mold, and shall be maintained in a sanitary condition.
- G. Egg protecting operations.**
1. Egg protecting (oil application) operations shall be conducted in a manner to avoid contamination of the product and maximize conservation of its quality.
 2. Component equipment within the egg protecting system, including holding tanks and containers, must be sanitarily designed and maintained in a clean and sanitary manner, and the application equipment must provide an adequate amount of oil for shell coverage of the volume of eggs processed.
 3. Eggs with excess moisture on the shell shall not be shell protected.
 4. Oil having any off odor, or that is obviously contaminated, shall not be used in egg protection operations. Oil is to be filtered prior to application.
 5. The component equipment of the application system shall be washed, rinsed, and treated with a bactericidal agent each time the oil is removed.
 6. Adequate coverage and protection against dust and dirt shall be provided when the equipment is not in use.
- H. Egg cleaning operations.**
1. Egg washing equipment must be sanitarily designed, maintained in a clean and sanitary manner, and thoroughly cleaned at the end of each operating day.
 2. Egg drying equipment must be sanitarily designed and maintained in a clean and sanitary manner. Air used for drying purposes must be filtered. These filters shall be cleaned or replaced as needed to maintain a sanitary process.
 3. The temperature of the wash water shall be maintained at 90 °F (32.2 °C) or higher, and shall be at least 20 °F (6.7 °C) warmer than the internal temperature of the eggs to be washed. These temperatures shall be maintained throughout the cleaning cycle. Accurate thermometers shall be provided for monitoring wash water temperatures.
 4. Approved cleaning compounds shall be used in the wash water.
 5. Wash water shall be maintained at a measurable pH level of 11 or higher. Accurate testing equipment shall be provided and accessible to the grader. If continuous monitoring of pH is not possible, the applicant should devise a monitoring system for documenting pH with a frequency that has been validated.
 6. Wash water shall be changed approximately every four hours or more often if needed to maintain sanitary conditions, and at the end of each shift. Remedial measures shall be taken to prevent excess foaming during the egg washing operation.
7. Replacement water shall be added continuously to the wash water of washers. Chlorine or quaternary sanitizing rinse water may be used as part of the replacement water, provided, they are compatible with the washing compound. Iodine sanitizing rinse water may not be used as part of the replacement water.
 8. Only potable water may be used to wash eggs. Each official plant shall submit certification to the office of grading stating that their water supply is potable. An analysis of the iron content of the water supply, stated in parts per million, is also required. When the iron content exceeds two parts per million, equipment shall be provided to reduce the iron content below the maximum allowed level. Frequency of testing for potability and iron content shall be determined by the Administrator. When the water source is changed, new tests are required.
 9. Waste water from the egg washing operation shall be piped directly to drains.
 10. The washing, rinsing, and drying operations shall be continuous and shall be completed as rapidly as possible to maximize conservation of the egg's quality and to prevent sweating of eggs. Eggs shall not be allowed to stand or soak in water. Immersion-type washers shall not be used.
 11. Prewetting eggs prior to washing may be accomplished by spraying a continuous flow of water over the eggs in a manner which permits the water to drain away or other methods which may be approved by the Administrator. The temperature of the water shall be the same as prescribed in this Section.
 12. Washed eggs shall be spray-rinsed with water having a temperature equal to, or warmer than, the temperature of the wash water. The spray-rinse water shall contain a sanitizer that has been determined acceptable for the intended use by the supervisor and of not less than 100 PPM nor more than 200 PPM of available chlorine or its equivalent. Alternate procedures, in lieu of a sanitizer rinse, may be approved by the Administrator.
 13. Test kits shall be provided and used to determine the strength of the sanitizing solution.
 14. During non-processing periods, eggs shall be removed from the washing and rinsing area of the egg washer and from the scanning area whenever there is a buildup of heat that may diminish the quality of the egg.
 15. Washed eggs shall be reasonably dry before packaging and packing.
 16. Steam, vapors, or odors originating from the washing and rinsing operation shall be continuously and directly exhausted to the outside of the building.
- I. Requirements for eggs officially identified with a grademark.**
1. Eggs that are officially identified with an AZDA grademark shall be placed under refrigeration at an ambient temperature no greater than 45 °F (7.2 °C) promptly after packaging.
 2. Eggs that are to be officially identified with the AZDA grademark shall be packed only in new packaging materials that are clean, free of mold, mustiness and off odors, or clean and sanitized packaging material designed to be reused, and must be of sufficient strength and durability to adequately protect the eggs during normal distribution. When packed in other than fiber packing material, the containers must be of sound construction and maintained in a reasonably clean manner.
- J. Use of approved chemicals and compounds.**

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1. All egg washing and equipment cleaning compounds, defoamers, destainers, sanitizers, inks, oils, lubricants, or any other compound that comes into contact with the eggs shall be approved by the national supervisor for their specified use and handled in accordance with the manufacturer's instructions.
 2. All pesticides, insecticides, and rodenticides shall be approved for their specified use and handled in accordance with the manufacturer's instructions.
- K. Marking individual eggs.** The marking of individual eggs may be requested by processors as part of a specification requirement or for other marketing purposes.
1. Stamping eggs. Recognizing the difficulty in clearly stamping the rounded surface of an egg, a lot average tolerance of 10-percent for individual eggs with partial, illegible, or no marks in any combination is permitted with no individual case exceeding 20-percent. These tolerances may be applied as a moving average when performing online sampling or as a lot average while performing stationary lot gradings. If more than 50% of the image or letter or letters is missing, the symbol is illegible. Stamped eggs are not classified as stains or dirty. They are to be graded without regard to marking. An official grade cannot be assigned to a mixed lot of eggs that contains individually marked and unmarked eggs. If requested, the lot may be graded for all factors except ink stains. Lot averages may be shown on the certificate. The section "Official Grade and Size" shall state "No AZDA Grade." The following statement shall also be placed in the "Remarks" section: "Lot contains marked and unmarked eggs. Eggs graded for all factors except ink stains." Individual eggs with ink blotches or smears from dating devices are to be classified as stains or dirty, depending on the intensity and/or area of the stain [guidance not clear]. Inks used in marking individual eggs which will be officially graded are to be approved by the Administrator prior to their use. The request for approval should be accompanied with a copy of the ink formula, the name of the product, and the name and address of the manufacturer.
 2. Laser etching (marking eggs). The use of a laser etching system to mark information is subject to joint review by the Food and Drug Administration (food safety impact evaluation) and AZDA (quality impact evaluation). Only approved laser etching systems may be used to identify eggs to be officially graded and identified with an AZDA grademark. The amount of the shell surface available for laser etching and the information etched on the shell is subject to review by the resident grader and the supervisor. The information etched on the shell must not interfere with the graders ability to evaluate the quality attributes of the egg.
 3. When an individual egg is marked, whether an applied ink or laser etched, the information must be consistent with the information on the label, for example, any marketing claims, production code, or packer identity. If this information is not consistent throughout the lot, the eggs are not eligible to be identified with an AZDA grademark.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R.
916, with an immediate effective date of April 9, 2020

(Supp. 20-2).

R3-2-1123. Health and Hygiene of Personnel

- A.** No person known to be affected by a communicable or infectious disease shall be permitted to come in contact with the product.
- B.** Plant personnel coming into contact with the product shall wear clean clothing.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R.
916, with an immediate effective date of April 9, 2020
(Supp. 20-2).

R3-2-1124. Use of the "Produced From" Labeling

- A.** Use of the wording "Produced From" in conjunction with the AZDA grademark, is limited to products derived from AZDA Grade AA or Grade A eggs for which there are no U.S. grade standards (for example, pasteurized eggs or hard-cooked eggs). The following guidelines are to be used when monitoring the official grade identification of these types of products.
 1. Approval. Applicants interested in utilizing the "Produced From" labeling must submit a written proposal to the Administrator. The proposal is to include the type or types of product to be labeled and the applicant's plan for controlling the use and labeling of officially identified product. After review by the supervisor, the supervisor is to forward the request to the Administrator for final review and approval. Upon approval, the supervisor is to reconfirm all of the requirements with the applicant prior to any actual grade identification.
 2. Verification visits. To assure that only officially graded eggs are being used, the processing, packing, and packaging must be closely monitored. Each verification visit shall include a review of records, product inventory, processing procedures, packing, packaging, storage, and shipping practices to confirm that the applicant is following the protocol outlined in their approved plan. In plants with resident service, the supervisor or Administrator is to be present during the initial production period to monitor the process and verify compliance. The grader will conduct all subsequent monitoring and verification activities with oversight from the supervisor. In temporary or fee locations, plant management must notify the supervisor each time the "produced from" labeling will be used or, alternatively, provide the supervisor with a projected production schedule. At these locations, compliance will be based on the applicant's established history of compliance as outlined in the following schedule:
 - a. Level 1 - The supervisor or administrator is to monitor and verify the process on the initial day of production. The supervisor or a grader will conduct subsequent visits. At least one additional verification visit is to be conducted during the next 10 production days. If no discrepancies are noted, one visit is to be conducted for each 30 days of production until three consecutive satisfactory visits have been completed. Once this verification period has ended without any noted program non-conformance, monitoring may proceed to Level 2.
 - b. Level 2 - Supervisor or a grader is to conduct quarterly verification visits provided the applicant continues to meet all program requirements. If any nonconformance is noted during these visits, monitoring reverts back to Level 1. Misuse of the labeling will result in cancellation of the approval.

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- B.** Recordkeeping. Recipients shall maintain, and make available for review, all invoices or applicable Grading Certificates covering product received, produced, and shipped. At a minimum, these records must include the name and address of original packer, amount received, quantity produced, brand names, lot numbers, quantity shipped and name and address of receivers. Records must be maintained for two years.
- C.** Cost. There will be no additional charge to resident plants when graders monitor product labeling during their normal grading activities. When graded product is shipped from official plants to other processing locations for re-packaging that are not under continuous AZDA supervision, time and expenses associated in conducting the verification visits will be charged to the recipient at the current Temporary grading and auditing service rate.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1125. Specification Grading

- A.** Applicants may request for additional specifications to be certified that exceed the standards of this Chapter. The requested specifications must be submitted in writing to the administrator for approval. The approving official will review the information for approval or advise the applicant of the reason or reasons for disapproval. If the specification is approved, a letter enclosing a copy of the approved application and specification will be returned to the applicant with a request to provide copies of the specification to each supplier and applicable AZDA grader. Each page of the approved specification will have an approval stamp bearing the date of approval and the signature of the approving official. Additionally, each page will be sequentially numbered such as page 1 of 5, page 2 of 5, etc.
- B.** Plant management is responsible for advising graders when they are preparing to pack eggs in accordance with an approved specification. However, each grader must be familiar with the approved specification list and, to the extent practically possible, be aware when products with approved specifications are being packed at the duty location. When a plant packs product requiring compliance with an approved specification, the grader shall obtain a copy of the specification from plant management and assure that all provisions of the specification are met. As applicable, product that meets specification requirements will be identified in accordance with procedures outlined in the approved specification. When the specification requires the issuance of a grading certificate, the following statement is to be placed in the remarks section of the certificate: "Product covered by this certificate meets specification requirements for _____."

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

ARTICLE 12. ACQUISITION AND USE OF SODIUM PENTOBARBITAL AND DERIVATIVES BY UNLICENSED INDIVIDUALS IN ANIMAL SHELTERS

R3-2-1201. Definitions

1. "Agreement" shall refer to a contract signed by the responsible person and the State Veterinarian whereby the responsible person has met all requirements set forth in Section R3-2-1202. The agreement remains in effect until

the expiration of the DEA registration or a change in employment status of the responsible person with the animal shelter.

2. "Approved curriculum" means any euthanasia-training curriculum approved by the AVMA or the State Veterinarian of Arizona.
3. "Authorized employee" means an unlicensed individual who is authorized to euthanize animals, takes direction from a responsible person or a licensed person, and has obtained State-Veterinarian-approved training in the use and handling of controlled substances as set forth in this Article.
4. "AVMA" means the American Veterinary Medical Association.
5. "AVMA Guidelines for the Euthanasia of Animals: 2020 Edition" means that specific edition of guidelines and does not include any later amendments or editions of the incorporated material, and is on file with the Department.
6. "Controlled Substances Act" refers to 21 U.S.C.A. § 801, et seq.
7. "Controlling person" means the natural person who exercises legal ownership, control, or designated leadership of a shelter.
8. "DEA" refers to the federal Drug Enforcement Agency.
9. "Licensed person" means a veterinarian licensed by the Arizona Veterinary Medical Examining Board, who is exempt from the euthanasia training requirements.
10. "Responsible person" means an unlicensed individual who meets the requirements of R3-2-1202, who is employed by the shelter, and who in the absence of a licensed person, has agreed to supervise the acquisition, storage, administration, and record-keeping of the controlled substances in accordance with the Controlled Substances Act and this Article.
11. "Shelter" means an animal care and control shelter operated by any town, city, county or the state, including privately operated animal shelters that are utilized by a town, city, county or the state.
12. "State Veterinarian" means the person appointed as the State Veterinarian under A.R.S. § 3-1211.

Historical Note

New Section made by final rulemaking at 29 A.A.R. 1327 (June 9, 2023), effective July 8, 2023 (Supp. 23-2).

R3-2-1202. General Provisions

- A.** Euthanasia of animals shall be done in compliance with the provisions of this Article and in accordance with procedures established under A.R.S. § 11-1021 by the local governing body.
- B.** Any shelter that does not employ a licensed supervisory veterinarian may apply for a DEA controlled-substances registration for each physical location in order to administer euthanasia. DEA will only grant the registration if the shelter is approved by, and meets the standards of, the State Veterinarian, as follows:
1. The responsible person is formally designated by the controlling person of the shelter as the individual responsible to obtain and manage controlled substances on behalf of the shelter;
 2. The responsible person must successfully complete an approved euthanasia training course;
 3. The responsible person and the State Veterinarian must execute an agreement obligating the responsible person to comply with this Article;

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4. The responsible person is 21 years of age or older; and
 5. The responsible person shall provide three professional references to the State Veterinarian to demonstrate professionalism and good moral character.
- C.** Duties and responsibilities of the responsible person are to:
1. Abide by all local, state, and federal laws and regulations pertaining to the operation of a shelter, including those laws and regulations governing possession and use of controlled substances.
 2. Ensure that any authorized employee who administers euthanasia complies with the American Veterinary Medical Association (AVMA) Guidelines for the Euthanasia of Animals: 2020 Edition.
 3. Ensure that any authorized employee who administers euthanasia has successfully completed a curriculum of euthanasia training approved by the State Veterinarian.
- D.** Prior to the expiration of the current DEA registration, the responsible person shall submit an application to the State Veterinarian at least 45 days prior to that expiration, requesting re-approval of the shelter according to the requirements of this Article. The State Veterinarian approval shall run concurrently with the DEA registration, except as indicated in subsection (E).
- E.** The shelter shall inform the State Veterinarian within 14 days of a change in:
1. Ownership or controlling person;
 2. Location;
 3. Responsible person; or
 4. Expiration or termination of an agreement or contract between a town, city, county or state utilizing the services of a privately operated shelter or shelters.
- F.** Upon a change listed in subsection (E), the controlling person shall file an application with the State Veterinarian, requesting re-approval of the shelter according to the requirements of this Article. The existing agreement terminates upon the date of the change, and the shelter shall not administer any controlled substances until the State Veterinarian approves the new application and a new DEA registration is obtained.
- A.** The following organizations offer approved euthanasia courses: The American Humane Association; The National Animal Care and Control Association; Companion Animal Euthanasia Training Academy. The State Veterinarian reserves the right to approve or withdraw the approval of curricula at any time. Approved curriculum training shall include an instructional section and a practical exam showing skill competency; and shall include, but not be limited to, the following topics:
1. Anatomy;
 2. Personnel safety, controlled substance diversion, and compassion fatigue;
 3. Controlled substance handling and mechanism of action;
 4. Humane methods of handling and euthanasia of domestic animals;
 5. Methods to ensure barriers between animals during euthanasia;
 6. Concepts particular to euthanasia of wild or feral animals;
 7. Administering pre-euthanasia sedatives;
 8. Verification of death; and
 9. Acceptable methods of disposal of animal remains and euthanasia supplies.
- B.** The responsible person shall keep records of all euthanasia-related activities including, but not limited to:
1. Identification of animals euthanized;
 2. Reason for euthanasia;
 3. Method of euthanasia;
 4. Adverse events; and
 5. All recordkeeping required by the Controlled Substances Act.
- C.** A shelter is subject to periodic random inspection by the Office of the State Veterinarian. Upon request by the Office of the State Veterinarian, the responsible person or controlling person shall immediately produce records.
- D.** Following an audit or inspection, if evidence exists of non-compliance with the standards in this Section, the State Veterinarian reserves the right to modify the agreement. The State Veterinarian may also terminate the agreement, and notify the DEA that the shelter has lost approval by the State Veterinarian to administer euthanasia by unlicensed individuals.

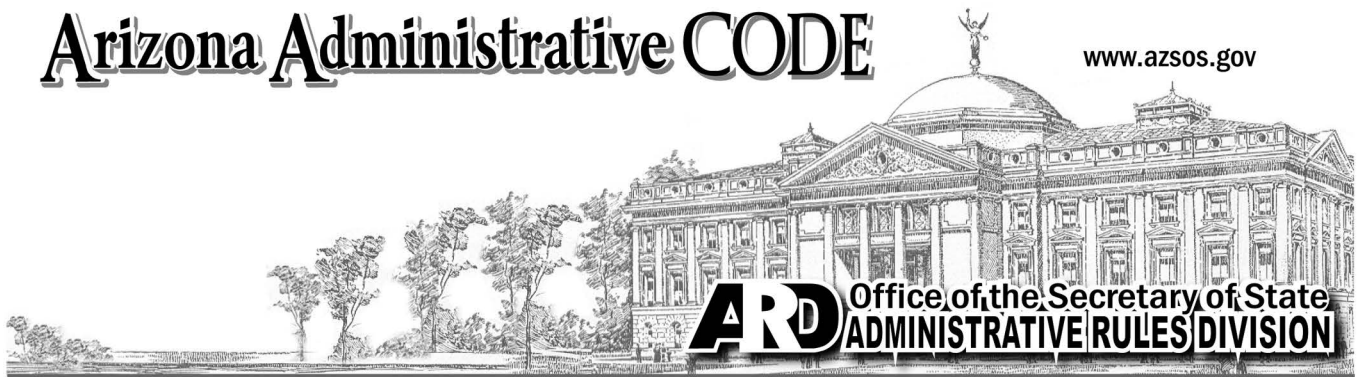
Historical Note

New Section made by final rulemaking at 29 A.A.R. 1327 (June 9, 2023), effective July 8, 2023 (Supp. 23-2).

R3-2-1203. Requirements of Euthanasia Approved Curriculum; Recordkeeping; Inspection**Historical Note**

New Section made by final rulemaking at 29 A.A.R. 1327 (June 9, 2023), effective July 8, 2023 (Supp. 23-2).

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Supp. 23-2

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 1. BOARD OF ACCOUNTANCY

The table of contents on page one contains links to the referenced page numbers in this Chapter.

Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
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Questions about these rules? Contact:

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The release of this Chapter in Supp. 23-2 replaces Supp. 22-2, 1-17 pages.

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

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

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

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

ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

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

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

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

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

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

PERSONAL USE/COMMERCIAL USE

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division

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TITLE 4. PROFESSIONS AND OCCUPATIONS**CHAPTER 1. BOARD OF ACCOUNTANCY**

Authority: A.R.S. § 32-701 et seq.

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ARTICLE 1. GENERAL

R4-1-101. Definitions

- A.** The definitions in A.R.S. § 32-701 apply to this Chapter.
- B.** In this Chapter, unless the context otherwise requires:
1. "Contested case" means any proceeding in which the legal rights, duties, or privileges of a party are required by law to be determined by any agency after an opportunity for hearing.
 2. "CPE" or "continuing professional education" means attending classes, writing articles, conducting or teaching courses, and taking self-study courses if the activities contribute to maintaining and improving of professional competence in accounting.
 3. "Facilitated State Board Access (FSBA)" means the sponsoring organization's process for providing the Board access to peer review results via a secured website.
 4. "Party" means each person or agency named or admitted as a party, or properly seeking and entitled, as of right, to be admitted as a party.
 5. "Peer review" means an assessment, conducted according to R4-1-454(A), of one or more aspects of the professional work of a firm.
 6. "Peer review program" means the sponsoring organization's entire peer review process, including but not limited to the standards for administering, performing and reporting on peer reviews, oversight procedures, training, and related guidance materials.
 7. "Person" may include any individual, and any form of corporation, partnership, or professional limited liability company.
 8. "Principal place of business" means the office designated by the individual as the principal location for the individual's practice of accounting.
 9. "Sponsoring organization" means a Board-approved professional society, or other organization approved by the Board responsible for the facilitation and administration of peer reviews through use of its peer review program and peer review standards.
 10. "Upper level course" means a course taken beyond the basic level, after any required prerequisite or introductory accounting course and does not include principles of accounting or similar introductory accounting courses.

Historical Note

Former Rule 1A; Amended effective February 22, 1978 (Supp. 78-1). Former Section R4-1-01 renumbered as Section R4-1-101 without change effective July 1, 1983 (Supp. 83-4). Amended effective August 21, 1986 (Supp. 86-4). Amended effective December 6, 1995 (Supp. 95-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 4352, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 28 A.A.R. 1106 (May 27, 2022), effective July 3, 2022 (Supp. 22-2).

R4-1-102. Powers of the Board: Applicability; Excuse; Extension

- A.** This Chapter applies to all actions and proceedings of the Board and is deemed part of the record in every action or proceeding without formal introduction or reference. All parties

are deemed to have knowledge of this Chapter, which the Board shall make available on the Board's website.

- B.** The Board, when within the Board's jurisdiction, may, in the interest of justice, excuse the failure of any person to comply with any part of this Chapter.
- C.** The Board, or in case of an emergency, the President or Executive Director, when within the Board's jurisdiction, may grant an extension of time to comply with this Chapter.

Historical Note

Former Rules 1B, 1C, 1D, 1E; Former Section R4-1-02 renumbered as Section R4-1-102 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).

R4-1-103. Repealed**Historical Note**

Former Rule 2E; Former Section R4-1-03 renumbered as Section R4-1-103 without change effective July 1, 1983 (Supp. 83-4). Repealed effective August 21, 1986 (Supp. 86-4).

R4-1-104. Board Records; Public Access; Copying Fees

- A.** The Board shall maintain all records, subject to A.R.S. Title 39, Chapter 1, reasonably necessary or appropriate to maintain an accurate knowledge of the Board's official activities including, but not limited to:
1. Applications for CPA certificates and supporting documentation and correspondence;
 2. Applications to take the Uniform Certified Public Accountant Examination;
 3. Registration for registrants;
 4. Documents, transcripts, and pleadings relating to disciplinary proceedings and to hearings on the denial of a certificate; and;
 5. Investigative reports; staff memoranda; and general correspondence between any person and the Board, members of the Board, or staff members.
- B.** Any person desiring to inspect or obtain copies of records of the Board available to the public under this section shall make a request to the Board's Executive Director or the Director's designee. The Executive Director or the director's designee shall, as soon as possible within a reasonable time, advise the person making the request whether the records sought can be made available, or, if the Executive Director or the director's designee is unsure whether a record may be made available for public inspection and copying, the Executive Director or the director's designee shall refer the matter to the Board for final determination.
- C.** A person shall not remove original records of the Board from the office of the Board unless the records are in the custody and control of a board member, a member of the Board's committees or staff, or the Board's attorney. The Executive Director or the director's designee may designate a staff member to observe and monitor any examination of Board records.
- D.** The Board shall provide copies of all records available for public inspection and copying shall be provided according to the procedures described in A.R.S. Title 39, Chapter 1, Article 2.
- E.** Any person aggrieved by a decision of the Executive Director or the director's designee denying access to records of the Board may request a hearing before the Board to review the action of the Executive Director or the director's designee by

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filing a written request for hearing. Within 60 days of receipt of the request, the Board shall conduct a hearing on the matter. If the person requires immediate access to Board records, the person may request and may be granted an earlier hearing, if the person sets forth sufficient grounds for immediate access.

Historical Note

Adopted effective January 3, 1977 (Supp. 77-1).
Amended effective February 22, 1978 (Supp. 78-1).
Amended effective July 17, 1978 (Supp. 78-4). Former Section R4-1-04 renumbered as Section R4-1-104 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 27 A.A.R. 921, effective August 1, 2021 (Supp. 21-2). Amended by final rulemaking at 28 A.A.R. 1106 (May 27, 2022), effective July 3, 2022 (Supp. 22-2).

R4-1-105. Expired**Historical Note**

Adopted effective January 3, 1977 (Supp. 77-1). Former Section R4-1-05 renumbered as Section R4-1-105 and amended in subsections (C) and (D) effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Section expired under A.R.S. § 41-1056(J) at 25 A.A.R. 3719, effective December 4, 2019 (Supp. 19-4).

R4-1-106. Reserved**R4-1-107. Reserved****R4-1-108. Reserved****R4-1-109. Reserved****R4-1-110. Reserved****R4-1-111. Reserved****R4-1-112. Reserved****R4-1-113. Meetings**

The Board and Board committees shall conduct meetings in accordance with the current edition of Robert's Rules of Order if the rules are compatible with the laws of the state of Arizona or the Board's own resolutions regarding meetings.

1. Regular and special meetings of the Board for the purpose of conducting business shall be called by the President or a majority of the board members.
2. Regular and special meetings of the committees shall be called by the chairperson or a majority of the committee members.

Historical Note

Former Rules 2A, 2B, 2C, 2D; Former Section R4-1-13 renumbered as Section R4-1-113 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).

R4-1-114. Hearing; Rehearing or Review

- A. Hearing: The Board or an Administrative Law Judge (ALJ) employed by the Office of Administrative Hearings (OAH)

shall hear all contested cases and appealable agency actions. The Board shall conduct hearings according to the provisions of A.R.S. Title 41, Chapter 6, Article 10 as supplemented by R4-1-117. The OAH shall conduct hearings according to A.R.S. Title 41, Chapter 6, Article 10 and the rules and procedures established by the OAH. To the extent that there is no conflict with A.R.S. Title 41, Chapter 6, Article 10, the provisions of A.R.S. § 32-743 apply to hearings conducted by the Board and the OAH. The following subsections apply to hearings conducted by the Board and hearings conducted by the OAH where applicable.

1. Power to join any interested party: Any board member or the ALJ may join as a party applicant or as a party defendant, any person, firm or corporation, that appears to have an interest in the matter before the Board.
2. Stipulation at hearing: The parties may stipulate to facts that are not in dispute. The stipulation may be in writing or may be made orally by reading the stipulation into the record at the hearing. The stipulation is binding upon the parties unless the Board or the ALJ grants permission to withdraw from the stipulation. The Board or the ALJ may set aside any stipulation.
3. Settlements and consent orders: At any time before or after formal disciplinary proceedings have been instituted against a registrant, the registrant may submit to the Board an offer of conditional settlement to avoid formal disciplinary proceedings by the Board. In the offer of conditional settlement, the registrant shall agree to take specific remedial steps such as enrolling in CPE courses, limiting the scope of the registrant's practice, accepting limitation on the filing of public reports, and submitting the registrant's work product for peer review. If the Board determines that the proposed conditional settlement will protect the public safety and welfare and is more likely to rehabilitate or educate the registrant than formal disciplinary action under A.R.S. § 32-741, the Board may accept the offer and enter an order that incorporates the registrant's proposed conditional settlement and to which the registrant consents. A consent order issued under this subsection shall provide that, upon successful compliance by the registrant with all provisions of the order, the disciplinary proceedings shall be terminated and any notice of hearing previously issued shall be vacated. The consent order shall further provide that, upon failure of the registrant to comply with all provisions of the order, or upon the discovery of material facts unknown to the Board at the time the Board issued the order, formal disciplinary proceedings against the registrant may be instituted or resumed. The consent order additionally may provide that, upon failure of the registrant to comply with all provisions of the order, the Board may immediately and summarily suspend the registrant's certificate for not more than one year. Within 30 days after the summary suspension, the registrant may request a hearing solely concerning the issue of compliance with the consent order.
4. Decisions and orders: The Board shall make all decisions and orders by a majority vote of the members considering the case. The Board shall issue a final written decision in a contested case or state the decision on the record. The decision shall state separately the findings of fact and conclusions of law on which the decision is based, and the Board's order to implement the decision. All written decisions and orders of the Board shall be signed by the

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President or Secretary of the Board. When the Board suspends or revokes the certificate of a registrant, the Board may order the registrant to return the registrant's certificate within 30 days after receipt of the order. The Board shall serve each party, each attorney of record, and the Attorney General with a copy of each decision or order of the Board, as provided in R4-1-117.

- B.** ALJ: In hearings conducted by the OAH, the ALJ shall provide the Board with written findings of fact, conclusions of law, and a recommended order within 20 days after the conclusion of the hearing or as otherwise provided by A.R.S. Title 41, Chapter 6, Article 10. The Board's decision approving or modifying the ALJ's recommendations is the final decision of the Board, subject to the filing of a motion for rehearing or review as provided in subsection (C).
- C.** Rehearing or Review: Any party aggrieved by a decision of the Board may file with the Board a written motion for rehearing or review within 30 days after service of the decision specifying the particular grounds for the motion. The Attorney General may file a response to the motion for rehearing within 15 days after service of the motion. The Board may require the filing of written briefs upon issues raised in the motion for rehearing or review and provide for oral argument. Upon review of the documents submitted, the Board may modify the decision or vacate it and grant a rehearing for any of the following causes materially affecting a party's rights:
1. Irregularity in the administrative proceedings or any order or abuse of discretion, that deprived a party of a fair hearing;
 2. Misconduct of the Board or the ALJ;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence, that could not with reasonable diligence have been discovered and produced at the original hearing;
 5. Excessive or insufficient penalties;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing, or during the progress of the proceeding; or
 7. That the findings of fact or decision is not justified by the evidence or is contrary to law.

Historical Note

Former Rules 5A, 5B, 5C; Amended effective January 3, 1977 (Supp. 77-1). Amended effective February 22, 1978 (Supp. 78-1). Former Section R4-1-14 renumbered as Section R4-1-114 without change effective July 1, 1983 (Supp. 83-4). Amended effective December 6, 1995 (Supp. 95-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).

R4-1-115. Accounting and Auditing and Tax Advisory Committees

- A.** The Board may appoint advisory committees concerning accounting reports, taxation and other areas of public accounting as the Board deems appropriate. The committees shall evaluate investigation files referred by the Board, hold voluntary informal interviews and make advisory recommendations to the Board concerning settlement, dismissal or other disposition of the reviewed matter.
- B.** The Board, in its discretion, may accept, reject, or modify the recommendation of the advisory committee.

Historical Note

Adopted effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).

R4-1-115.01. Law Review Advisory Committee

- A.** The Board may appoint an advisory committee to assist in the evaluation of statutory and regulatory provisions. The committee shall make advisory recommendations to the Board.
- B.** The Board, in its discretion, may accept, reject, or modify the recommendations of the advisory committee.

Historical Note

Adopted effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).

R4-1-115.02. Continuing Professional Education Advisory Committee

- A.** The Board may appoint an advisory committee to assist in the evaluation of CPE. The committee shall make advisory recommendations to the Board concerning the following:
1. CPE programs;
 2. A registrant's satisfaction of CPE requirements; and
 3. A registrant's compliance with disciplinary orders requiring CPE.
- B.** The Board, in its discretion, may accept, reject, or modify the recommendations of the advisory committee.

Historical Note

Adopted effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).

R4-1-115.03. Peer Review Oversight Advisory Committee

- A.** The Board may appoint an advisory committee to:
1. Make advisory recommendations to the Board concerning peer review, and
 2. Monitor the peer review program and report to the Board on its effectiveness.
- B.** The Board may accept, reject, or modify recommendations of the Peer Review Oversight Advisory Committee.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 4352, effective December 4, 2004 (04-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 28 A.A.R. 1106 (May 27, 2022), effective July 3, 2022 (Supp. 22-2).

R4-1-115.04. Certification Advisory Committee

- A.** The Board may appoint an advisory committee to assist in the evaluation of applicants for the Uniform Certified Public Accountant Examination and for certified public accountant. The committee shall review applications, transcripts, and related materials, and make advisory recommendations to the Board concerning the qualifications of applicants for the Uniform Certified Public Accountant Examination and for certification of certified public accountants.
- B.** The Board, in its discretion, may accept, reject, or modify the advisory recommendation in determining the qualifications of applicants.

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Historical Note

New Section R4-1-115.04 renumbered from R4-1-116 and amended by final rulemaking, effective February 4, 2014 (Supp. 14-1).

R4-1-116. Renumbered**Historical Note**

Adopted effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Section R4-1-116 renumbered to R4-1-115.04 by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).

R4-1-117. Procedure: Witnesses; Service

- A.** Pleadings; depositions; briefs; and related documents. A party shall print or type all pleadings, depositions, briefs, and related documents and use only one side of the paper.
- B.** Witness' depositions. If a party wants to take the oral deposition of a witness residing outside the state, the party shall file with the Board a petition for permission to take the deposition stating the name and address of the witness and describing in detail the nature and substance of the testimony expected to be given by the witness. The petition may be denied if the testimony of the witness is not relevant and material. If the petition is granted, the party may proceed to take the deposition of the witness by complying with the Arizona Rules of Civil Procedure. The party applying to the Board for permission to take a deposition shall bear the expense of the deposition.
- C.** Witness' interrogatories. A party desiring to take the testimony of a witness residing outside the state by means of interrogatories may do so by serving the adverse party as in civil matters and by filing with the Board a copy of the interrogatories and a statement showing the name and address of the witness. The adverse party may file in duplicate cross-interrogatories with a copy of the statement within 10 days following service on the adverse party. A party that objects to the form of an interrogatory or cross-interrogatory may file a statement of the objection with the Board within five days after service of the interrogatories or cross-interrogatories and may suggest to the Board any amendment to an interrogatory or cross-interrogatory. The Board may amend, add, or strike out an interrogatory or cross-interrogatory when the Board determines it is proper to do so.
 1. Notwithstanding the fact that a party may petition for permission to take the oral deposition of a witness, the Board may require that the information be provided through written interrogatories and vice versa.
 2. A party shall provide a copy of answers to the interrogatories to the Board within 45 days after the interrogatories are answered.
- D.** Subpoenas. The Board officer presiding at a hearing may authorize subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence, and shall administer oaths. A party desiring the Board to issue a subpoena for the production of evidence, documents or to compel the appearance of a witness at a hearing shall apply for the subpoena in writing stating the substance of the witness's testimony. If the testimony appears to be relevant and material, the Board shall issue the subpoena. Affixing the seal of the Board and the signature of a Board officer is sufficient to show that the subpoena is genuine. The party applying for the subpoena shall bear the expense of service.
- E.** Service.
 1. Service of any decision, order, subpoena, notice, or other document may be made personally in the same manner as a summons served in a civil action. If a document is

served personally, service is deemed complete at the time of delivery.

2. Except as provided in subsection (E)(3), service of any document may also be made by:
 - a. Personal service.
 - b. By enclosing a copy of the document in a sealed envelope and depositing the envelope in the United States mail, with first-class postage prepaid, addressed to the party, at the address last provided to the Board.
 - i. Service by mail is deemed complete when the document to be served is deposited in the United States mail. If the distance between the place of mailing and the place of address is more than 100 miles, service is deemed complete one day after the deposit of the document for each 100 miles to a maximum of six days after the date of mailing.
 - ii. In computing time, the date of mailing is not counted. All intermediate Sundays and holidays are counted. If the last day falls on a Sunday or holiday, that day is not counted and service is considered completed on the next business day.
 - c. By attaching the document to an email and sending it to the email address last provided to the Board.
3. The Board shall mail each notice of hearing and final decision by certified mail to the last known address reflected in the records of the Board.
4. Service on attorney. Service on an attorney who has appeared for a party constitutes service on the party.
5. Proof of service. A party shall demonstrate proof of service by filing an affidavit, as provided by law, proof of mailing by certified mail, or an affidavit of first-class mailing.

Historical Note

Former Rules 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D; Amended effective January 3, 1977 (Supp. 77-1). Former Section R4-1-15 renumbered as Section R4-1-117 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 27 A.A.R. 921, effective August 1, 2021 (Supp. 21-2).

R4-1-118. Repealed**Historical Note**

Former Rule 8; Amended effective January 3, 1977 (Supp. 77-1). Amended effective November 5, 1980 (Supp. 80-6). Former Section R4-1-16 renumbered as Section R4-1-118 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 1, 1995 (Supp. 95-4). Repealed by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).

ARTICLE 2. CPA EXAMINATION

- R4-1-201. Reserved**
- R4-1-202. Reserved**
- R4-1-203. Reserved**
- R4-1-204. Reserved**
- R4-1-205. Reserved**

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R4-1-212.	Reserved
R4-1-213.	Reserved
R4-1-214.	Reserved
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R4-1-216.	Reserved
R4-1-217.	Reserved
R4-1-218.	Reserved
R4-1-219.	Reserved
R4-1-220.	Reserved
R4-1-221.	Reserved
R4-1-222.	Reserved
R4-1-223.	Reserved
R4-1-224.	Reserved
R4-1-225.	Reserved
R4-1-226.	Expired

Historical Note

Former Rules 6A, 6B, 6C; Amended effective January 15, 1976 (Supp. 76-1). Amended effective December 1, 1976 (Supp. 76-5). Amended effective July 17, 1978 (Supp. 78-4). Amended effective November 5, 1980 (Supp. 80-5). Former Section R4-1-26 renumbered as Section R4-1-226 and amended in subsections (B) and (C) effective July 1, 1983 (Supp. 83-4). Amended effective August 21, 1986 (Supp. 86-4). Amended subsection (C) effective May 25, 1989 (Supp. 89-2). Amended effective January 1, 1994; filed in the Office of the Secretary of State September 21, 1993 (Supp. 93-3). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 5 A.A.R. 4575, effective January 1, 2000 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 4815, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 9 A.A.R. 5022, effective January 3, 2004 (Supp. 03-4). Section expired under A.R.S. § 41-1056(E) at 15 A.A.R. 372, effective December 31, 2008 (Supp. 09-1).

R4-1-226.01. Applications; Examination - Computer-based

A. A person desiring to take the Uniform Certified Public Accountant Examination who is qualified under A.R.S. § 32-723 may apply by submitting an initial application. A person whose initial application has already been approved by the Board to sit for the Uniform CPA Examination may apply by submitting an application for re-examination.

1. The requirements for initial application for examination are:
 - a. A completed application for initial examination,

- b. A \$100 initial application fee if:
 - i. The applicant has not previously filed an application for initial examination in Arizona, or
 - ii. The Board administratively closed a previously submitted application, or
 - iii. The applicant has been previously denied by the Board.
 - c. University or college transcripts to verify that the applicant meets the educational requirements and if necessary for education taken outside the United States an additional course-by-course evaluation from the National Association of State Boards of Accountancy International Evaluation Services (NIES).
 - d. Other information or documents requested by the Board to determine compliance with eligibility requirements.
 2. The requirements for application for re-examination are:
 - a. A completed application for re-examination, and
 - b. A \$50 re-examination application fee.
- B. Within 30 days of receiving an initial application, the Board shall provide written notice to the applicant that the application is either complete or incomplete. If the application is incomplete, the notice shall specify what information is missing. The applicant has 30 days from the date of the Board's letter to respond to the Board's request for additional information or the Board or its designee may administratively close the file. An applicant whose file is administratively closed and who later wishes to apply shall reapply under subsection (A)(1).
- C. The Board's certification advisory committee (CAC) shall evaluate the applicant's file and make a recommendation to the Board to approve or deny the application. The CAC may defer a decision on the applicant's file to a subsequent CAC meeting to provide the applicant opportunity to submit any information requested by written notice by the CAC that the CAC believes is relevant to make a recommendation to the Board. The applicant has 30 days from the date of the Board's letter to respond to the CAC's request for additional information or the Board or its designee may administratively close the file.
- D. If the Board approves the application, the Board shall notify the applicant in writing and send an authorization to test (ATT) to the National Association of State Boards of Accountancy (NASBA) to permit the applicant to take the specified section or sections of the examination for which the applicant applied. If the Board denies the application, the Board shall send the applicant written notice explaining:
 1. The reason for denial, with citations to supporting statutes or rules;
 2. The applicant's right to seek a fair hearing to challenge the denial; and
 3. The time periods for appealing the denial.
- E. If the applicant does not timely pay to the NASBA the fees owed for the examination section or sections for which the applicant applied, the ATT expires. An applicant that still wishes to take a section or sections of the Uniform CPA Examination shall submit an application for re-examination under subsection (A)(2).
- F. After an applicant has paid NASBA, NASBA shall issue a notice to schedule (NTS) to the applicant. A NTS enables an applicant to schedule testing at an approved examination center. The NTS is effective on the date of issuance and expires when the applicant sits for all sections listed on the NTS or six months from the date of issuance, whichever occurs first.

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Upon written request to the Board and showing good cause that prevents the applicant from appearing for the examination, an applicant may be granted by the Board a 90-day extension to a current NTS.

- G. The Board shall send the applicant any written notice required by this Section in accordance with R4-1-117(E)(1) or (2).

Historical Note

New Section made by final rulemaking at 9 A.A.R. 5022, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 24 A.A.R. 3413, effective February 4, 2019 (Supp. 18-4). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 27 A.A.R. 921, effective August 1, 2021 (Supp. 21-2).

R4-1-227. Repealed**Historical Note**

Former Rule 6D; Amended effective July 17, 1978 (Supp. 78-4). Former Section R4-1-27 renumbered and amended as Section R4-1-227 effective July 1, 1983 (Supp. 83-4). Section R4-1-227 repealed effective November 20, 1998 (Supp. 98-4).

R4-1-228. Denial of Examination

An applicant whose application for examination is denied by the Board is entitled to a hearing before the Board or an ALJ.

1. Written application. The applicant shall file a notice of appeal under A.R.S. § 41-1092.03 within 30 days after receipt of the notice of denial.
2. Hearing notice. The Board shall provide the applicant with notice of the hearing in the manner prescribed by A.R.S. § 41-1092.05.
3. Conduct of hearing. The Board or the ALJ shall conduct the hearing in accordance with A.R.S. Title 41, Chapter 6, Article 10 and applicable rules governing hearings.
4. Burden of persuasion. At the hearing, the applicant is the moving party and has the burden of persuasion.
5. Matters limited. At the hearing, the Board or ALJ shall limit the issues to those originally presented to the Board.

Historical Note

Former Rules 6E, 6F; Former Section R4-1-28 renumbered as Section R4-1-228 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Section repealed; new Section made by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1).

R4-1-229. Conditioned Credit

- A. An applicant is allowed to sit for each section individually and in any order. An applicant is given conditioned credit for each section of the examination passed. A conditioned credit is valid for 18 months from the score release date of the examination. Upon written request to the Board and showing good cause, an applicant may be granted by the Board a 90-day extension to a conditioned credit.
- B. Transfer of conditioned credit. The Board shall give an applicant credit for all sections of an examination passed in another jurisdiction if the credit has been conditioned. If an applicant transfers conditioned credit from another jurisdiction, the applicant shall pass the remaining sections of the examination within the 18-month period from the score release date that the first section was passed. An applicant who fails to pass all sec-

tions of the Uniform CPA Examination within 18 months shall retake previously passed sections of the Uniform CPA Examination to ensure passage of all sections within an 18-month period.

- C. Any candidate with Uniform CPA Examination credit or credits on January 1, 2024 will have such credit or credits extended to June 30, 2025.

Historical Note

Former Rules 6G, 6H; Former Section R4-1-29 renumbered as Section R4-1-229 without change effective July 1, 1983 (Supp. 83-4). Amended effective August 21, 1986 (Supp. 86-4). Section repealed, new Section adopted effective January 1, 1994; filed in the Office of the Secretary of State September 21, 1993 (Supp. 93-3). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 9 A.A.R. 5022, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Section repealed; New Section made by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 27 A.A.R. 921, effective August 1, 2021 (Supp. 21-2). Amended by final rulemaking at 29 A.A.R. 1184 (May 26, 2023), effective July 3, 2023 (Supp. 23-2).

R4-1-230. Expired**Historical Note**

Former Rule 6I; Former Section R4-1-30 renumbered as Section R4-1-230 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 9 A.A.R. 5022, effective January 3, 2004 (Supp. 03-4). Section expired under A.R.S. § 41-1056(E) at 15 A.A.R. 372, effective December 31, 2008 (Supp. 09-1).

R4-1-231. Expired**Historical Note**

Former Rule 6J; Former Section R4-1-31 renumbered as Section R4-1-231 without change effective July 1, 1983 (Supp. 83-4). Section repealed, new Section adopted effective January 1, 1994; filed in the Office of the Secretary of State September 21, 1993 (Supp. 93-3). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 419, effective December 31, 2003 (Supp. 04-1).

ARTICLE 3. CERTIFICATION AND REGISTRATION**R4-1-301. Reserved****R4-1-302. Reserved****R4-1-303. Reserved****R4-1-304. Reserved****R4-1-305. Reserved****R4-1-306. Reserved****R4-1-307. Reserved****R4-1-308. Reserved****R4-1-309. Reserved****R4-1-310. Reserved****R4-1-311. Reserved**

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| R4-1-312. | Reserved | |
| R4-1-313. | Reserved | |
| R4-1-314. | Reserved | |
| R4-1-315. | Reserved | |
| R4-1-316. | Reserved | |
| R4-1-317. | Reserved | |
| R4-1-318. | Reserved | |
| R4-1-319. | Reserved | |
| R4-1-320. | Reserved | |
| R4-1-321. | Reserved | |
| R4-1-322. | Reserved | |
| R4-1-323. | Reserved | |
| R4-1-324. | Reserved | |
| R4-1-325. | Reserved | |
| R4-1-326. | Reserved | |
| R4-1-327. | Reserved | |
| R4-1-328. | Reserved | |
| R4-1-329. | Reserved | |
| R4-1-330. | Reserved | |
| R4-1-331. | Reserved | |
| R4-1-332. | Reserved | |
| R4-1-333. | Reserved | |
| R4-1-334. | Reserved | |
| R4-1-335. | Reserved | |
| R4-1-336. | Reserved | |
| R4-1-337. | Reserved | |
| R4-1-338. | Reserved | |
| R4-1-339. | Reserved | |
| R4-1-340. | Reserved | |
| R4-1-341. | CPA Certificates; Firm Registration; Reinstatement; Reactivation | |
| A. | An applicant may apply for a certificate of certified public accountant or for reinstatement of a certificate by submitting: | |
| 1. | An application fee of \$100; and | |
| 2. | For an applicant applying for certification under A.R.S. § 32-721(A) and (B), a completed application including: | |
| a. | Verification that the applicant passed the Uniform CPA Examination, | |
| b. | Verification that the applicant meets the education and experience requirements specified in R4-1-343, | |
| c. | Proof of a score of at least 90% on the American Institute of Certified Public Accountants (AICPA) examination in professional ethics taken within the two years immediately before the application is submitted, | |
| d. | Evidence of lawful presence in the United States, and | |
| e. | Other information or documents requested by the Board to determine compliance with eligibility requirements. | |
| 3. | For an applicant applying for certification under A.R.S. § 32-721(A) and (C), a completed application including: | |
| a. | Verification that the applicant has passed the International Qualification Examination (IQEX), | |
| b. | License verification from each jurisdiction in which the applicant has ever been issued a certificate as a certified public accountant of which at least one must be an active certification from a jurisdiction with requirements determined by the Board to be substantially equivalent to the requirements in A.R.S. § 32-721(B) or verification that the applicant meets the education and experience requirements specified in R4-1-343, | |
| c. | Evidence of lawful presence in the United States, and | |
| d. | Other information or documents requested by the Board to determine compliance with eligibility requirements. | |
| 4. | For an applicant applying for certification under A.R.S. § 32-721(A) and (D) for mutual recognition agreements adopted by the Board a completed application including: | |
| a. | Verification that the applicant has passed the International Qualification Examination (IQEX), | |
| b. | License verification from the applicant's country which has a mutual recognition agreement with the National Association of State Boards of Accountancy that has been adopted by the Board, | |
| c. | Evidence of lawful presence in the United States, and | |
| d. | Other information or documents requested by the Board to determine compliance with eligibility requirements. | |
| 5. | For an applicant applying for certification under A.R.S. § 32-4302, a completed application including: | |
| a. | License verification from each jurisdiction in which the applicant holds a license; | |
| b. | Evidence of lawful presence in the United States; | |
| c. | Proof of residency; | |
| d. | Disciplinary history, if applicable; | |
| e. | Other information or documents requested by the Board to determine compliance with eligibility requirements. | |
| 6. | For an applicant applying for reinstatement from cancelled status under A.R.S. § 32-732(B) a completed application including: | |
| a. | CPE that meets the requirements of R4-1-453(C)(8) and (E), and | |
| b. | Evidence of lawful presence in the United States. | |
| 7. | For an applicant applying for reinstatement from expired, relinquished, or revoked status under A.R.S. § 32-732(C), a completed application including: | |
| a. | CPE that meets the requirements of R4-1-453(C)(8) and (E), | |
| b. | Evidence of lawful presence in the United States, | |
| c. | If not waived by the Board as part of a disciplinary order, evidence from an accredited institution or a college or university that maintains standards comparable to those of an accredited institution that the individual has completed at least one hundred fifty semester hours of education as follows: | |

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- i. At least 36 semester hours are accounting courses of which at least 30 semester hours are upper level courses.
 - ii. At least 30 semester hours are related courses.
 - d. If prescribed by the Board as part of a disciplinary order, evidence that the individual has retaken and passed the Uniform Certified Public Accountant Examination.
- B. An applicant may apply for a certified public accountant firm registration or for reinstatement of a registration by submitting:
 - 1. For an applicant applying for a new firm under A.R.S. § 32-731, a completed application including:
 - a. Approved Articles of Incorporation for professional corporations, approved Articles of Organization for limited liability companies or professional limited liability companies, confirmation of business name on the Secretary of State's website for partnerships, limited liability partnerships, or an individual or sole proprietorship with a trademark name;
 - b. If applicable, peer review results as prescribed by R4-1-454(A); and
 - c. Other information or documents requested by the Board to determine compliance with eligibility requirements.
 - 2. For an applicant applying for reinstatement from cancelled under A.R.S. § 32-732(E) a completed application including:
 - a. Approved Articles of Incorporation for professional corporations, approved Articles of Organization for limited liability companies or professional limited liability companies, confirmation of business name on the Secretary of State's website for partnerships, limited liability partnerships, or an individual or sole proprietorship with a trademark name;
 - b. If applicable, peer review results as prescribed by R4-1-454(A); and
 - c. Other information or documents requested by the Board to determine compliance with eligibility requirements.
 - 3. For an applicant applying for reinstatement from expired, relinquished, or revoked status under A.R.S. § 32-732(F) a completed application including:
 - a. Approved Articles of Incorporation for professional corporations, approved Articles of Organization for limited liability companies or professional limited liability companies, confirmation of business name on the Secretary of State's website for partnerships, limited liability partnerships, or an individual or sole proprietorship with a trademark name;
 - b. If applicable, peer review results as prescribed by R4-1-454(A);
 - c. If applicable, substantial evidence that the applicant has been completely rehabilitated with respect to the conduct that was the basis of the expiration, relinquishment or revocation of the firm's registration; and
 - d. Other information or documents requested by the Board to determine compliance with eligibility requirements.
- C. Pursuant to Title 41, Chapter 6, Article 7.1, the Board's licensure time frames are as follows:
 - 1. Certification/Reinstatement/Reactivation
 - a. Administrative Completeness Review Time Frame. The Board shall notify the applicant within 30 days from the receipt of the application that the application is complete.
 - i. If the application is incomplete, an incomplete notice shall specify what information is missing. If the Board issues an incomplete notice, the administrative completeness review time frame and the overall time frame are suspended from the date the notice is issued until the date the Board receives the missing information from the applicant.
 - ii. The applicant has 30 days from the date of the incomplete notice to respond in writing and provide all the missing information or the Board may administratively close the file. An applicant whose file is administratively closed shall reapply under subsection (A).
 - b. Substantive Review Time Frame. The Board has 60 days to complete its substantive review.
 - i. If the Board finds deficiencies during the substantive review of the application, the Board may issue one comprehensive written request to the applicant for additional information. If the Board issues a comprehensive written request, or a supplemental request by mutual agreement, the substantive review time frame and the overall time frame are suspended from the date the request is issued until the date the Board receives the additional information from the applicant.
 - ii. The applicant has 30 days from the date of the written request to respond in writing and provide all the additional information or the Board may administratively close the file. An applicant whose file is administratively closed shall reapply under subsection (A).
 - c. Overall Time Frame. The Board has 150 days to issue a written notice to an applicant approving or denying an application.
 - 2. Firm Registration
 - a. Administrative Completeness Review Time Frame. The Board shall notify the applicant within 10 days from the receipt of the application that the application is complete.
 - i. If the application is incomplete, an incomplete notice shall specify what information is missing. If the Board issues an incomplete notice, the administrative completeness time frame and the overall time frame are suspended from the date the notice issued until the date the Board receives the missing information from the applicant.
 - ii. The applicant has 30 days from the date of the incomplete notice to respond in writing and provide all the missing information or the Board may administratively close the file. An applicant whose file is administratively closed shall reapply under subsection (B).
 - b. Substantive Review Time Frame. The Board has 60 days to complete its substantive review.
 - i. If the Board finds deficiencies during the substantive review of the application, the Board may issue one comprehensive written request

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to the applicant for additional information. If the Board issues a comprehensive written request, or a supplemental request by mutual agreement, the substantive time frame and the overall time frame are suspended from the date the request is issued until the date the Board receives the additional information from the applicant.

- ii. The applicant has 30 days from the date of the written request to respond in writing and provide all the additional information or the Board may administratively close the file. An applicant whose file is administratively closed shall reapply under subsection (B).
- c. Overall Time Frame. The Board has 90 days to issue a written notice to an applicant approving or denying an application.
- D. If the Board denies an applicant's request under this section, the Board shall send the applicant written notice explaining:
 - 1. The reason for denial, with citations to supporting statutes or rules;
 - 2. The applicant's right to seek a fair hearing to challenge the denial; and
 - 3. The time periods for appealing the denial.
- E. The Board shall send the applicant any written notice required by this Section in accordance with R4-1-117(E)(1) or (2).

Historical Note

Former Rule 7A; Amended effective December 1, 1976 (Supp. 76-5). Amended effective November 5, 1980 (Supp. 80-5). Former Section R4-1-41 renumbered as Section R4-1-341 without change effective July 1, 1983 (Supp. 83-4). Amended effective August 21, 1986 (Supp. 86-4). Amended effective September 24, 1997 (Supp. 97-3). Amended by final rulemaking at 9 A.A.R. 5022, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 13 A.A.R. 2151, effective August 4, 2007 (Supp. 07-2). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 27 A.A.R. 921, effective August 1, 2021 (Supp. 21-2). Amended by final rulemaking at 29 A.A.R. 1184 (May 26, 2023), effective July 3, 2023 (Supp. 23-2).

R4-1-341.01. Repealed**Historical Note**

Adopted effective November 1, 1995 (Supp. 95-4). Amended effective September 24, 1997 (Supp. 97-3). Amended by final rulemaking at 9 A.A.R. 5022, effective January 3, 2004 (Supp. 03-4). Section repealed by final rulemaking at 13 A.A.R. 2151, effective August 4, 2007 (Supp. 07-2).

R4-1-342. Repealed**Historical Note**

Former Rule 7B; Amended effective December 1, 1976 (Supp. 76-5). Amended effective November 5, 1980 (Supp. 80-6). Former Section R4-1-42 renumbered as Section R4-1-342 without change effective July 1, 1983 (Supp. 83-4). Amended effective March 26, 1987 (Supp. 87-1). Amended effective September 24, 1997 (Supp. 97-3). Amended effective November 20, 1998 (Supp. 98-4).

Amended by final rulemaking at 13 A.A.R. 2151, effective August 4, 2007 (Supp. 07-2). Repealed by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).

R4-1-343. Education and Accounting Experience

- A. To demonstrate compliance with the experience requirements of A.R.S. § 32-721(B), an applicant for certification by examination or grade transfer shall submit to the Board:
 - 1. One or more certificates of experience, completed, signed and dated by an individual who:
 - a. Possesses personal knowledge of the applicant's work, and
 - b. Is able to confirm the applicant's accounting experience, and
 - c. Is a certified public accountant; or
 - d. Has accounting education and experience similar to that of a certified public accountant; and
 - 2. Other information requested by the Board for explanation or clarification of experience.
- B. To demonstrate compliance with the experience requirements of A.R.S. § 32-721(C), an applicant for certification by reciprocity shall submit to the Board:
 - 1. One or more certificates of experience, completed, signed and dated by an individual who:
 - a. Possesses personal knowledge of the applicant's work, and
 - b. Is able to confirm the applicant's accounting experience, and
 - c. Is a certified public accountant; or
 - d. Has accounting education and experience similar to that of a certified public accountant; or
 - 2. If the applicant is self-employed, the applicant shall provide a signed and dated statement indicating self-employment and three signed and dated client letters, confirming years of work experience, and
 - 3. Other information requested by the Board for explanation or clarification of experience.
- C. To demonstrate compliance with the education requirements of Title 32, Chapter 6, an applicant for certification or reinstatement shall submit to the Board:
 - 1. University or college transcripts verifying that the applicant meets the educational requirements and if necessary for education taken outside the United States, an additional course-by-course evaluation from the National Association of State Boards of Accountancy International Evaluation Services (NIES), and
 - 2. Other information requested by the Board for explanation or clarification of education.

Historical Note

Former Rule 7C; Former Section R4-1-43 repealed, new Section R4-1-43 adopted effective February 22, 1978 (Supp. 78-1). Former Section R4-1-43 renumbered as Section R4-1-343 without change effective July 1, 1983 (Supp. 83-4). Amended effective May 31, 1991 (Supp. 91-2). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 13 A.A.R. 2151, effective August 4, 2007 (Supp. 07-2). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 24 A.A.R. 3413, effective February 4, 2019 (Supp. 18-4).

R4-1-344. Denial of Certification, Firm Registration, or Reinstatement

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An applicant whose application for certification, firm registration, or reinstatement of a certificate or registration is denied by the Board is entitled to a hearing before the Board or an ALJ.

1. Written application. The applicant shall file a notice of appeal under A.R.S. § 41-1092.03 within 30 days after receipt of the notice of denial.
2. Hearing notice. The Board shall provide the applicant with notice of the hearing in the manner prescribed by A.R.S. § 41-1092.05.
3. Conduct of hearing. The Board or the ALJ shall conduct the hearing in accordance with A.R.S. Title 41, Chapter 6, Article 10 and applicable rules governing hearings.
4. Burden of persuasion. At the hearing, the applicant is the moving party and has the burden of persuasion.
5. Matters limited. At the hearing, the Board or ALJ shall limit the issues to those originally presented to the Board.

Historical Note

Former Rule 7D; Former Section R4-1-44 renumbered as Section R4-1-344 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1).

R4-1-345. Registration; Fees

- A. Initial registration: After the Board approves an applicant's request for certification or firm registration, the registrant shall file a registration in a format prescribed by the Board and pay a registration fee under subsection (C).
- B. Renewal registration: A registrant shall file an application for renewal registration in a format prescribed by the Board no later than 5:00 p.m. on the last business day of the month. A renewal registration is deemed filed on the date and time received in the Board office. The Board shall record the date and time either by electronic date stamp in Arizona time or on physical receipt in the board's office. The Board shall not accept a postmark as evidence of timely filing. It is the sole responsibility of the registrant to complete the renewal registration requirements at the following times:
 1. Individual registrant: An individual registrant shall renew registration at the following times:
 - a. A registrant born in an even-numbered year shall renew registration during the month of birth in each even-numbered year.
 - b. A registrant born in an odd-numbered year shall renew registration during the month of birth in each odd-numbered year.
 2. Firm registrant: A firm shall renew registration at the following times:
 - a. A business organization firm that initially registered with the Board in an even-numbered year shall renew registration during the board-approved month of the initial registration in each even-numbered year.
 - b. A business organization firm that initially registered with the Board in an odd-numbered year shall renew registration during the board-approved month of the initial registration in each odd-numbered year.
 - c. An individual or a sole proprietorship firm shall renew its registration pursuant to subsection (B)(1).
- C. Registration fees:
 1. Initial Registration Fee –

- a. Certification – \$300 and, if applicable, a late fee of \$50.
- b. The registration fee shall be prorated by month for an initial registration period of less than two years.
2. Biennial Registration Fee –
 - a. Certification – \$300 and, if applicable, a late fee of \$50.
 - i. For registrations due during the period from July 1, 2020 to June 30, 2024, the biennial registration fee will be reduced temporarily to \$275.
 - ii. For registrations due beginning July 1, 2024, the biennial registration fee will revert to \$300.
 - b. Firm Registration – \$300 and, if applicable, a late fee of \$50. Under A.R.S. § 32-729, the Board shall not charge a fee for the registration of additional offices of the same firm or for the registration of a sole practitioner.

Historical Note

Former Rule 7E; Amended effective December 1, 1976 (Supp. 76-5). Amended effective February 22, 1978 (Supp. 78-1). Amended effective July 17, 1978 (Supp. 78-4). Amended effective November 5, 1980 (Supp. 80-6). Former Section R4-1-54 renumbered and amended as Section R4-1-345 effective July 1, 1983 (Supp. 83-4). Amended effective March 26, 1987 (Supp. 87-1). Amended effective July 1, 1991; filed May 2, 1991 (Supp. 91-2). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 5 A.A.R. 4575, effective January 1, 2000 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 4815, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 28 A.A.R. 1106 (May 27, 2022), effective July 3, 2022 (Supp. 22-2).

R4-1-346. Notice of Change of Address

Within 30 days of any email, business, mailing, or residential change of address, a registrant shall notify the Board of the new address by filling out the change of address form prescribed by the Board.

Historical Note

Former Rule 7F; Amended effective January 3, 1977 (Supp. 77-1). Amended effective November 5, 1980 (Supp. 80-6). Former Section R4-1-55 renumbered and amended as Section R4-1-346 effective July 1, 1983 (Supp. 83-4). Amended effective January 1, 1994; filed in the Office of the Secretary of State September 21, 1993 (Supp. 93-3). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 13 A.A.R. 2151, effective August 4, 2007 (Supp. 07-2). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 27 A.A.R. 921, effective August 1, 2021 (Supp. 21-2).

ARTICLE 4. REGULATION

- | | |
|------------------|-----------------|
| R4-1-401. | Reserved |
| R4-1-402. | Reserved |
| R4-1-403. | Reserved |

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R4-1-404.	Reserved	R4-1-444.	Reserved
R4-1-405.	Reserved	R4-1-445.	Reserved
R4-1-406.	Reserved	R4-1-446.	Reserved
R4-1-407.	Reserved	R4-1-447.	Reserved
R4-1-408.	Reserved	R4-1-448.	Reserved
R4-1-409.	Reserved	R4-1-449.	Reserved
R4-1-410.	Reserved	R4-1-450.	Reserved
R4-1-411.	Reserved	R4-1-451.	Reserved
R4-1-412.	Reserved	R4-1-452.	Reserved
R4-1-413.	Reserved	R4-1-452.	Reserved
R4-1-414.	Reserved	R4-1-453.	Continuing Professional Education
R4-1-415.	Reserved	A.	Measurement Standards. The Board shall use the following standards to measure the hours of credit given for CPE programs completed by an individual registrant.
R4-1-416.	Reserved	1.	CPE credit shall be given in one-fifth or one-half increments for periods of not less than one class hour except as noted in subsection (A)(8). The computation of CPE credit shall be measured as follows:
R4-1-417.	Reserved	a.	A class hour shall consist of a minimum of 50 continuous minutes of instruction,
R4-1-418.	Reserved	b.	A half-class hour shall consist of a minimum of 25 continuous minutes of instruction, and
R4-1-419.	Reserved	c.	A one-fifth class hour shall consist of a minimum of 10 continuous minutes of instruction.
R4-1-420.	Reserved	2.	Courses taken at colleges and universities apply toward the CPE requirement as follows:
R4-1-421.	Reserved	a.	Each semester - system credit hour is worth 15 CPE credit hours,
R4-1-422.	Reserved	b.	Each quarter - system credit hour is worth 10 CPE credit hours, and
R4-1-423.	Reserved	c.	Each noncredit class hour is worth one CPE credit hour.
R4-1-424.	Reserved	3.	Each self-study program hour is worth one CPE credit hour.
R4-1-425.	Reserved	4.	Acting as a lecturer or discussion leader in a CPE program, including college courses, may be counted as CPE credit. The Board shall determine the amount of credit on the basis of actual presentation hours, and shall allow CPE credit for preparation time that is less than or equal to the presentation hours. A registrant may only claim as much preparation time as is actually spent for a presentation. Total credit earned under this subsection for service as a lecturer or discussion leader, including preparation time may not exceed 40 credit hours of the renewal period's requirement. Credit is limited to only one presentation of any seminar or course with no credit for repeat teaching of that course.
R4-1-426.	Reserved	5.	The following may be counted for a maximum of 20 hours of CPE credit during each renewal period.
R4-1-427.	Reserved	a.	Credit may be earned for writing and publishing articles or books that contribute to the accounting profession and is published by a recognized third-party publisher of accounting material or a sponsor as long as it is not used in conjunction with a seminar.
R4-1-428.	Reserved	b.	Credit may be earned for the writing or development of online course curriculum for undergraduate, graduate, or doctoral education that contribute to the accounting profession.
R4-1-429.	Reserved		
R4-1-430.	Reserved		
R4-1-431.	Reserved		
R4-1-432.	Reserved		
R4-1-433.	Reserved		
R4-1-434.	Reserved		
R4-1-435.	Reserved		
R4-1-436.	Reserved		
R4-1-437.	Reserved		
R4-1-438.	Reserved		
R4-1-439.	Reserved		
R4-1-440.	Reserved		
R4-1-441.	Reserved		
R4-1-442.	Reserved		
R4-1-443.	Reserved		

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- c. Two credit hours will be given for each 3,000 words of original material written or developed into curriculum. Materials must be at least 3,000 words in length. Multiple authors may share credit for material written or developed into curriculum.
 6. A registrant may earn a combined maximum of 40 hours of CPE credit under subsections (A)(4) and (5) during each renewal period.
 7. A registrant may earn a maximum of 20 hours of CPE during each renewal period by completing introductory computer-related courses. Computer-related courses may qualify as consulting services pursuant to subsection (C).
 8. A registrant may earn a maximum of 4 hours of CPE during each renewal period by completing nano-learning courses. A nano-learning program is a tutorial program designed to permit a participant to learn a given subject in a ten-minute time-frame through the use of electronic media and without interaction with a real time instructor.
 9. CPE credit shall be given in one-fifth or one-half hour increments if the CPE is a segment of a continuing series related to a specific subject as long as the segments are connected by an overarching course that is a minimum of one hour and taken within the same CPE reporting period.
 10. Credit shall not be allowed for repeat participation in any seminar or course during the registration period.
- B. Programs that Qualify.** CPE credit may be given for a program that provides a formal course of learning at a professional level and contributes directly to the professional competence of participants.
1. The Board shall accept a CPE course as qualified if it:
 - a. Is developed by persons knowledgeable and experienced in the subject matter,
 - b. Provides written outlines or full text,
 - c. Is administered by an instructor or organization knowledgeable in the program, and
 - d. Uses teaching methods consistent with the study program.
 2. The Board shall accept a self-study program which includes online or computer based programs if the sponsors maintain written records of each student's participation and records of the program outline for three years following the conclusion of the program.
 3. An ethics program taught or developed by an employer or co-worker of a registrant does not qualify for the ethics requirements of subsection (C)(4).
- C. Hour Requirement.** As a prerequisite to registration pursuant to A.R.S. § 32-730(C) or to reactivate from inactive status pursuant to A.R.S. § 32-732(A), a registrant shall complete the CPE requirements during the two-year period immediately before registration or application respectively as specified under subsections (C)(1) through (C)(5). For registration periods of less than two years CPE may be prorated by quarter, with the exception of ethics.
1. A registrant whose last registration period was for two years shall complete 80 hours of CPE.
 2. A registrant shall complete a minimum of 40 hours in the subject areas of accounting, auditing, taxation, business law, or consulting services with a minimum of 16 hours in the subject areas of accounting, auditing, or taxation.
 3. A registrant shall complete a minimum of 16 of the required hours:
 - a. In a classroom setting,
 - b. Through an interactive live webinar, or
 - c. By acting as a lecturer or discussion leader in a CPE program, including college courses
 4. A registrant shall complete four hours of CPE in the subject area of ethics. The four hours required by this subsection shall include a minimum of one hour of each of the following subjects:
 - a. Ethics related to the practice of accounting including the Code of Professional Conduct of the American Institute of Certified Public Accountants, and
 - b. Board statutes and administrative rules.
 5. A registrant shall report, at a minimum, the CPE hours required for the registration period.
 6. CPE hours completed for a registration period may not be used for a subsequent registration period in any of the following instances:
 - a. To vacate a suspension for nonregistration,
 - b. To vacate a suspension for noncompliance with CPE requirements, or
 - c. To comply with a granted CPE extension.
 7. As a prerequisite to reactivate from retired status or reinstate from cancelled, expired, relinquished or revoked status, a registrant or an applicant shall complete up to 160 hours of CPE during the four-year period immediately before application to reactivate or reinstate. For periods of less than four years CPE may be prorated by quarter, with the exception of ethics.
 - a. A registrant or an applicant shall complete a minimum of 80 hours in the subject areas of accounting, auditing, taxation, business law, or consulting services with a minimum of 32 hours in the subject areas of accounting, auditing or taxation.
 - b. A registrant or an applicant shall complete a minimum of 32 hours of the required hours:
 - i. In a classroom setting,
 - ii. Through an interactive live webinar, or
 - iii. By acting as a lecturer or discussion leader in a CPE program, including college courses.
 - c. A registrant or an applicant shall complete CPE in the subject area of ethics. Four hours of ethics CPE shall be required if 1 – 24 months have passed since the last registration due date for which CPE was completed. Eight hours of ethics CPE shall be required if 25 – 48 months have passed since the last registration due date for which CPE was completed. The hours required by this subsection shall include a minimum of one hour of each of the following subjects. The following subjects shall be completed during the two-year period immediately preceding application for reactivation or reinstatement:
 - i. Ethics related to the practice of accounting including the Code of Professional Conduct of the American Institute of Certified Public Accountants; and
 - ii. Board statutes and administrative rules.
- D. Reporting:** A registrant or an applicant for reactivation or reinstatement, a registrant who is subject to an audit, or a registrant completing their registration must report the following details about their completed CPE:
1. Sponsoring organization,
 2. Number of CPE credit hours,
 3. Title of program or description of content,
 4. Dates attended,
 5. Subject, and
 6. Method.

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- E. In addition to the information required under subsection (D), a registrant or an applicant for reactivation or reinstatement from cancelled, expired, relinquished or revoked status, or a registrant subject to a CPE audit pursuant to subsection (G) shall provide the Board the following CPE records at its request: copies of transcripts, course outlines, and certificates of completion that include registrant's name, course provider or sponsor, course title, credit hours, and date of completion.
- F. CPE Record Retention: A registrant shall maintain CPE records for three years from the date the registration was dated as received by the Board the following documents for all CPE completed for the registration period, even if not reported on the registration: transcripts, course outlines, and certificates of completion that include registrant's name, course provider or sponsor, course title, credit hours, and date of completion.
- G. CPE audits: The Board, at its discretion, may conduct audits of a registrant's CPE and require that the registrant provide the CPE records that the registrant is required to maintain under subsection (F) to verify compliance with CPE requirements.
- H. The Board may grant a full or partial exemption from CPE requirements on demonstration of good cause for a disability for only one registration period.
- I. A non-resident registrant seeking renewal of a certificate in this state shall be determined to have met the CPE requirements of this Section by meeting the CPE requirements for renewal of a certificate in the jurisdiction in which the registrant's principal place of business is located.
 1. Non-resident applicants for renewal shall demonstrate compliance with the CPE renewal requirements of the jurisdiction in which the registrant's principal place of business is located by signing a statement to that effect on the renewal application of this state.
 2. If a non-resident registrant's principal place of business jurisdiction has no CPE requirements for renewal of a certificate or license, the non-resident registrant must comply with all CPE requirements for renewal of a certificate in this state.

Historical Note

Adopted effective December 19, 1979 (Supp. 79-6). Amended effective November 5, 1980 (Supp. 80-6). Former Section R4-1-53 renumbered as Section R4-1-453 and amended in subsections (A) and (B) effective July 1, 1983 (Supp. 83-4). Former Section R4-1-453 repealed, new Section R4-1-453 adopted effective July 15, 1988 (Supp. 88-3). Correction, Historical Note for Supp. 88-3 should read "Former Section R4-1-453 repealed, new Section R4-1-453 adopted effective January 1, 1990, filed July 15, 1988" (Supp. 89-1). Section repealed, new Section adopted effective December 6, 1995 (Supp. 95-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 1886, effective January 1, 2005 (Supp. 04-2). Amended by final rulemaking at 14 A.A.R. 2927, effective January 1, 2009 (Supp. 08-3). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 24 A.A.R. 3413, effective February 4, 2019 (Supp. 18-4). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 27 A.A.R. 921, effective August 1, 2021 (Supp. 21-2). Amended by final rulemaking at 28 A.A.R. 1106 (May 27, 2022),

effective July 3, 2022 (Supp. 22-2). Amended by final rulemaking at 29 A.A.R. 1184 (May 26, 2023), effective July 3, 2023 (Supp. 23-2).

R4-1-454. Peer Review

- A. Each firm, review team, and member of a review team shall comply with the Standards for Performing and Reporting on Peer Reviews, issued April 2019 and published June 15, 2022 in the AICPA Professional Standards by the American Institute of Certified Public Accountants, 220 Leigh Farm Road, Durham, North Carolina 27707-8110 (www.aicpa.org), which is incorporated by reference. This incorporation by reference does not include any later amendments or editions. The incorporated material is available for inspection and copying at the Board's office.
- B. A firm must allow the sponsoring organization to make the following documents accessible to the Board via the FSBA process:
 1. Peer review report which has been accepted by the sponsoring organization,
 2. Firm's letter of response accepted by the sponsoring organization, if applicable,
 3. Completion letter from the sponsoring organization,
 4. Letter or letters accepting the documents signed by the firm with the understanding that the firm agrees to take any actions required by the sponsoring organization, if applicable, and
 5. Letter signed by the sponsoring organization notifying the firm that required actions have been appropriately completed, if applicable.
- C. Information discovered solely as a result of a peer review is not grounds for suspension or revocation of a certificate.
- D. Firms that reorganize a current firm, rename a firm, or create a new firm, within which at least one of the prior CPA owners remains an owner or employee, shall remain subject to the provisions of this Section. If a firm is merged, combined, dissolved, or separated, the sponsoring organization shall determine which resultant firm shall be considered the succeeding firm. The succeeding firm shall retain its peer review status and the review due date.

Historical Note

Adopted effective July 1, 1983 (Supp. 83-4). Repealed effective November 20, 1998 (Supp. 98-4). New Section made by final rulemaking at 10 A.A.R. 4352, effective December 4, 2004. Amended by final rulemaking at 12 A.A.R. 2823, effective September 9, 2006 (Supp. 06-3). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 27 A.A.R. 921, effective August 1, 2021 (Supp. 21-2). Amended by final rulemaking at 28 A.A.R. 1106 (May 27, 2022), effective July 3, 2022 (Supp. 22-2). Amended by final rulemaking at 29 A.A.R. 1184 (May 26, 2023), effective July 3, 2023 (Supp. 23-2).

R4-1-455. Professional Conduct and Standards

- A. It is the Board's policy that the rules governing registrants be consistent with the rules governing the accounting profession generally. Except as otherwise set forth in these regulations, registrants shall conform their conduct to the Code of Professional Conduct, published June 15, 2022 in the AICPA Professional Standards by the American Institute of Certified Public

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Accountants, 220 Leigh Farm Road, Durham, North Carolina 27707-8110 (www.aicpa.org), available from the AICPA.

- B.** The AICPA Code of Professional Conduct, and any interpretations and ethical rulings by the issuing body, shall apply to all registrants, including those who are not members of the AICPA. The version specified above, including any interpretations and ethical rulings in effect shall apply. Any later amendments, additions, interpretations, or ethical rulings shall not apply.

Historical Note

Former Rule 9; Amended effective January 15, 1976 (Supp. 76-1). Amended effective January 3, 1977 (Supp. 77-1). Amended effective February 22, 1978 (Supp. 78-1). Amended effective November 5, 1980 (Supp. 80-6). Former Section R4-1-56 renumbered as Section R4-1-455 and amended in subsections (B) and (D) effective July 1, 1983 (Supp. 83-4). Section R4-1-455 amended and divided into R4-1-455 and R4-1-455.01 thru R4-1-455.04 effective April 22, 1992 (Supp. 92-2). Amended effective December 6, 1995 (Supp. 95-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 27 A.A.R. 921, effective August 1, 2021 (Supp. 21-2). Amended by final rulemaking at 28 A.A.R. 1106 (May 27, 2022), effective July 3, 2022 (Supp. 22-2). Amended by final rulemaking at 29 A.A.R. 1184 (May 26, 2023), effective July 3, 2023 (Supp. 23-2).

R4-1-455.01. Professional Conduct: Definitions; Interpretations

Interpretation of definitions: All terms defined in A.R.S. § 32-701 et seq. shall be construed, to the extent possible, to be consistent with corresponding definitions in the professional standards adopted in R4-1-455. The foregoing notwithstanding, for purposes of R4-1-455 and the professional standards adopted therein references to “member” shall be to “registrant” as defined in A.R.S. § 32-701.

Historical Note

Section R4-1-455.01 renumbered from R4-1-455(B) and amended effective April 22, 1992 (Supp. 92-2). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1).

R4-1-455.02. Professional Conduct: Competence and Technical Standards

- A.** In reporting on financial statements for which a registrant has performed attest services (as defined in A.R.S. § 32-701) any of the following will constitute a violation of A.R.S. § 32-741(A)(4):
1. In an audit engagement, failing to:
 - a. Prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand:
 - i. The nature, timing, and extent of the audit procedures performed;

- ii. The results of the audit procedures performed, and the audit evidence obtained; and
- iii. Significant findings or issues arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions;

- b. Obtain sufficient appropriate evidence to conclude that the financial statements taken as a whole are free from material misstatement; or
- c. Modify the opinion in the auditor’s report when:
 - i. The financial statements as a whole are materially misstated; or
 - ii. Sufficient appropriate audit evidence to conclude that the financial statements as a whole are free from material misstatement has not been obtained.

2. In a review engagement, failing to:

- a. Accumulate sufficient review evidence to provide a reasonable basis for obtaining limited assurance that there are no material modifications that should be made to the financial statements in order to be in conformity with the applicable financial reporting framework; or
- b. Modify the accountant’s review report for a departure from the applicable financial reporting framework, including inadequate disclosure, that is material to the financial statements.

3. In an examination of prospective financial statements engagement, failing to:

- a. Obtain sufficient evidence to provide a reasonable basis for the conclusion that is expressed in the report; or
- b. Modify the report when:
 - i. One or more significant assumptions do not provide a reasonable basis for the prospective financial statements; or
 - ii. The examination is affected by conditions that preclude application of one or more procedures considered necessary in the circumstances.

- B.** The provisions of this subsection are not intended to be all inclusive or to limit the application of A.R.S. § 32-741(A)(4).

Historical Note

Section R4-1-455.02 renumbered from R4-1-455(C) and amended effective April 22, 1992 (Supp. 92-2). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4).

R4-1-455.03. Professional Conduct: Specific Responsibilities and Practices

- A.** Discreditable acts: In addition to any other acts prohibited by any standards incorporated in these rules, a registrant shall not commit an act that reflects adversely on the registrant’s fitness to engage in the practice of public accounting, including and without limitation:
1. Violating a provision of R4-1-455, R4-1-455.01, R4-1-455.02, R4-1-455.03 or R4-1-455.04;
 2. Violating a fiduciary duty or trust relationship with respect to any person; or
 3. Violating a provision of A.R.S. Title 32, Chapter 6, Article 3, or this Chapter.
- B.** Advertising practices and solicitation practices: A registrant has violated A.R.S. § 32-741(A)(4) and engaged in dishonest

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or fraudulent conduct in the practice of public accounting in connection with the communication or advertising or solicitation of accounting services through any media, if the registrant willfully engages in any of the following conduct:

1. Violates A.R.S. § 44-1522 and a court finds the violation willful;
 2. Engages in fraudulent or misleading practices in the advertising of accounting services that leads to a conviction pursuant to A.R.S. § 44-1481; or
 3. Engages in fraudulent practices in the advertising of accounting services that leads to a conviction for a violation of any other state or federal law.
- C.** Form of practice and name: A registrant shall not use a professional or firm name or designation that is misleading about the legal form of the firm, or about the persons who are partners, officers, members, managers, or shareholders of the firm, or about any other matter. A firm name or designation shall not include words such as “& Company,” “& Associates,” or “& Consultants” unless the terms refer to additional full-time CPAs that are not otherwise mentioned in the firm name.
- D.** Communications: When requested, a registrant shall file a written response to a communication from the Board within 30 days of the date of the mailing of such communication by certified mail. A written response is deemed filed on the date and time received in the Board office. The Board shall record the date and time either by electronic date stamp in Arizona time or on physical receipt in the Board’s office. The Board shall not accept a postmark as evidence of timely filing.
- E.** The provisions of R4-1-455.03(A) through (C) are not intended to be all inclusive or to limit the application of any standards incorporated by R4-1-455.

Historical Note

Section R4-1-455.03 renumbered from R4-1-455(D) and amended effective April 22, 1992 (Supp. 92-2). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 12 A.A.R. 2823, effective September 9, 2006 (Supp. 06-3). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 1807, effective June 15, 2017 (Supp. 17-2). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4).

R4-1-455.04. Professional Conduct: Records Disposition

Document retention policies. Except as set forth in A.R.S. § 32-744(D), a registrant may retain and dispose of documents prescribed in A.R.S. § 32-744(C) in compliance with a reasonable document retention policy.

Historical Note

Section R4-1-455.04 renumbered from R4-1-455(E) and amended effective April 22, 1992 (Supp. 92-2). Section number corrected (Supp. 97-3). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4).

R4-1-456. Reporting Practice Suspensions and Violations

- A.** A registrant shall report to the Board:

1. Any suspension or revocation of the right to practice accounting before the federal Securities and Exchange Commission, the Internal Revenue Service, or any other state or federal agency;
 2. Any final judgment in a civil action or administrative proceeding in which the court or public agency makes findings of violations, by the registrant, of any fraud provisions of the laws of this state or of federal securities laws;
 3. Any final judgment in a civil action in which the court makes findings of accounting violations, dishonesty, fraud, misrepresentation, or breach of fiduciary duty by the registrant;
 4. Any final judgment in a civil action involving negligence in the practice of public accounting by the registrant; and
 5. All convictions of the registrant of any felony, or any crime involving accounting or tax violations, dishonesty, fraud, misrepresentation, embezzlement, theft, forgery, perjury, or breach of fiduciary duty.
- B.** A registrant required to report under subsection (A) shall make the report in the form of a written letter and ensure that the report is received by the Board within 30 days after the entry of any judgment or suspension or revocation of the registrant’s right to practice before any agency. The registrant shall ensure that the letter contains the following information:
1. Description of the registrant’s activities that resulted in a suspension or revocation;
 2. Final judgment or conviction;
 3. Name of the state or federal agency that restricted the registrant’s right to practice;
 4. Effective date and length of any practice restriction;
 5. Case file number of any court action, civil or criminal;
 6. Name and location of the court rendering the final judgment or conviction; and
 7. Entry date of the final judgment or conviction.

Historical Note

Adopted effective November 5, 1980 (Supp. 80-6). Former Section R4-1-57 renumbered as Section R4-1-456 without change effective July 1, 1983 (Supp. 83-4). Amended effective February 23, 1993 (Supp. 93-1). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1).

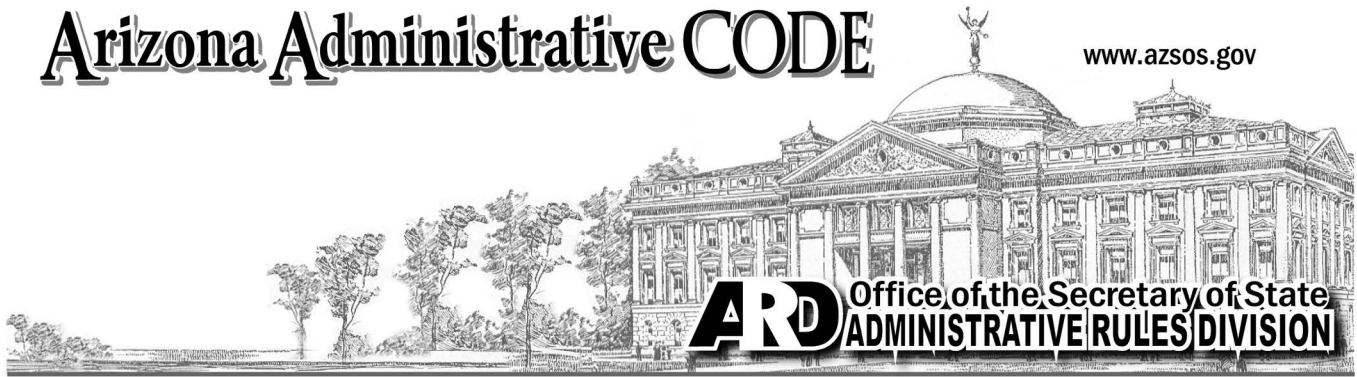
Appendix A. Repealed**Historical Note**

Adopted effective February 22, 1978 (Supp. 78-1). Amended effective December 19, 1979 (Supp. 79-6). Editorial correction, Footnote**, Rules reference corrected (Supp. 83-4). Repealed effective May 31, 1991 (Supp. 91-2).

Appendix B. Repealed**Historical Note**

Adopted effective February 22, 1978 (Supp. 78-1). Repealed effective April 22, 1992 (Supp. 92-2).

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4 A.A.C. 9

Supp. 23-2

TITLE 4. PROFESSIONS AND OCCUPATIONS CHAPTER 9. REGISTRAR OF CONTRACTORS

The table of contents on page one contains links to the referenced page numbers in this Chapter.
Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
January 1, 2022 through March 31, 2022

At the request of the Registrar, the contact information has been updated in this Chapter. No other changes have been made since Supp. 22-1 (Supp. 23-2).

Questions about these rules? Contact:

Board: Arizona Registrar of Contractors
Address: 100 N. 15th Ave., Suite 105
Phoenix, AZ 85007
Website: <https://roc.az.gov>
Name: Emily Verdugo, Assistant Director
Telephone: (602) 771-6890
Email: emily.verdugo@roc.az.gov

The release of this Chapter in Supp. 23-2 replaces Supp. 22-1, 1-24 pages.

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

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

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

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

ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

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

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

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

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

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

PERSONAL USE/COMMERCIAL USE

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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**Administrative Rules Division**

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TITLE 4. PROFESSIONS AND OCCUPATIONS**CHAPTER 9. REGISTRAR OF CONTRACTORS**

Authority: A.R.S. § 32-1101 et seq.

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TITLE 4. PROFESSIONS AND OCCUPATIONS

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ARTICLE 1. GENERAL PROVISIONS

R4-9-101. Definitions

- A.** Appurtenances means all structures and improvements subordinate to a residence within residential property lines, excluding the residential structure itself, such as driveways, fences, patios, swimming pools, landscaping, sport courts, and gazebos.
- B.** Licensee means a business entity (sole proprietor, partnership, limited liability company or corporation) to which a license is issued and not the individuals comprising the ownership or management of the licensee, except for a sole proprietor. The license is held by the licensee and not the qualifying party.

Historical Note

Former Rule I. Former Section R4-9-01 repealed, new Section R4-9-01 adopted effective February 23, 1976 (Supp. 76-1). Amended effective November 21, 1979 (Supp. 79-6). Amended effective April 18, 1984 (Supp. 84-2). Former Section R4-9-01 amended effective July 9, 1987, and renumbered as Section R4-9-101 (Supp. 87-3). Amended effective January 20, 1998 (Supp. 98-1). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-102. Commercial Contractor License Classifications and Scopes of Work

- A.** Commercial contractor license classifications. License classifications for commercial contractors are as follows:

ENGINEERING CONTRACTING

- A** General Engineering
- A-4** Drilling
- A-5** Excavating, Grading and Oil Surfacing
- A-7** Piers and Foundations
- A-9** Swimming Pools
- A-11** Steel and Aluminum Erection
- A-12** Sewers, Drains and Pipe Laying
- A-14** Asphalt Paving
- A-15** Seal Coating
- A-16** Waterworks
- A-17** Electrical and Transmission Lines
- A-19** Swimming Pools, Including Solar

GENERAL COMMERCIAL CONTRACTING

- B-1** General Commercial Contractor
- B-2** General Small Commercial Contractor

SPECIALTY COMMERCIAL CONTRACTING

- C-1** Acoustical Systems
- C-3** Awnings, Canopies, Carports and Patio Covers
- C-4** Boilers, Steamfitting and Process Piping
- C-6** Swimming Pool Service and Repair
- C-7** Carpentry
- C-8** Floor Covering
- C-9** Concrete
- C-10** Drywall
- C-11** Electrical
- C-12** Elevators
- C-14** Fencing
- C-15** Blasting
- C-16** Fire Protection Systems
- C-21** Hardscaping and Irrigation Systems
- C-24** Ornamental Metals
- C-27** Lightweight Partitions
- C-31** Masonry
- C-34** Painting and Wall Covering
- C-36** Plastering
- C-37** Plumbing
- C-38** Signs

- C-39** Air Conditioning and Refrigeration
- C-40** Insulation
- C-41** Septic Tanks and Systems
- C-42** Roofing
- C-45** Sheet Metal
- C-48** Ceramic, Plastic and Metal Tile
- C-49** Refrigeration
- C-53** Water Well Drilling
- C-54** Water Conditioning Equipment
- C-56** Welding
- C-57** Wrecking
- C-58** Comfort Heating, Ventilating, Evaporative Cooling
- C-60** Finish Carpentry
- C-61** Carpentry, Remodeling and Repairs
- C-63** Appliances
- C-65** Glazing
- C-67** Low Voltage Communication Systems
- C-70** Reinforcing Bar and Wire Mesh
- C-74** Boilers, Steamfitting and Process Piping, Including Solar
- C-77** Plumbing Including Solar
- C-78** Solar Plumbing Liquid Systems Only
- C-79** Air Conditioning and Refrigeration, Including Solar

- B.** Commercial contracting scopes. The scope of work which may be done under the commercial contracting license classifications is as follows:

A- GENERAL ENGINEERING

This classification allows the licensee to construct or repair:

1. Fixed works
2. Streets
3. Roads
4. Power and utility plants
5. Dams
6. Hydroelectric plants
7. Sewage and waste disposal plants
8. Bridges
9. Tunnels
10. Overpasses
11. Public parks
12. Public right-of-ways

Also included are the scopes of work allowed by the A-4 through A-19. This classification does not include work authorized by the B-1, B-2, B-, or B-3 scopes.

A-4 DRILLING

This classification allows the licensee to drill, including horizontal and vertical drilling or boring, constructing, deepening, repairing, or abandoning wells; exploring for water, gas, and oil; and constructing dry wells, and monitor wells. Also included is the erection of rigs, derricks and related substructures, and installation, service and repair of pumps and pumping equipment.

A-5 EXCAVATING, GRADING AND OIL SURFACING

This classification allows the licensee to apply oil surfacing or other similar products; place shoring, casing, geotextiles or liners; and perform incidental blasting or drilling as required for the licensee to move, alter, or repair earthen materials by:

1. Digging

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2. Trenching
 3. Grading
 4. Horizontal boring
 5. Compacting
 6. Filling
- This license does not allow the licensee to excavate for water, gas or oil wells.
- A-7 PIERS AND FOUNDATIONS**
This classification allows the licensee to install piers and foundations using concrete, rebar, post tension and other materials common to the industry. Includes pile driving, excavation, forming and other techniques and equipment common to the industry.
- A-9 SWIMMING POOLS**
This classification allows the licensee to construct, service, and repair swimming pools and spas, including water and gas service lines from point of service to pool equipment, wiring from pool equipment to first readily accessible disconnect, pool piping, fittings, backflow prevention devices, waste lines, and other integral parts of a swimming pool or spa.

Also included is the installation of swimming pool accessories, covers, safety devices, and fencing for protective purposes, if in the original contract.
- A-11 STEEL AND ALUMINUM ERECTION**
This classification allows the licensee to install and repair architectural and structural steel and aluminum materials common to the industry. This classification also includes reinforcing steel and field layout, cutting, assembly, and erection by welding, bolting, wire tying or riveting.
- A-12 SEWERS, DRAINS AND PIPE LAYING**
This classification allows the licensee to install and repair any project involving sewer access holes, the laying of pipe for storm drains, water and gas lines, irrigation, and sewers. Includes connecting sewer collector lines to building drains and the installation of septic tanks, leach lines, dry wells, all necessary connections, liners and related excavating and backfilling.
- A-14 ASPHALT PAVING**
This classification allows the licensee to install asphalt paving, and all related fine grading on streets, highways, driveways, parking lots, tennis courts, running tracks, play areas, and gas station driveways and areas, using materials and accessories common to the industry. Only permitted as it pertains to the larger scope of work, the classification also permits excavation and grading for height adjustment of existing sewer access holes, storm drains, water valves, sewer cleanouts, and drain gates. Also included is the scope of work allowed by the A-15 Seal Coating Classification.
- A-15 SEAL COATING**
This classification allows the licensee to apply seal coating to asphalt paving surfaces. This classification also allows repair of surface cracks and application of painted marking symbols.
- A-16 WATERWORKS**
This classification allows the licensee to perform all work necessary for the production and distribution of water including drilling well, setting casing and pump, related electrical work, related concrete work, excavation, piping for storage and distribution, storage tanks, related fencing, purification and chlorination equipment.
- A-17 ELECTRICAL AND TRANSMISSION LINES**
This classification allows the licensee to install, alter, and repair transmission lines on public right-of-ways, including erection of poles, guying systems, tower line erection, cellular and communication towers, street lighting of all voltages, and all underground systems including ducts for signal, communication, and similar installations. This classification also allows the licensee to install transformers, circuit breakers, capacitors, primary metering devices and other related equipment of all commercial electrical construction.
- A-19 SWIMMING POOLS, INCLUDING SOLAR**
This classification allows the licensee to perform the same scope of work permitted by the A-9 but also includes installation and repair of solar heating devices.
- B-1 GENERAL COMMERCIAL CONTRACTOR**
This classification allows the licensee to construct, alter, and repair in connection with any structure built, being built, or to be built for the support, shelter, and enclosure of persons, animals, or movable property of any kind. This scope includes the supervision of all or any part of the above and includes the management, or direct or indirect supervision of any work performed.

Work related to electrical, plumbing, air conditioning systems, boilers, swimming pools, spas and water wells must be subcontracted to an appropriately licensed contractor. This classification does not include work authorized by the A-, B-, or B-3 scopes.
- B-2 GENERAL SMALL COMMERCIAL CONTRACTOR**
For projects of \$2,000,000 or less including labor and materials, this classification allows the licensee to perform commercial construction in connection with any new structure or addition built, being built, or to be built for the support, shelter and enclosure of persons, animals, or movable property of any kind. This scope includes the supervision of all or any part of the above and includes the management or direct or indirect supervision of any work performed.

Work related to electrical, plumbing, fire protection systems, air conditioning systems, boilers, swimming pools, spas and water wells must be subcontracted to an appropriately licensed contractor. This classification does not include work authorized by the A-, B-, B-3, or residential scopes.
- C-1 ACOUSTICAL SYSTEMS**
This classification allows the licensee to install and repair pre-manufactured acoustical ceiling and wall systems.

This classification does not allow the licensee to install or repair electrical or mechanical systems.
- C-3 AWNINGS, CANOPIES, CARPORTS AND PATIO COVERS**

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This classification allows the licensee to place concrete footings and concrete slabs as required for the licensee to install and repair:

1. Window awnings
2. Door hoods
3. Freestanding or attached canopies
4. Carport and patio covers constructed of metal, fabric, fiberglass, or plastic
5. Screened and paneled enclosures, which are not intended for use as habitable spaces, using metal panels, plastic inserts, and screen doors. A minimum of 60% of the wall area of an enclosure shall be constructed of screening material.
6. Fascia panels
7. Flashing and skirting
8. Exterior, detached metal storage units not to exceed 120 square feet

This classification does not allow the licensee to install or repair electrical, plumbing, or air conditioning systems.

C-4 BOILERS, STEAMFITTING AND PROCESS PIPING

This classification allows the licensee to install, alter, and repair steam and hot water systems and boilers, including chimney connections, flues, refractories, burners, piping, fittings, valves, thermal insulation, and accessories; fuel and water lines from source of supply to boilers; process and specialty piping and related equipment; pneumatic and electrical controls.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

C-6 SWIMMING POOL SERVICE AND REPAIR

This classification allows the licensee to replace and repair commercial pools and accessories including all existing connections and equipment. Plumbing connections to a potable water system, gas lines, gas chlorine systems, and electrical work beyond the first disconnect must be subcontracted to a properly licensed contractor.

This classification does not allow the licensee to perform a complete replacement of plaster or pebble pool interiors and decks.

C-7 CARPENTRY

This classification allows the licensee to install and repair:

1. Rough carpentry
2. Finish carpentry
3. Hardware
4. Millwork
5. Metal studs
6. Metal doors or door frames
7. Windows

C-8 FLOOR COVERING

This classification allows the licensee to prepare a surface as required for the licensee to install and repair the following floor covering materials:

1. Carpet
2. Floor tile
3. Wood
4. Linoleum

5. Vinyl
6. Asphalt
7. Rubber
8. Concrete coatings

C-9 CONCRETE

This classification allows the licensee to install and repair concrete, concrete products, and accessories common to the industry.

This classification also allows the licensee to perform trenching, excavating, backfilling, and grading in connection with concrete construction.

C-10 DRYWALL

This classification allows the licensee to install and repair:

1. Gypsum wall board
2. Ceiling grid systems
3. Movable partitions
4. Wall board tape and texture
5. Non-load bearing, lightweight, steel wall partitions

C-11 ELECTRICAL

This classification allows the licensee to install, alter, and repair any wiring, related electrical material and equipment used in the generating, transmitting, or utilization of electrical energy less than 600 volts, including all overhead electrical wiring on public right-of-ways for signs and street decorations, and all underground electrical distribution systems of less than 600 volts serving private properties.

This classification also allows the licensee to install, alter, and repair all outside, overhead, and underground electrical construction and all wiring in or on any building of less than 600 volts, but does not permit work in public right-of-ways.

C-12 ELEVATORS

This classification allows the licensee to install and repair:

1. Elevators
2. Dumbwaiters
3. Escalators
4. Moving walks and ramps
5. Stage and orchestra lifts

C-14 FENCING

This classification allows the licensee to install and repair:

1. Metal, wood, and cement block fencing
2. Automatic gates
3. Fire access strobes
4. Highway guard rails
5. Cattle guards
6. Low voltage U.L. approved electrical fence protective devices of less than 25 volts and 100 watts

This classification does not allow the licensee to install or repair retaining walls.

C-15 BLASTING

This classification allows the licensee to drill, bore, move earth, and build temporary shelters or barricades, as required for the licensee's use of explosives and explosive devices for:

1. Excavation

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2. Demolition
3. Geological exploration
4. Mining
5. Construction related blasting

C-16 FIRE PROTECTION SYSTEMS

This classification allows the licensee to install, alter, and repair fire protection systems using water, steam, gas, or chemicals. Included is any required excavation, trenching, backfilling and grading, piping from structure, and connections to off-premise water supply adjacent to property involving a fire protection system.

Systems may include the following areas of work and related equipment: restaurant hood protection systems; fire pumps and drivers; pressure and storage tanks; all piping and valves; sprinkler heads and nozzles; and application of materials for the prevention of corrosion or freezing.

Also included are air compressors, air receivers, bottled inert gases, pressurized chemicals, manifolds, pneumatic, hydraulic, or electrical controls, low voltage signaling systems, control piping, and the flushing and testing of systems.

C-21 HARDSCAPING AND IRRIGATION SYSTEMS

This classification allows the licensee to install, alter, and repair:

1. Non-loadbearing concrete
2. Uncovered patios, walkways, driveways made of brick, stone, pavers or gravel
3. Wooden decks no higher than 29 inches above finish grade
4. Decorative garden walls up to six feet from finish grade
5. Fences and screens up to six feet from finish grade
6. Retaining walls up to three feet from the finish grade of the lower elevation
7. Free standing fire pits, fireplaces, or barbeques – electric, plumbing, and gas must be subcontracted to a properly licensed contractor
8. Low voltage landscape lighting
9. Water features that are not attached to swimming pools; including any necessary: electrical wiring of 120 volts or less, connection to potable water lines, backflow prevention devices, hose bibs, excavating, trenching, boring, backfilling, or grading
10. Irrigation systems, including any necessary: electrical wiring of 120 volts or less, connection to potable water lines, backflow prevention devices, hose bibs, excavating, trenching, boring, backfilling, or grading

With the exception of free standing fire pits, fireplaces, or barbeques, this classification does not allow the licensee to install, contract for, or subcontract new electrical service panels, gas or plumbing lines, blasting, outdoor kitchens, gazebos, room additions, swimming pools, pool deck coatings, concrete driveways, load bearing walls, or perimeter fencing.

C-24 ORNAMENTAL METALS

This classification allows the licensee to install, alter, or repair non-structural ornamental metal, such as:

1. Metal folding gates
2. Guard and hand rails
3. Wrought iron fencing and gates
4. Window shutters and grilles
5. Room dividers and shields
6. Metal accessories common to the industry

This classification does not allow the licensee to install fire escapes or stairs.

C-27 LIGHTWEIGHT PARTITIONS

This classification allows the licensee to install lightweight (not to exceed 14 gauge) metal wall partitions, including suspended metal ceiling grid systems, as supporting members for the application of building materials such as: application and repair of gypsum plaster, cement, acoustical plaster, or a combination of materials and aggregates, that create a permanent coating; the application of such materials over any surface which offers either a mechanical or suction type bond, sprayed, dashed, or troweled to the surface; surface sandblasting preparatory to plastering or stucco; installation of plastering accessories and lath products manufactured to provide a key or suction type bond for the support of various type plaster coatings; and installation and repair of gypsum wall board, pointing, accessories, taping, and texturing on structures both interior and exterior.

Upon the effective date of these rules, no new applications for the C-27 classification will be accepted and no new C-27 licenses will be issued.

C-31 MASONRY

This classification allows the licensee to grout, caulk, sand blast, tuckpoint, mortar wash, parge, clean and weld reinforcing steel as required for the licensee to install and repair:

1. Masonry
2. Brick
3. Concrete block
4. Insulating concrete forms
5. Adobe units
6. Stone
7. Marble
8. Slate
9. Mortar-free masonry products

C-34 PAINTING AND WALL COVERING

This classification allows the licensee to perform surface preparation to install, apply or repair:

1. Wallpaper
2. Wall covering cloth
3. Wall covering vinyl
4. Decorative texture
5. Paint
6. Liquid floor and wall coatings

C-36 PLASTERING

This classification allows the licensee to install laths, metal studs, metal grid systems, or other bases as required for the licensee to coat surfaces by trowel or spray with combinations of:

1. Sand mixtures (e.g. stucco)

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2. Gypsum plaster
3. Cement
4. Acoustical plaster
5. Swimming pool interiors (excluding tile)

C-37 PLUMBING

This classification allows the licensee to install, alter, and repair all plumbing when performed solely within property lines and not on public easements or right-of-ways, except as hereinafter provided.

This classification also allows the licensee to perform installation, alteration, and repair of all piping, fixtures, and appliances related to water supply, including pressure vessels and tanks (excluding municipal or related water supply systems); venting and sanitary drainage systems for all fluid, semifluid, and organic wastes; septic tanks and leaching lines; roof leaders; lawn sprinklers; water conditioning equipment; piping; and equipment for swimming pools.

Also included are piping, fixtures, appliances, and pressure vessels for manufactured and natural gases, compressed air and vacuum systems, petroleum, fuel oil, nonpotable liquids, hot water heating, and hot water supply systems operating at pressures not exceeding 30 PSIG, or temperatures not exceeding 220° F; steam heating and steam supply systems not exceeding 15 PSIG operating pressure; gas or oil fired space heaters and furnaces, excluding duct work. Piping for water cooling systems, excluding the refrigerant piping and equipment. Testing and balancing of hydronics systems.

Sewer, gas, water lines, and connections from structure to the nearest point of public supply or disposal may cross public or private easements or be installed within private easements or right-of-ways. Pipe installed across public property may not be increased in size, or make any other connection between the point of exit from private property to the point of connection at public supply or disposal. These lines shall not be installed parallel to main lines in public easements or right-of-ways.

C-38 SIGNS

This classification allows the licensee to install and repair posts, poles, supports, paint, and electrical wiring as required for the licensee to install and repair:

1. Signs
2. Displays
3. Flagpoles

C-39 AIR CONDITIONING AND REFRIGERATION

This classification allows the licensee to install, alter, and repair refrigeration and evaporative cooling systems.

This classification also allows the licensee to perform installation, alteration, and repair of heating systems of "wet", "dry" or radiant type. "Wet" systems include steam or hot water boilers and coils, or baseboard convectors, and are limited to 30 PSIG operating pressure of 220° F for hot water and 15 PSIG operating pressure for steam. Dry systems include gas fired furnaces and space heaters.

This classification also allows the licensee to perform installation, alteration, and repair of ventilation systems includes duct work, air filtering devices, water treatment devices, pneumatic or electrical controls, and

control piping. Thermal and acoustical insulation of refrigerant pipes and ductwork, vibration isolation materials and devices, liquid fuel piping and tanks, water and gas piping from service connection to the equipment it serves. Testing and balancing of refrigerant, cooling, heating circuits, and air handling systems.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

C-40 INSULATION

This classification allows the licensee to install and repair:

1. Insulation materials, including radiant barriers
2. Preformed architectural acoustical materials
3. Insulation protecting materials

C-41 SEPTIC TANKS AND SYSTEMS

This classification allows the licensee to excavate, install and repair pipe, backfill, and compact soil as required for the licensee to install and repair:

1. Septic tanks
2. Aerobic digesters
3. Leaching fields

C-42 ROOFING

This classification allows the licensee to apply, repair, or install weatherproofing (i.e. asphaltum, pitch, tar, felt, glass fabric, flax, or other commonly used materials or systems) or roof accessories (i.e. flashing, valleys, gravel stops, or sheet metal) as required for the licensee to install and repair:

1. Roof tile
2. Shingles
3. Shakes
4. Slate
5. Metal roofing systems
6. Urethane foam
7. Roof insulation or coatings on or above the roof deck

This classification allows the licensee to replace up to 10 percent of the total roof substrate square footage as it relates to issues with substrate discovered after execution of the initial contract. Replacing more than 10 percent of the roof substrate square footage as it relates to issues with substrate discovered after execution of the initial contract requires licensee to subcontract work to a properly licensed contractor.

This classification also allows the licensee to install new or replace existing skylights where it does not require changes to the roof framing or roof structure and replace fascia not to exceed 24 linear feet.

Licensee may lift HVAC equipment to allow for proper installation of roofing material. However, the licensee must subcontract work to a properly licensed contractor if HVAC equipment ducting requires any modification to allow for proper installation of roofing material.

C-45 SHEET METAL

This classification allows the licensee to install and repair:

1. Sheet metal
2. Cornices
3. Flashings
4. Gutters

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5. Leaders
 6. Pans
 7. Kitchen equipment
 8. Duct work
 9. Skylights
 10. Patented chimneys
 11. Metal flues
 12. Metal roofing systems
- C-48 CERAMIC, PLASTIC AND METAL TILE
This classification allows the licensee to prepare a surface as required for the licensee to install and repair the following tile products on horizontal and vertical surfaces:
1. Ceramic
 2. Clay
 3. Faience
 4. Metal
 5. Mosaic
 6. Glass mosaic
 7. Paver
 8. Plastic
 9. Quarry and stone tiles such as marble or slate
 10. Terrazzo
- Installation of shower doors and tub enclosures are included when a part of the original contract.
- C-49 REFRIGERATION
This classification allows the licensee to install, alter, and repair refrigeration equipment and systems used for processing, storage, and display of food products and other perishable commodities.
This classification includes commercial, industrial, and manufacturing processes requiring refrigeration excluding comfort air conditioning.
Systems may also include the following areas of work and related equipment: temperature, safety and capacity controls, thermal insulation, vibration isolation materials and devices; water treatment devices; construction and installation of walk-in refrigeration boxes, liquid fuel piping and tanks, water and gas piping from equipment to service connection; and testing and balancing of refrigeration equipment and systems.
If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.
- C-53 WATER WELL DRILLING
This classification allows the licensee to drill new water wells or deepen existing water wells by use of standard practices including the use of cable tools, compressed air percussion, rotary, air rotary, or reverse circulation rotary methods. Includes installing casing, gravel pack, perforating and sanitary seals. Repair existing wells by sand pumping, jetting, acidizing, swabbing, clean out, re-perforating, swaging, installation of annealed lines, and the removal of debris.
Includes photographing interior of wells with appropriate equipment. Installation of jet and submersible pumps; electrical pump controls and wiring from pump equipment to first readily accessible disconnect; and water line to storage or pressure tank, not to exceed 50 linear feet. Use of a test pump to develop a new well, or repair an existing well, when provided in contract, is limited to 5 horsepower.
- Installation of concrete pump bases not to exceed 50 square feet.
Installation of protective fencing when included in original contract.
- C-54 WATER CONDITIONING EQUIPMENT
This classification allows the licensee to perform trenching, backfilling, and grading; and install and repair piping, fittings, valves, concrete supports, and electrical control panels of less than 25 volts and required grounding devices; as required for the licensee to install and repair:
1. Water conditioning equipment
 2. Misting systems
 3. Exchange tanks
 4. Indirect waste pipe carrying brine, backwash and rinse water to the point of disposal
- C-56 WELDING
This classification allows the licensee to weld metals.
- C-57 WRECKING
This classification allows the licensee to install and repair temporary ramps, barricades, and pedestrian walkways as required for the licensee to demolish, dismantle, or remove structures not intended for reuse. This classification does not allow the licensee to use explosives.
- C-58 COMFORT HEATING, VENTILATING, EVAPORATIVE COOLING
This classification allows the licensee to install, alter, and repair warm air heating systems, gas fired furnaces and space heaters, ventilation and evaporative cooling units, or any combination of these.
Systems may include the following areas of work and related equipment; duct work, air filtering devices, pneumatic or electrical controls, control piping, thermal and acoustical insulation, vibration isolation materials and devices, liquid fuel piping and tanks, water and gas piping from service connection to equipment it serves. Testing and balancing of air handling systems.
If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.
- C-60 FINISH CARPENTRY
This classification allows the licensee to install and repair millwork such as:
1. Cabinets
 2. Counter tops
 3. Case sash
 4. Door trim
 5. Metal doors
 6. Automatic door closers
 7. Wood flooring
- C-61 CARPENTRY, REMODELING AND REPAIRS
For projects of \$50,000 or less including labor and materials, this classification allows the licensee to perform all general remodeling, additions, replacements, and repairs to existing structures.
Work related to electrical, plumbing, air conditioning systems, and boilers must be subcontracted to an appropriately licensed contractor.
- C-63 APPLIANCES

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This classification allows the licensee to install and repair appliances.

This classification does not allow the licensee to install or repair gas, electrical, or plumbing lines.

C-65 GLAZING

This classification allows the licensee to install and repair weatherproofing, caulking, sealants, and adhesives as required for the licensee to install and repair:

1. Glass products
2. Window film
3. Window treatments, such as blinds or shutters
4. Steel and aluminum glass holding members

C-67 LOW VOLTAGE COMMUNICATION SYSTEMS

This classification allows the licensee to build antenna towers on existing structures as required for the licensee to install, service, and repair:

1. Alarm systems
2. Telephone systems
3. Sound systems
4. Intercommunication systems
5. Public addressing systems
6. Television or video systems
7. Low voltage signaling devices
8. Low voltage landscape lighting that does not exceed 91 volts
9. Master and program clocks (only low voltage wiring and needed equipment)

C-70 REINFORCING BAR AND WIRE MESH

This classification allows the licensee to install and repair:

1. Reinforcing bar
2. Post-tension
3. Wire mesh

C-74 BOILERS, STEAMFITTING AND PROCESS PIPING, INCLUDING SOLAR

This classification allows the licensee to install, alter, and repair steam and hot water systems and boilers including solar. Also included are chimney connections, flues, refractories, burners, piping, fittings, valves, thermal insulation and accessories; fuel and water lines from source of supply to boilers; process and specialty piping and related equipment; pneumatic and electrical controls.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

C-77 PLUMBING INCLUDING SOLAR

This classification allows the licensee to install, alter, and repair all plumbing including solar, when performed solely within property lines and not on public easements or right-of-ways except as hereinafter provided.

This classification also allows for installation alteration, and repair of all piping, fixtures and appliances related to water supply, including pressure vessels and tanks (excluding municipal or related water supply systems); venting and sanitary drainage systems for all fluid, semifluid, and organic wastes; septic tanks and leaching lines; roof leaders; lawn sprinkler systems; water conditioning equipment; piping and equipment for swimming pools.

Also included are piping, fixtures, appliances, and pressure vessels for manufactured and natural gases, compressed air and vacuum systems, petroleum, fuel oil, nonpotable liquids, hot water heating and hot water supply systems operating at pressures not exceeding 30 PSIG or temperatures not exceeding 220° F; steam heating and steam supply systems not exceeding 15 PSIG operating pressure; gas or oil fired space heaters and furnaces excluding duct work. Piping for water cooling systems, excluding the refrigerant piping and equipment. Testing and balancing of hydronics systems.

Sewer, gas, water lines, and connections from structure to the nearest point of public supply or disposal may cross public or private easements or be installed within private easements. Pipe installed across public property may not be increased in size or make any other connection between the point of exit from private property to point of connection at public supply or disposal. These lines shall not be installed parallel to main lines in public easements or right-of-ways.

C-78 SOLAR PLUMBING LIQUID SYSTEMS ONLY

This classification allows the licensee to install, alter, and repair solar water heating systems operating at temperatures not exceeding 220° F, including thermosyphon, direct (open loop), and indirect (closed loop), but excludes air as a transfer medium.

Includes installation of collectors, storage and expansion tanks, heat exchangers, piping valves, pumps, sensors and low voltage controls which connect to existing plumbing and electrical stubouts at the water tank location.

Installation of solar water heating systems for swimming pools which tie into and operate from the conventional pool systems, but excludes all non-solar plumbing, electrical and mechanical systems and components.

Installation of backup and auxiliary heating systems only when such systems are included in the original contract and when such systems are an integral part of the solar collector or storage equipment.

C-79 AIR CONDITIONING AND REFRIGERATION, INCLUDING SOLAR

This classification allows the licensee to install, alter, and repair refrigeration and evaporative cooling systems, including solar.

This classification also allows for installation alteration, and repair of heating systems of "wet", "dry" or radiant type. "Wet" systems include steam, or hot water boilers and coils, or baseboard convectors and are limited to 30 PSIG operating pressure of 220° F for hot water and 15 PSIG operating pressure for steam. Dry systems include gas fired furnaces and space heaters.

This classification also allows for installation alteration, and repair of ventilation systems.

Installation of these systems include duct work, air filtering devices, water treatment devices, pneumatic or electrical controls, and control piping. Thermal and acoustical insulation, vibration isolation materials and devices, liquid fuel piping and tanks, and water and gas piping from service connection to equipment it serves. Testing and balancing of refrigerant, cooling and heating circuits, and air handling systems.

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If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

Historical Note

Former Rule 2. Amended effective May 20, 1975, Amended effective June 13, 1975, Amended effective August 8, 1975, Amended effective August 25, 1975 (Supp. 75-1). Amended effective January 9, 1976, subsection (B) of this Section R4-9-02 renumbered as Section R4-9-03 effective February 23, 1976 (Supp. 76-1). Amended effective October 14, 1977 (Supp. 77-5). Amended effective September 13, 1978 (Supp. 78-5). Amended by adding A-20 effective July 10, 1980; adding A-21 effective July 11, 1980; adding C-77 and C-78 effective July 28, 1980; adding C-74 and C-79 effective August 15, 1980; adding C-75 and C-80 effective August 19, 1980 (Supp. 80-4). Amended by adding A-19 effective September 5, 1980 (Supp. 80-5). Repealed effective April 18, 1984 (Supp. 84-2). New Section R4-9-02 adopted effective July 9, 1987, and renumbered as Section R4-9-102 (Supp. 87-3). Amended effective January 20, 1998 (Supp. 98-1). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 1029, effective June 11, 2017 (Supp. 17-2). Amended by final rulemaking at 23 A.A.R. 2525, effective November 5, 2017 (Supp. 17-3).

R4-9-103. Residential Contractor License Classifications and Scopes of Work

A. Residential contracting license classifications. License classifications for residential contractors are as follows:

GENERAL RESIDENTIAL CONTRACTING

- B- General Residential Contractor
- B-3 General Remodeling and Repair Contractor
- B-4 General Residential Engineering Contractor
- B-4R Sport Court Accessories
- B-5 General Swimming Pool Contractor
- B-5R Swimming Pool Covers
- B-5R Factory Fabricated Pools and Accessories
- B-6 General Swimming Pool Contractor, Including Solar
- B-10 Pre-Manufactured Spas and Hot Tubs

SPECIALTY RESIDENTIAL CONTRACTING

- R-1 Acoustical Systems
- R-2 Excavating, Grading and Oil Surfacing
- R-3 Awnings, Canopies, Carports and Patio Covers
- R-4 Boilers, Steamfitting and Process Piping
- R-6 Swimming Pool Service and Repair
- R-7 Carpentry
- R-8 Floor Covering
- R-9 Concrete
- R-10 Drywall
- R-11 Electrical
- R-12 Elevators
- R-13 Asphalt Paving
- R-14 Fencing
- R-15 Blasting
- R-16 Fire Protection
- R-17 Structural Steel and Aluminum
- R-21 Hardscaping and Irrigation Systems
- R-22 House Moving
- R-24 Ornamental Metals

- R-31 Masonry
- R-34 Painting and Wall Covering
- R-36 Plastering
- R-37 Plumbing, Including Solar
- R-37R Plumbing
- R-37R Built-In Central Vacuum Systems
- R-37R Kitchen and Bathroom Fixture Refinishing
- R-37R Swimming Pool Plumbing and Equipment
- R-37R Gas Piping
- R-37R Sewers, Drains and Pipe Laying
- R-37R Solar Plumbing Liquid Systems Only
- R-38 Signs
- R-39 Air Conditioning and Refrigeration, Including Solar
- R-39R Air Conditioning and Refrigeration
- R-39R Temperature Control Systems
- R-39R Warm Air Heating, Evaporative Cooling and Ventilating
- R-39R Evaporative Cooling and Ventilators
- R-40 Insulation
- R-41 Septic Tanks and Systems
- R-42 Roofing
- R-45 Sheet Metal
- R-48 Ceramic, Plastic and Metal Tile
- R-53 Drilling
- R-54 Water Conditioning Equipment
- R-56 Welding
- R-57 Wrecking
- R-60 Finish Carpentry
- R-61 Carpentry, Remodeling and Repairs
- R-62 Minor Home Improvements
- R-63 Appliances
- R-65 Glazing
- R-67 Low Voltage Communication Systems
- R-70 Reinforcing Bar and Wire Mesh

B. RESIDENTIAL CONTRACTING SCOPES. The “R” designation after the license classification means that the licensee’s scope of work is restricted to the description stated in the license title. The scope of work which may be done under the residential contracting license classifications is as follows:

B- GENERAL RESIDENTIAL CONTRACTOR

This classification allows the licensee to construct and repair all or any part of a residential structure or appurtenance. Work related to electrical, plumbing, air conditioning systems, boilers, swimming pools, spas and water wells must be subcontracted to an appropriately licensed contractor. This classification does not include work authorized by the A-, B-1, or B-2 scopes.

B-3 GENERAL REMODELING AND REPAIR CONTRACTOR

This classification allows the licensee to remodel and repair an existing residential structure or appurtenance except for electrical, plumbing, mechanical, boilers, swimming pools, spas and water wells, which must be subcontracted to an appropriately licensed contractor. The scope of work allowed under the R-7 carpentry classification is included within this scope.

B-4 GENERAL RESIDENTIAL ENGINEERING CONTRACTOR

This classification allows the licensee to construct and repair appurtenances to residential structures. Work

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related to electrical, plumbing, air conditioning systems, boilers, and water wells must be subcontracted to an appropriately licensed contractor. This scope includes the CR-21, B-5, and all B-4R subclassifications.

B-4R Sport Court Accessories

Upon the effective date of these rules, no new applications for the B-4R license classifications will be accepted and no new B-4R licenses will be issued.

B-5 GENERAL SWIMMING POOL CONTRACTOR

This classification allows the licensee to construct and repair swimming pools and spas. Installation of code-required pool barriers around the swimming pool or spa and installation of utilities from the point of service to the pool equipment. Construction of other structures or appurtenances is excluded. This scope includes all B-5R subclassifications.

B-5R Swimming Pool Covers

B-5R Factory Fabricated Pools & Accessories

Upon the effective date of these rules, no new applications for the B-5R classifications will be accepted and no new B-5R licenses will be issued.

B-6 GENERAL SWIMMING POOL CONTRACTOR, INCLUDING SOLAR

This classification allows the licensee to perform the same scope of work permitted by the B-5 (including all B-5R subclassifications) but also includes installation and repair of solar heating devices.

B-10 PREMANUFACTURED SPAS AND HOT TUBS

This classification allows the licensee to construct and repair spas and hot tubs. Installation of code-required pool barriers around the spa or hot tub and installation of utilities from the point of service to the spa equipment are included.

R-1 ACOUSTICAL SYSTEMS

This classification allows the licensee to install and repair pre-manufactured acoustical ceiling and wall systems.

This classification does not allow the licensee to install or repair electrical or mechanical systems.

R-2 EXCAVATING, GRADING AND OILSURFACING

This classification allows the licensee to apply oil surfacing or other similar products and place shoring, casing, geotextiles or liners as required for the licensee to move, alter, or repair earthen materials by:

1. Digging
2. Trenching
3. Grading
4. Horizontal boring
5. Compacting
6. Filling

R-3 AWNINGS, CANOPIES, CARPORTS AND PATIO COVERS

This classification allows the licensee to place concrete footings and concrete slabs as required for the licensee to install and repair:

1. Window awnings
2. Door hoods
3. Freestanding or attached canopies
4. Carport and patio covers constructed of metal, fabric, fiberglass, or plastic

5. Screened and paneled enclosures, which are not intended for use as habitable spaces, using metal panels, plastic inserts, and screen doors. A minimum of 60% of the wall area of an enclosure shall be constructed of screening material.

6. Fascia panels

7. Flashing and skirting

8. Exterior, detached metal storage units, not to exceed 200 square feet

This classification does not allow the licensee to install or repair electrical, plumbing, or air conditioning systems.

R-4 BOILERS, STEAMFITTING AND PROCESS PIPING

This classification allows the licensee to install, alter, and repair steam and hot water systems and boilers, including chimney connections, flues, refractories, burners, piping, fittings, valves, thermal insulation, and accessories; fuel and water lines from source of supply to boilers; process and specialty piping and related equipment; pneumatic and electrical controls.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

R-6 SWIMMING POOL SERVICE AND REPAIR

This classification allows the licensee to service and perform minor repair of residential pools and accessories, excluding plumbing connections to a potable water system, gas lines, gas chlorine systems, and electrical work beyond the first disconnect. This classification does not allow the licensee to perform a complete replacement of plaster or pebble pool interiors and decks.

R-7 CARPENTRY

This classification allows the licensee to install and repair:

1. Rough carpentry
2. Finish carpentry
3. Hardware
4. Millwork
5. Metal studs
6. Metal doors or door frames
7. Windows

R-8 FLOOR COVERING

This classification allows the licensee to prepare a surface as required for the licensee to install and repair the following floor covering materials:

1. Carpet
2. Floor tile
3. Wood
4. Linoleum
5. Vinyl
6. Asphalt
7. Rubber
8. Concrete coatings

R-9 CONCRETE

This classification allows the licensee to install and repair concrete, concrete products, and accessories common to the industry.

R-10 DRYWALL

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	<p>This classification allows the licensee to install and repair:</p> <ol style="list-style-type: none"> 1. Gypsum wall board 2. Ceiling grid systems as supporting members for gypsum drywall 3. Movable partitions 4. Wall board tape and texture 5. Non-load bearing, lightweight, steel wall partitions 		<p>This classification also includes reinforcing steel and field layout, cutting, assembly, and erection by welding, bolting, wire tying or riveting.</p>
R-11	<p>ELECTRICAL</p> <p>This classification allows the licensee to install and repair residential electrical systems.</p>		
R-12	<p>ELEVATORS</p> <p>This classification allows the licensee to install and repair:</p> <ol style="list-style-type: none"> 1. Elevators 2. Dumbwaiters 3. Escalators 4. Moving walks and ramps 5. Stage and orchestra lifts 		
R-13	<p>ASPHALT PAVING</p> <p>This classification allows the licensee to install and repair paved areas using materials and methods common to the industry, including asphalt curbs, concrete bumper curbs, headers, and striping.</p>		
R-14	<p>FENCING</p> <p>This classification allows the licensee to install and repair:</p> <ol style="list-style-type: none"> 1. Metal, wood, and cement block fencing 2. Automatic gates 3. Fire access strobes 4. Cattle guards 5. Low voltage U.L. approved electrical fence protective devices of less than 25 volts and 100 watts <p>This classification does not allow the licensee to install or repair retaining walls.</p>		
R-15	<p>BLASTING</p> <p>This classification allows the licensee to drill, bore, move earth, and build temporary shelters or barricades, as required for the licensee's use of explosives and explosive devices for:</p> <ol style="list-style-type: none"> 1. Excavation 2. Demolition 3. Construction related blasting 		
R-16	<p>FIRE PROTECTION SYSTEMS</p> <p>This classification allows the licensee to install and repair fire prevention and fire protection systems including all mechanical apparatus, devices, piping, and equipment common to the fire protection industry. Installation and repair of low voltage signaling systems are also permitted by the R-16 but installation and repair of all other electrical devices, apparatus, and wiring must be subcontracted to a properly licensed contractor.</p>		
R-17	<p>STRUCTURAL STEEL AND ALUMINUM</p> <p>This classification allows the licensee to install and repair architectural and structural steel and aluminum materials common to the industry.</p>		
R-21	<p>HARDSCAPING AND IRRIGATION SYSTEMS</p> <p>This classification allows the licensee to install, alter, and repair:</p> <ol style="list-style-type: none"> 1. Non-loadbearing concrete 2. Uncovered patios, walkways, driveways made of brick, stone, pavers or gravel 3. Wooden decks no higher than 29 inches above finish grade 4. Decorative garden walls up to six feet from finish grade 5. Fences and screens up to six feet from finish grade 6. Retaining walls up to three feet from the finish grade of the lower elevation 7. Free standing fire pits, fireplaces, or barbeques – electric, plumbing, and gas must be subcontracted to a properly licensed contractor 8. Low voltage landscape lighting 9. Water features that are not attached to swimming pools; including any necessary: electrical wiring of 120 volts or less, connection to potable water lines, backflow prevention devices, hose bibs, excavating, trenching, boring, backfilling, or grading 10. Irrigation systems, including any necessary: electrical wiring of 120 volts or less, connection to potable water lines, backflow prevention devices, hose bibs, excavating, trenching, boring, backfilling, or grading 11. Residential outdoor misting systems. Freestanding or attached to existing appurtenance, not more than 1000 PSI. 12. Free standing and uncovered outdoor kitchens – electric, plumbing, and gas must be subcontracted to a properly licensed contractor <p>With the exception of free standing fire pits, fireplaces, or barbeques, this classification does not allow the licensee to install, contract for, or subcontract new electrical service panels, gas or plumbing lines, blasting, covered outdoor kitchens, gazebos, room additions, swimming pools, pool deck coatings, barbeques, concrete driveways, load bearing walls, or perimeter fencing.</p>		
R-22	<p>HOUSE MOVING</p> <p>This classification allows the licensee to disconnect utilities, but connection of utilities and construction of foundations are not permitted.</p>		
R-24	<p>ORNAMENTAL METALS</p> <p>This classification allows the licensee to install, alter, or repair non-structural ornamental metal, such as:</p> <ol style="list-style-type: none"> 1. Metal folding gates 2. Guard and hand rails 3. Wrought iron fencing and gates 4. Window shutters and grilles 5. Room dividers and shields 6. Metal accessories common to the industry <p>This classification does not allow the licensee to install fire escapes or stairs.</p>		

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R-31 MASONRY

This classification allows the licensee to grout, caulk, sand blast, tuckpoint, mortar wash, parge, clean and weld reinforcing steel as required for the licensee to install and repair:

1. Masonry
2. Brick
3. Concrete block
4. Insulating concrete forms
5. Adobe units
6. Stone
7. Marble
8. Slate
9. Mortar-free masonry products

R-34 PAINTING AND WALL COVERING

This classification allows the licensee to perform surface preparation to install, apply, and repair:

1. Wallpaper
2. Wall covering cloth
3. Wall covering vinyl
4. Decorative texture
5. Paint
6. Liquid floor and wall coatings

R-36 PLASTERING

This classification allows the licensee to install laths, metal studs, metal grid systems, or other bases as required for the licensee to coat surfaces by trowel or spray with combinations of:

1. Sand mixtures (e.g. stucco)
2. Gypsum plaster
3. Cement
4. Acoustical plaster
5. Swimming pool interiors (excluding tile)

R-37 PLUMBING, INCLUDING SOLAR

This classification allows the licensee to install and repair water and gas piping systems, fire protection as it relates to water sprinkler systems, and sewage treatment systems. Included are all fixtures, vents, and devices common to the industry, as well as solar applications. This scope includes all R-37R subclassifications.

- R-37R Plumbing
- R-37R Built-in Central Vacuum Systems
- R-37R Kitchen and Bathroom Fixture Refinishing
- R-37R Swimming Pool Plumbing and Equipment
- R-37R Gas Piping
- R-37R Sewers, Drains and Pipe Laying
- R-37R Solar Plumbing Liquid Systems Only

Upon the effective date of these rules, no new applications for the R-37R Built-in Central Vacuum Systems, Kitchen and Bathroom Fixture Refinishing, Swimming Pool Plumbing and Equipment, Gas Piping, Sewers, Drains and Pipe Laying, and Solar Plumbing Liquid Systems Only license classifications will be accepted and no new R-37R licenses in these classifications will be issued.

R-38 SIGNS

This classification allows the licensee to install and repair posts, poles, supports, paint, and electrical wiring as required for the licensee to install and repair:

1. Signs
2. Displays
3. Flagpoles

R-39 AIR CONDITIONING AND REFRIGERATION, INCLUDING SOLAR

This classification allows the licensee to install and repair comfort air conditioning systems, including refrigeration, evaporative cooling, ventilating, and heating with or without solar equipment. Installation and repair of machinery, units, accessories, refrigerator rooms, and insulated refrigerator spaces, and controls in refrigerators.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel. This scope includes all R-39R subclassifications.

R-39R Air Conditioning and Refrigeration

R-39R Temperature Control Systems

R-39R Warm Air Heating, Evaporative Cooling and Ventilating

R-39R Evaporative Cooling and Ventilators

Upon the effective date of these rules, no new applications for the R-39R Gas Refrigeration, Temperature Control Systems, Warm Air Heating, Evaporative Cooling and Ventilating, Evaporative Cooling and Ventilators, and Pre-Coolers license classifications will be accepted and no new R-39R licenses in these classifications will be issued.

R-40 INSULATION

This classification allows the licensee to install and repair:

1. Insulation materials, including radiant barriers
2. Preformed architectural acoustical materials
3. Insulation protecting materials

R-41 SEPTIC TANKS AND SYSTEMS

This classification allows the licensee to excavate, install and repair pipe, backfill, and compact soil as required for the licensee to install and repair:

1. Septic tanks
2. Aerobic digesters
3. Leaching fields

R-42 ROOFING

This classification allows the licensee to apply, repair, or install weatherproofing (i.e. asphaltum, pitch, tar, felt, glass fabric, flax, or other commonly used materials or systems) or roof accessories (i.e. flashing, valleys, gravel stops, or sheet metal) as required for the licensee to install and repair:

1. Roof tile
2. Shingles
3. Shakes
4. Slate
5. Metal roofing systems
6. Urethane foam
7. Roof insulation or coatings on or above the roof deck

This classification allows the licensee to replace up to 10 percent of the total roof substrate square footage as it relates to issues with substrate discovered after execution of the initial contract. Replacing more than 10 percent of the roof substrate square footage as it relates to issues with substrate discovered after execution of the initial contract requires licensee to subcontract work to a properly licensed contractor.

This classification also allows the licensee to install new or replace existing skylights where it does not

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- require changes to the roof framing or roof structure and replace fascia not to exceed 24 linear feet.
- Licensee may lift HVAC equipment to allow for proper installation of roofing material. However, the licensee must subcontract work to a properly licensed contractor if HVAC equipment ducting requires any modification to allow for proper installation of roofing material.
- R-45 SHEET METAL**
This classification allows the licensee to install and repair:
1. Sheet metal
 2. Cornices
 3. Flashings
 4. Gutters
 5. Leaders
 6. Pans
 7. Kitchen equipment
 8. Duct work
 9. Skylights
 10. Patented chimneys
 11. Metal flues
 12. Metal roofing systems
- R-48 CERAMIC, PLASTIC AND METAL TILE**
This classification allows the licensee to prepare a surface as required for the licensee to install and repair the following tile products on horizontal and vertical surfaces:
1. Ceramic
 2. Clay
 3. Faience
 4. Metal
 5. Mosaic
 6. Glass mosaic
 7. Paver
 8. Plastic
 9. Quarry and stone tiles such as marble or slate
 10. Terrazzo
- Installation of shower doors and tub enclosures are included when a part of the original contract.
- R-53 DRILLING**
This classification allows the licensee to install and repair wells, including test boring, exploratory drilling and all materials and devices common to the industry.
- R-54 WATER CONDITIONING EQUIPMENT**
This classification allows the licensee to perform trenching, backfilling, and grading; and install and repair piping, fittings, valves, concrete supports, and electrical control panels of less than 25 volts and required grounding devices; as required for the licensee to install and repair:
1. Water conditioning equipment
 2. Misting systems
 3. Exchange tanks
 4. Indirect waste pipe carrying brine, backwash and rinse water to the point of disposal
- R-56 WELDING**
This classification allows the licensee to weld metals.
- R-57 WRECKING**
- This classification allows the licensee to install and repair temporary ramps, barricades, and pedestrian walkways as required for the licensee to demolish, dismantle, or remove structures not intended for reuse.
- This classification does not allow the licensee to use explosives.
- R-60 FINISH CARPENTRY**
This classification allows the licensee to install and repair millwork such as:
1. Cabinets
 2. Counter tops
 3. Case sash
 4. Door trim
 5. Metal doors
 6. Automatic door closers
 7. Wood flooring
- R-61 CARPENTRY, REMODELING AND REPAIRS**
For projects of \$50,000 or less including labor and materials, this classification allows the licensee to perform all general remodeling, additions, replacements, and repairs to existing structures.
- Work related to electrical, plumbing, air conditioning systems, and boilers must be subcontracted to an appropriately licensed contractor.
- R-62 MINOR HOME IMPROVEMENTS**
For projects of \$5,000 or less including labor and materials, this classification allows the licensee to perform remodeling, repairs, and improvements to existing structures or appurtenances. The minor home improvement contractor shall not perform structural work to any existing structures or appurtenances, including load bearing masonry or concrete work (with the exception of on-grade flat work), and load bearing carpentry work (with the exception of patio or porch covers).
- Any work related to electrical, plumbing, air conditioning systems, and boilers must be subcontracted to an appropriately licensed contractor.
- R-63 APPLIANCES**
This classification allows the licensee to install and repair appliances.
- This classification does not allow the licensee to install or repair gas, electrical, or plumbing lines.
- R-65 GLAZING**
This classification allows the licensee to install and repair weatherproofing, caulking, sealants, and adhesives as required for the licensee to assemble, install and repair:
1. Glass products
 2. Window film
 3. Window treatments, such as blinds or shutters
 4. Steel and aluminum glass holding members
- R-67 LOW VOLTAGE COMMUNICATION SYSTEMS**
This classification allows the licensee to build antenna towers on existing structures as required for the licensee to install, service and repair:
1. Alarm systems
 2. Telephone systems
 3. Sound systems
 4. Intercommunication systems
 5. Public addressing systems

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- 6. Television or video systems
 - 7. Low voltage signaling devices
 - 8. Low voltage landscape lighting that does not exceed 91 volts
 - 9. Master and program clocks (only low voltage wiring and needed equipment)
- R-70 REINFORCING BAR AND WIRE MESH
This classification allows the licensee to install and repair:
- 1. Reinforcing bar
 - 2. Post-tension
 - 3. Wire mesh

Historical Note

Former Rule 3. Amended effective May 20, 1975, Amended effective June 13, 1975, Amended effective August 8, 1975, Amended effective August 25, 1975 (Supp. 75-1). Amended effective January 9, 1976, subsection (B) of former Section R4-9-02 renumbered as Section R4-9-03 effective February 23, 1976 (Supp. 76-1). Amended effective March 11, 1976 (Supp. 76-2). Correction, Historical Note for Supp. 76-1 should read former Section R4-9-03 repealed, new Section R4-9-03 adopted effective February 23, 1975 (Supp. 76-4). Amended effective November 23, 1976 (Supp. 76-5). Amended effective October 14, 1977 (Supp. 77-5). C-4 and C-37 amended effective December 9, 1977 (Supp. 77-6). Correction, Historical Note for Supp. 76-4 should read former Section R4-9-03 repealed, new Section R4-9-03 adopted effective February 23, 1976 (Supp. 78-1). Amended effective September 13, 1978 (Supp. 78-5). Amended effective April 2, 1979 (Supp. 79-2). Amended effective November 21, 1979 (Supp. 79-6). Amended effective July 10, 1980 (Supp. 80-4). Amended effective July 11, 1980 (Supp. 80-4). Amended effective July 28, 1980 (Supp. 80-4). Amending effective August 15, 1980 (Supp. 80-4). Amended effective August 19, 1980 (Supp. 80-4). Amended effective September 5, 1980 (Supp. 80-5). Amended effective April 18, 1984 (Supp. 84-2). Former Section R4-9-03 renumbered without change as Section R4-9-103 (Supp. 87-3). Amended effective September 13, 1989 (Supp. 89-3). Amended effective January 20, 1998 (Supp. 98-1). Amended to correct typographical errors (Supp. 99-4). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 2525, effective November 5, 2017 (Supp. 17-3).

R4-9-104. Dual Contractor License Classifications and Scopes of Work

- A.** Dual license contracting classifications. License classifications for dual contractors are as follows:

GENERAL DUAL ENGINEERING CONTRACTING

- KA- Dual Engineering
- KA-5 Dual Swimming Pool Contractor
- KA-6 Dual Swimming Pool Contractor Including Solar
- KE- (As restricted by Registrar)

GENERAL DUAL LICENSE CONTRACTING

- KB-1 Dual Building Contractor
- KB-2 Dual Residential and Small Commercial
- KO- (As restricted by Registrar)

SPECIALTY DUAL LICENSE CONTRACTING

- CR-1 Acoustical Systems

- CR-2 Excavating, Grading and Oil Surfacing
- CR-3 Awnings, Canopies, Carports and Patio Covers
- CR-4 Boilers, Steamfitting and Process Piping
- CR-5 (As restricted by Registrar)
- CR-6 Swimming Pool Service and Repair
- CR-7 Carpentry
- CR-8 Floor Covering
- CR-9 Concrete
- CR-10 Drywall
- CR-11 Electrical
- CR-12 Elevators
- CR-14 Fencing
- CR-15 Blasting
- CR-16 Fire Protection Systems
- CR-17 Steel and Aluminum Erection
- CR-21 Hardscaping and Irrigation Systems
- CR-24 Ornamental Metals
- CR-29 Machinery (As restricted by Registrar)
- CR-31 Masonry
- CR-34 Painting and Wall Covering
- CR-36 Plastering
- CR-37 Plumbing
- CR-38 Signs
- CR-39 Air Conditioning, Refrigeration and Heating
- CR-40 Insulation
- CR-41 Septic Tanks and Systems
- CR-42 Roofing
- CR-45 Sheet Metal
- CR-48 Ceramic, Plastic and Metal Tile
- CR-53 Water Well Drilling
- CR-54 Water Conditioning Equipment
- CR-56 Welding
- CR-57 Wrecking
- CR-58 Comfort Heating, Ventilating, Evaporative Cooling
- CR-60 Finish Carpentry
- CR-61 Carpentry, Remodeling and Repairs
- CR-63 Appliances
- CR-65 Glazing
- CR-66 Seal Coating
- CR-67 Low Voltage Communication Systems
- CR-69 Asphalt Paving
- CR-70 Reinforcing Bar and Wire Mesh
- CR-74 Boilers, Steamfitting and Process Piping, including Solar
- CR-77 Plumbing including Solar
- CR-78 Solar Plumbing Liquid Systems Only
- CR-79 Air Conditioning and Refrigeration including Solar
- CR-80 Sewers, Drains and Pipe Laying

- B.** Dual license contracting scopes. The scope of work which may be done under the dual license contracting classifications allow a contractor to combine commercial and residential contracting licenses in one license. These classifications are as follows:

KA- DUAL ENGINEERING

This classification allows the scopes of work permitted by the commercial A- General Engineering and the B-4 General Residential Engineering licenses.

KA-5 DUAL SWIMMING POOL CONTRACTOR

This classification allows the scopes of work permitted by the commercial A-9 Swimming Pools and the residential B-5 General Swimming Pool licenses.

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KA-6 DUAL SWIMMING POOL CONTRACTOR INCLUDING SOLAR

This classification allows the scopes of work permitted by the commercial A-19 Swimming Pools, Including Solar and the residential B-6 General Swimming Pools, Including Solar licenses.

KE- (AS RESTRICTED BY REGISTRAR)

KB-1 DUAL BUILDING CONTRACTOR

This classification allows the scopes of work permitted by the B-1 General Commercial Contractor and the B- General Residential Contractor licenses.

KB-2 DUAL RESIDENTIAL AND SMALL COMMERCIAL

This classification allows the scopes of work permitted by the B-2 General Small Commercial and the B-General Residential Contractor licenses.

KO- (AS RESTRICTED BY REGISTRAR)

CR-1 ACOUSTICAL SYSTEMS

This classification allows the scopes of work permitted by the commercial C-1 Acoustical Systems and the residential R-1 Acoustical Systems licenses.

CR-2 EXCAVATING, GRADING AND OIL SURFACING

This classification allows the scopes of work permitted by the commercial A-5 Excavating, Grading, and Oil Surfacing and the residential R-2 Excavating, Grading, and Oil Surfacing licenses.

CR-3 AWNINGS, CANOPIES, CARPORTS AND PATIO COVERS

This classification allows the scopes of work permitted by the commercial C-3 Awnings, Canopies, Carports and Patio Covers and the residential R-3 Awnings, Canopies, Carports and Patio Covers licenses.

CR-4 BOILERS, STEAMFITTING AND PROCESS PIPING

This classification allows the scopes of work permitted by the commercial C-4 Boilers, Steamfitting and Process Piping and the residential R-4 Boilers, Steamfitting and Process Piping licenses.

CR-5 (AS RESTRICTED BY REGISTRAR)

CR-6 SWIMMING POOL SERVICE AND REPAIR

This classification allows the scopes of work permitted by the commercial C-6 Swimming Pool Service and Repair and the residential R-6 Swimming Pool Service and Repair licenses.

CR-7 CARPENTRY

This classification allows the scopes of work permitted by the commercial C-7 Carpentry and the residential R-7 Carpentry licenses.

CR-8 FLOOR COVERING

This classification allows the scopes of work permitted by the commercial C-8 Floor Covering and the residential R-8 Floor Covering licenses.

CR-9 CONCRETE

This classification allows the scopes of work permitted by the commercial C-9 Concrete and the residential R-9 Concrete licenses.

CR-10 DRYWALL

This classification allows the scopes of work permitted by the commercial C-10 Drywall and the residential R-10 Drywall licenses.

CR-11 ELECTRICAL

This classification allows the scopes of work permitted by the commercial C-11 Electrical and residential R-11 Electrical licenses.

CR-12 ELEVATORS

This classification allows the scopes of work permitted by the commercial C-12 Elevators and the residential R-12 Elevators licenses.

CR-14 FENCING

This classification allows the scopes of work permitted by the commercial C-14 Fencing and the residential R-14 Fencing licenses.

CR-15 BLASTING

This classification allows the scopes of work permitted by the commercial C-15 Blasting and the residential R-15 Blasting licenses.

CR-16 FIRE PROTECTION SYSTEMS

This classification allows the scopes of work permitted by the commercial C-16 Fire Protection Systems and the residential R-16 Fire Protection licenses.

CR-17 STEEL AND ALUMINUM ERECTION

This classification allows the scopes of work permitted by the commercial A-11 Steel and Aluminum Erection and the residential R-17 Structural Steel and Aluminum licenses.

CR-21 HARDSCAPING AND IRRIGATION SYSTEMS

This classification allows the scopes of work permitted by the commercial C-21 Hardscaping and Irrigation Systems and the residential R-21 Hardscaping and Irrigation Systems licenses.

Upon the effective date of these rules, existing CR-21 Landscaping and Irrigation Systems licenses will be reclassified as CR-21 Hardscaping and Irrigation Systems.

CR-24 ORNAMENTAL METALS

This classification allows the scopes of work permitted by the commercial C-24 Ornamental Metals and the residential R-24 Ornamental Metals licenses.

CR-29 MACHINERY (AS RESTRICTED BY THE REGISTRAR)

CR-31 MASONRY

This classification allows the scopes of work permitted by the commercial C-31 Masonry and the residential R-31 Masonry licenses.

CR-34 PAINTING AND WALL COVERING

This classification allows the scopes of work permitted by the commercial C-34 Painting and Wall Covering and the residential R-34 Painting and Wall Covering licenses.

CR-36 PLASTERING

This classification allows the scopes of work permitted by the commercial C-36 Plastering and the residential R-36 Plastering licenses.

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CR-37 PLUMBING

This classification allows the scopes of work permitted by the commercial C-37 Plumbing and the residential R-37R Plumbing licenses.

CR-38 SIGNS

This classification allows the scopes of work permitted by the commercial C-38 Signs and the residential R-38 Signs licenses.

CR-39 AIR CONDITIONING AND REFRIGERATION

This classification allows the scopes of work permitted by the commercial C-39 Air Conditioning and Refrigeration and the residential R-39R Air Conditioning and Refrigeration licenses.

CR-40 INSULATION

This classification allows the scopes of work permitted by the commercial C-40 Insulation and the residential R-40 Insulation licenses.

CR-41 SEPTIC TANKS AND SYSTEMS

This classification allows the scopes of work permitted by the commercial C-56 Welding and the residential R-56 Welding licenses.

CR-42 ROOFING

This classification allows the scopes of work permitted by the commercial C-42 Roofing and the residential R-42 Roofing licenses.

CR-45 SHEET METAL

This classification allows the scopes of work permitted by the commercial C-45 Sheet Metal and the residential R-45 Sheet Metal licenses.

CR-48 CERAMIC, PLASTIC AND METAL TILE

This classification allows the scopes of work permitted by the commercial C-48 Ceramic, Plastic and Metal Tile and the residential R-48 Ceramic, Plastic and Metal Tile licenses.

CR-53 WATER WELL DRILLING

This classification allows the scopes of work permitted by the commercial C-53 Water Well Drilling and the residential R-53 Drilling licenses.

CR-54 WATER CONDITIONING EQUIPMENT

This classification allows the scopes of work permitted by the commercial C-54 Water Conditioning Equipment and the residential R-54 Water Conditioning Equipment licenses.

CR-56 WELDING

This classification allows the scopes of work permitted by the commercial C-56 Welding and the residential R-56 Welding licenses.

CR-57 WRECKING

This classification allows the scopes of work permitted by the commercial C-57 Wrecking and the residential R-57 Wrecking licenses.

CR-58 COMFORT HEATING, VENTILATING, EVAPORATIVE COOLING

This classification allows the scopes of work permitted by the commercial C-58 Comfort Heating, Ventilating, Evaporative Cooling and the residential R-39R Warm Air Heating, Evaporative Cooling, and Ventilating licenses.

CR-60 FINISH CARPENTRY

This classification allows the scopes of work permitted by the commercial C-60 Finish Carpentry and the residential R-60 Finish Carpentry licenses.

CR-61 CARPENTRY, REMODELING AND REPAIRS

This classification allows the scopes of work permitted by the commercial C-61 Carpentry, remodeling and Repairs and the residential R-61 Carpentry, remodeling and Repairs licenses.

CR-62 REINFORCING BAR AND WIRE MESH

Upon the effective date of these rules, no new applications for the CR-62 Reinforcing Bar and Wire Mesh license classifications will be accepted, no new CR-62 licenses will be issued, and existing CR-62 licenses will be reclassified as CR-70 Reinforcing Bar and Wire Mesh.

CR-63 APPLIANCES

This classification allows the scopes of work permitted by the commercial C-63 Appliances and the residential R-63 Appliances licenses.

CR-65 GLAZING

This classification allows the scopes of work permitted by the commercial C-65 Glazing and the residential R-65 Glazing licenses.

CR-66 SEAL COATING

This classification allows the scopes of work permitted by the commercial A-15 Seal Coating and the residential R-13 Asphalt Paving licenses.

CR-67 LOW VOLTAGE COMMUNICATION SYSTEMS

This classification allows the scopes of work permitted by the commercial C-67 Low Voltage Communication Systems and the residential R-67 Low Voltage Communication Systems licenses.

CR-69 ASPHALT PAVING

This classification allows the scopes of work permitted by the commercial A-14 Asphalt Paving and the residential R-13 Asphalt Paving licenses.

CR-70 REINFORCING BAR AND WIRE MESH

This classification allows the scope of work permitted by the commercial C-70 Reinforcing Bar and Wire Mesh and the residential R-70 Reinforcing Bar and Wire Mesh licenses.

CR-74 BOILERS, STEAMFITTING AND PROCESS PIPING, INCLUDING SOLAR

This classification allows the scopes of work permitted by the commercial C-74 Boilers, Steamfitting and Process Piping, Including Solar and the residential R-4 Boilers Including Solar licenses.

CR-77 PLUMBING INCLUDING SOLAR

This classification allows the scopes of work permitted by the commercial C-77 Plumbing Including Solar and the residential R-37 Plumbing Including Solar licenses.

CR-78 SOLAR PLUMBING LIQUID SYSTEMS ONLY

This classification allows the scopes of work permitted by the commercial C-78 Solar Plumbing Liquid Systems Only and the residential R-37R Solar Plumbing Liquid Systems Only licenses.

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CR-79 AIR CONDITIONING AND REFRIGERATION INCLUDING SOLAR

This classification allows the scopes of work permitted by the commercial C-79 Air Conditioning and Refrigeration Including Solar and the residential R-39 Air Conditioning and Refrigeration Including Solar licenses.

CR-80 SEWERS, DRAINS AND PIPE LAYING

This classification allows the scopes of work permitted by the commercial A-12 Sewers, Drains, and Pipe Laying and the residential R-37R Sewers, Drains and Pipe Laying licenses.

Historical Note

Former Section R4-9-04 repealed, new Section R4-9-04 adopted effective February 23, 1976 (Supp. 76-1).

Amended effective April 18, 1984 (Supp. 84-2).

Amended subsection (A) effective July 9, 1987 (Supp. 87-3). Former Section R4-9-04 renumbered as Section R4-9-104 (Supp. 87-3). Former Section R4-9-104 renumbered to R4-9-105 and amended; new Section R4-9-104 adopted effective January 20, 1998 (Supp. 98-1).

Amended to correct typographical errors (Supp. 99-4).

Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 2525, effective November 5, 2017 (Supp. 17-3).

R4-9-105. Restricted License Classifications

- A.** A restricted license is a specialty or general license that confines the scope of allowable contracting work to a specialized area of construction which the Registrar of Contractors grants on a case-by-case basis. The restricted licenses classifications are KE, KO, CR-5 or CR-29. The Registrar assigns a restricted license classification based upon the nature and complexity of the work, the degree of unusual expertise involved and the applicability of existing classifications to the specialized area of construction.
- B.** When applying for a restricted license classification an applicant, if requested, shall submit to the Registrar the following:
 1. A detailed statement of the type and scope of contracting work that the applicant proposes to perform.
 2. Any brochures, catalogs, photographs, diagrams, or other material, which the applicant has, that will further clarify the scope of the work that the applicant proposes to perform.
- C.** The Registrar shall determine the classification of the restricted license and notify the applicant of the classification. The applicant must then apply for the restricted license according to the Registrar of Contractor's application process in accordance with A.R.S. § 32-1122.
- D.** A contractor issued a restricted license shall confine the contractor's activities to the field and scope of operations as described in the license classification.

Historical Note

Former Section R4-9-05 repealed, new Section R4-9-05 adopted effective February 23, 1976 (Supp. 76-1).

Amended effective July 9, 1987 (Supp. 87-3). Former Section R4-9-05 renumbered without change as Section R4-9-105 (Supp. 87-3). Former Section R4-9-105 renumbered to R4-9-106 and amended; new Section R4-9-105 renumbered from R4-9-104 and amended effective January

20, 1998 (Supp. 98-1). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-106. Examinations**A. Definitions.**

1. *Statutes and Rules Examination.* The term "statutes and rules examination" means the examination required in A.R.S. § 32-1122(E)(2) addressing the qualifying party's general knowledge of the contracting business in Arizona. The Registrar of Contractors statutory and regulatory examination addresses the qualifying party's general knowledge of:
 - a. The building, safety, health, and lien laws of the state;
 - b. Administrative principles of the contracting business;
 - c. The rules adopted by the Registrar; and
 - d. Any matters deemed appropriate by the Registrar to determine that the qualifying party meets the requirements of Chapter 10, Title 32.
2. *Trade Examination.* The term "trade examination" means the examination required in A.R.S. § 32-1122(E)(2) addressing the qualifying party's knowledge of the particular kind of work performed in the license classification. The trade examination addresses the qualifying party's:
 - a. Qualification in the kind of work for which the applicant proposes to contract;
 - b. Knowledge and understanding of construction plans and specifications applicable to the particular industry or craft;
 - c. Knowledge and understanding of the standards of construction work and techniques and practices in the particular industry or craft;
 - d. General understanding of other related construction trades; and
 - e. Any matters deemed appropriate by the Registrar to determine that the qualifying party meets the requirements of A.R.S. Chapter 10, Title 32.

B. Frequency of Examinations. The Registrar, or a contracted testing service, must administer Registrar of Contractors statutory and regulatory examinations and trade examinations at least once a week.

C. Passing Grade. On each required examination, the qualifying party must receive a grade of at least 70%.

D. Retaking Examinations after Failure. If the qualifying party fails to receive a grade of at least 70% on an examination, the qualifying party may retake the examination only after waiting:

1. 30 calendar days from the first failure;
2. 30 calendar days from the second failure; and
3. 90 days from any other failure.

E. Waiver of the Trade Examination Requirement in A.R.S. § 32-1122.

1. Waiver of Trade Examination Requirement for a Qualifying Party from Another State.

- a. *Authority for Waiver.* In addition to the Registrar's authority in A.R.S. § 32-1122(E) to waive the examination requirement for a qualifying party in this state, the Registrar may waive the trade examination requirement for the qualifying party for a licensee in another state.
- b. *Conditions for Waiver.* The Registrar may waive the trade examination requirement if records reflect that the qualifying party is currently or has previously been a qualifying party for a licensee in the other

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state in the same classification, or in a comparable classification, within the preceding five years.

2. *Extent of Waiver of Trade Examination Requirement for Any Qualifying Party. Waiver of Trade Examination Permitted.* The Registrar may waive the trade examination requirement with respect to the trade examination if:

- A qualifying party for a license in this state meets the conditions for waiver in A.R.S. § 32-1122(E); or
- A qualifying party for a license in another state meets the conditions for waiver in subsection (E)(1) of this rule.

- F. Waiver of Experience Requirement in A.R.S. § 32-1122 based on Examination.

- Examination and Certification Cause for Waiver of Experience Requirement for a Qualifying Party.* By classification, the Registrar may administratively waive experience requirements, all or in part, based on:
 - The applicant's passing of an appropriate trade examination; or
 - Proof of successful completion of an acceptable and nationally recognized certification.
- Timeliness of Examination and Certification.*
 - An examination must have been passed not more than two years prior to application for consideration of waiver of experience.
 - A certification must be valid at the time of application to be considered for waiver of experience.

Historical Note

New Section R4-9-106 renumbered from R4-9-105 and amended effective January 20, 1998 (Supp. 98-1). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 2525, effective November 5, 2017 (Supp. 17-3). Amended by final rulemaking at 24 A.A.R. 2419, effective January 1, 2019 (Supp. 18-3).

R4-9-107. Classifying and Reclassifying Contractor Licenses

- In accordance with A.R.S. § 32-1105 and 32-1122, the Registrar may establish, add to, take away from, or eliminate license classifications.
- Where a license classification is eliminated, but the Registrar determines a comparable license classification remains, the Registrar shall reclassify the eliminated licenses with the remaining license classification.
- The following license reclassifications are effective July 1, 2014.

Prior License	New License
A-3 Blasting	CR-15 Blasting
C-15 Blasting	
A-21 Landscaping and Irrigation Systems	CR-21 Landscaping and Irrigation Systems
L-26 Landscaping	
L-44 Irrigation Systems	
C-21 Landscaping and Irrigation Systems	
C-21R Landscaping	
C-21R Irrigation Systems	
K-26 Landscaping	
K-44 Irrigation Systems	KE (As Restricted by the Registrar)
AE (As Restricted by the Registrar)	
BE (As Restricted by the Registrar)	KO (As Restricted by the Registrar)

L-1 Acoustical Systems	CR-1 Acoustical Systems
C-1 Acoustical Systems	
L-3 Awnings, Canopies, Carports and Patio Covers	CR-3 Awnings, Canopies, Carports and Patio Covers
C-3 Awnings and Canopies	
L-5 (As Restricted by the Registrar)	CR-5 (As Restricted by the Registrar)
C-5 (As Restricted by the Registrar)	
L-7 Carpentry	CR-7 Carpentry
C-7 Carpentry	
C-7R Doors, Gates, Windows and Accessories	
C-7R Removable Formwork and Shoring	
C-7R Nailing and Stapling	CR-8 Floor Covering
L-8 Floor Covering	
L-13 Carpets	
L-64 Wood Floor Laying and Finishing	
C-8 Floor Covering	
C-8R Wood Flooring	
C-8R Carpet	
C-8R Composition Flooring	
C-8R Nonconventional Floor Covering	
C-8R Ceramic and Clay Floor Covering	
K-13 Carpet	R-9 Concrete
K-64 Wood Floor Laying and Finishing	
C-9R Gunite and Shotcrete	
C-9R Lightweight Concrete	
C-9R Fence Footings	
C-9R PreCast Concrete	
C-9R Sawing, Coring, Epoxy Panels and Bonding	CR-10 Drywall
C-9R Terrazzo	
L-10 Drywall	CR-12 Elevators
C-10 Drywall	
L-12 Elevators	R-13 Asphalt Paving
C-18 Elevators	
C-13R Asphalt Coating and Parking Appurtenances	CR-14 Fencing
L-14 Fencing	
C-14 Fencing	R-16 Fire Protection Systems
C-14R Fencing Other Than Masonry	
C-16R CO2, Dry and Wet Chemical Systems	CR-24 Ornamental Metals
L-24 Ornamental Metals	
C-17R Ornamental Metals	R-17 Structural Steel and Aluminum
C-17R Steel Floor, Sub Floor and Form Systems	
C-17R Tanks	
C-17R Recreational Equipment	
L-29 Machinery (As Restricted by the Registrar)	CR-29 Machinery (As Restricted by the Registrar)
C-29 Machinery (As Restricted by the Registrar)	
L-31 Masonry	CR-31 Masonry
C-31 Masonry	
C-31R Flagstone	
C-31R Stone Masonry	

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L-34 Painting and Wall Covering	CR-34 Painting and Wall Covering
C-34 Painting and Wall Covering	
C-34R Surface Preparation and Waterproofing	
C-34R Wallpaper	
L-36 Plastering	CR-36 Plastering
C-36 Plastering	
C-36R Swimming Pool Plastering	
C-36R Lathing	
L-38 Sign	CR-38 Signs
C-38 Signs	
L-40 Insulation	CR-40 Insulation
C-40 Insulation	
C-40R Foam Insulation	
L-41 Septic Tanks and Systems	CR-41 Septic Tanks and Systems
C-41 Sewage Treatment Systems	
C-41R Precast Waste Treatment Systems	
L-42 Roofing	CR-42 Roofing
C-42 Roofing	
C-42R Foam and Foam Panel Roofing	
C-42R Liquid Applied Roofing	
C-42R Roofing Shingles and Shakes	CR-45 Sheet Metal
L-45 Sheet Metal	
C-45 Sheet Metal	
C-45R Premanufactured Fire Places	
L-48 Ceramic, Plastic and Metal Tile	CR-48 Ceramic, Plastic and Metal Tile
C-48 Ceramic, Plastic and Metal Tile	
C-48R Swimming Pool Tile	
L-54 Water Conditioning Equipment	CR-54 Water Conditioning Equipment
C-37R Water Conditioning Equipment	
L-56 Welding	CR-56 Welding
C-17R Welding	
L-57 Wrecking	CR-57 Wrecking
C-22R Wrecking	
L-60 Finish Carpentry	CR-60 Finish Carpentry
C-30 Finish Carpentry	
C-30R Kitchen and Bathroom Components	
C-30R Doors, Windows, Gates, Tub and Shower Enclosures	
C-30R Cultured Marble	
C-30R Weatherstripping	
L-61 Carpentry, Remodeling and Repairs	CR-61 Carpentry, Remodeling and Repairs
C-61 Limited Remodeling and Repair Contractor	
C-68 Mobile Home Remodeling and Repair	
L-62 Reinforcing Bar and Wire Mesh	CR-62 Reinforcing Bar and Wire Mesh
C-17R Rebar and Wire Mesh	
L-63 Appliances	CR-63 Appliances
C-63 Appliances	

L-65 Glazing	CR-65 Glazing
C-65 Glazing	
C-65R Skylights	
C-65R Storm Windows and Doors	
C-65R Mirrors	
C-65R Window Treatment	CR-67 Low Voltage Communication Systems
L-67 Low Voltage Communications Systems	
C-12 Low Voltage Communication Systems	

Historical Note

Former Rule 7. Former Section R4-9-07 repealed, new Section R4-9-07 adopted effective February 23, 1976 (Supp. 76-1). Former Section R4-9-07 repealed, new Section R4-9-07 adopted effective April 18, 1984 (Supp. 84-2). Former Section R4-9-07 renumbered without change as Section R4-9-107 (Supp. 87-3). Repealed effective October 22, 1992 (Supp. 92-4). New Section R4-9-107 made by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-108. Workmanship Standards

- A. A contractor shall perform all work in a professional and workmanlike manner.
- B. A contractor shall perform all work in accordance with any applicable building codes and professional industry standards. For work to be performed in accordance with professional industry standards, a contractor shall use such skills, prudence, and diligence in performing and completing tasks undertaken that the completed work meets the standards of a similarly licensed contractor possessing ordinary skill and capacity.
- C. All work performed by a contractor in a county, city, or town that has not adopted building codes or where any adopted building codes do not contain specific provisions applicable to that aspect of construction work shall be performed in accordance with professional industry standards.

Historical Note

Former Rule 8. Former Section R4-9-08 repealed, new Section R4-9-08 adopted effective February 23, 1976 (Supp. 76-1). Amended effective October 18, 1979 (Supp. 79-5). Amended subsection (C) effective April 23, 1981 (Supp. 81-2). Amended subsection (C) effective April 18, 1984 (Supp. 84-2). Former Section R4-9-08 renumbered without change as Section R4-9-108 (Supp. 87-3). Amended effective April 20, 1993 (Supp. 93-2). Amended effective January 20, 1998 (Supp. 98-1). Amended by final rulemaking at 9 A.A.R. 5028, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 2525, effective November 5, 2017 (Supp. 17-3).

R4-9-109. Name of Licensee or Applicant

- A. Definitions.
 1. *Official Name of Record.* The term "official name of record" means either:
 - a. The name of the licensee on file at the Arizona Corporation Commission, if the licensee is a corporation or a limited liability company;
 - b. The name of the licensee on file at the Secretary of State's Office, if the licensee is a partnership; or

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- c. The name of the licensee on a government-issued identification card, if the licensee is an individual operating as a sole proprietorship.
- 2. *Trade Name and DBA.* The terms “trade name” and “DBA” each mean the name in which the licensee actually does business as a contractor.
- B. General Rules about the Licensee’s Name.**
 - 1. *Names on a License.* On any license issued by the Registrar, the Registrar must include:
 - a. The licensee’s official name of record, and
 - b. Any trade name used with that license.
 - 2. *Name on the Bond.* Every name on the licensee’s license must be on the license bond exactly as it appears on the license.
 - 3. *Licensee’s Name and the License Scope.* Neither a licensee’s official name of record nor its trade name may include, reference, or suggest a scope of work that is not included in the scope of the license issued by the Registrar. This prohibition does not apply if:
 - a. The licensee holds a separate license with a scope that is included, referenced, or suggested by the licensee’s name; or
 - b. The licensee:
 - i. Does not use the official name of record to do business as a contractor, and
 - ii. Uses instead a trade name that does not include, reference, or suggest a scope of work that is not included in the scope of the license.
 - 4. *Conducting Business Using a Name on the License.* Any time a licensee conducts business in Arizona as a contractor, the licensee must conduct that business using either the official name of record or the trade name on the license issued by the Registrar.
- C. Rules about the Licensee’s Name at the Time of a License Application.**
 - 1. *Evidence of Official Name of Record.* When applying for a license, the applicant must provide the Registrar with satisfactory evidence of the applicant’s official name of record.
 - 2. *Applicant’s Name as Basis for Denial.* The Registrar may deny an application for a license if:
 - a. The issued license would violate this Rule; or
 - b. Conducting business as a contractor using any name on the license would, under A.R.S. § 32-1154(A)(15), constitute any false, misleading, or deceptive advertising whereby any member of the public may be misled and injured.
- D. Rules about the Licensee’s Request to Change Its Name on a License.** If a licensee requests in writing that the Registrar change one or more names on a license, the Registrar must grant the request if:
 - 1. There has been No change in the legal form of the licensee;
 - 2. There has been No change in the ownership of the licensee;
 - 3. The licensee provides a bond rider;
 - 4. Every requested name is printed on the bond rider exactly;
 - 5. The licensee provides the fee for the name change; and
 - 6. The requested name does not violate this Rule or any provision in Chapter 10, Title 32.

Historical Note

Former Rule 9. Former Section R4-9-09 repealed, new Section R4-9-09 adopted effective February 23, 1976 (Supp. 76-1). Amended effective September 27, 1976 (Supp. 76-4). Amended subsections (B), (C), and (D) effective April 18, 1984 (Supp. 84-2). Former Section R4-9-09 renumbered without change as Section R4-9-109 (Supp. 87-3). Amended by final rulemaking at 10 A.A.R. 5185, effective February 5, 2005 (04-4). Amended by final rulemaking at 23 A.A.R. 2525, effective November 5, 2017 (Supp. 17-3).

R4-9-110. Change of Legal Entity and Cancellation of License

- A.** Pursuant to A.R.S. § 32-1124, licenses are nontransferable. A new license is required whenever the licensee’s legal entity changes. A change in legal entity includes, but is not limited to:
 - 1. Changes in ownership of a sole proprietorship;
 - 2. Change of a controlling partner in a partnership;
 - 3. Changing from one corporate entity to a different corporate entity;
 - 4. Changing business entities, regardless of whether ownership changes, (e.g. from a corporation or a sole proprietor to a limited liability company); or
 - 5. Merging with another business, where the business holding the license becomes the inactive business after the merger.
- B.** A license may be cancelled upon the written request of the owner of a sole proprietorship, a controlling partner of a partnership, or in the case of a corporation or a limited liability company any person with written evidence of authority to cancel the license.

Historical Note

Former Rule 10. Former Section R4-9-10 repealed, new Section R4-9-10 adopted effective February 23, 1976 (Supp. 76-1). Former Section R4-9-10 renumbered without change as Section R4-9-110 (Supp. 87-3). Amended by final rulemaking at 10 A.A.R. 5185, effective February 5, 2005 (04-4). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-111. Opting Out of Dual License Classifications

- A.** Unless prohibited by another rule, if a contractor holds a dual license, then that contractor may, at the time of the license’s renewal, choose:
 - 1. To retain the dual license;
 - 2. To designate the license as commercial; or
 - 3. To designate the license as residential.
- B.** If a license is designated as either commercial or residential under this Rule, that designation is permanent.

Historical Note

Former Rule 11. Former Section R4-9-11 repealed effective February 23, 1976 (Supp. 76-1). Adopted effective July 26, 1976 (Supp. 76-4). Amended effective April 18, 1979 (Supp. 84-2). Correction: Previous Historical Note should read: “Amended effective April 18, 1984”; Former Section R4-9-11 renumbered without change as Section R4-9-111 (Supp. 87-3). Repealed effective January 20, 1998 (Supp. 98-1). New Section made by final rulemaking at 23 A.A.R. 2525, effective November 5, 2017 (Supp. 17-3).

R4-9-112. Bond Limits; Applications; Renewals; Increases and Decreases of Bond Amounts; Effective Date of Bond and Deposits

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- A. Bond limits.** In accordance with the provisions of A.R.S. § 32-1152, license bonds are established in the following amounts, based upon the estimated annual volume of work anticipated by the contractor within the State of Arizona for the ensuing fiscal year:

License Category	Estimated Annual Volume (Per License Category)	Bond Amount
1. General Commercial Contracting and Engineering Contracting	Less than \$150,000	\$5,000
	\$150,000 or more, but less than \$500,000	\$15,000
	\$500,000 or more, but less than \$1,000,000	\$25,000
	\$1,000,000 or more, but less than \$5,000,000	\$50,000
	\$5,000,000 or more, but less than \$10,000,000	\$75,000
	\$10,000,000 or more	\$100,000
2. Specialty Commercial Contracting	Less than \$150,000	\$2,500
	\$150,000 or more, but less than \$500,000	\$7,000
	\$500,000 or more, but less than \$1,000,000	\$17,500
	\$1,000,000 or more, but less than \$5,000,000	\$25,000
	\$5,000,000 or more, but less than \$10,000,000	\$37,500
	\$10,000,000 or more	\$50,000
3. General Residential Contracting	Less than \$750,000	\$9,000
	\$750,000 or more	\$15,000
4. Specialty Residential Contracting	Less than \$375,000	\$4,250
	\$375,000 or more	\$7,500
5. General Dual License Contracting. The amount of a General Dual License Contracting bond is determined under subsection (A)(3), based on the contractor's estimated volume of general residential contracting, and subsection (A)(1), based on the contractor's estimated volume of general commercial contracting. The contractor shall ensure that the bond issuer separately specifies on the bond the bond amounts applicable to general residential contracting and general commercial contracting.		
6. Specialty Dual License Contracting. The amount of a Specialty Dual License Contracting bond is determined		

under subsection (A)(4), based on the contractor's estimated volume of specialty residential contracting, and subsection (A)(2), based on the contractor's estimated volume of specialty commercial contracting. The contractor shall ensure that the bond issuer separately specifies on the bond the bond amounts applicable to specialty residential contracting and specialty commercial contracting.

- B. New licenses.** On an application for a new license for any license category listed above, an applicant shall estimate the applicant's annual volume of work within the state of Arizona and comply with the bond requirements of this Section for the relevant category of license. The Registrar considers the filing of a bond or deposit in a specified amount to be the equivalent of submitting a volume estimate within the dollar limitations applicable for the bond amount.
- C. Renewal.** To renew a license an applicant shall complete a form provided by the Registrar of Contractors. If the contractor files a new bond or continues a bond or deposit in a specified amount, the Registrar considers these actions to be the equivalent of submitting a volume estimate within the dollar limitations applicable for the bond amount. The Registrar of Contractors is not responsible for over or under estimates of volume of work made by the licensee or for the sufficiency of any bond or deposit. The Registrar considers a gross underestimate knowingly made by a licensee to be a material misrepresentation, which can subject the licensee to suspension or revocation of license.
- D. Increases and decreases of bond amounts.** Based on the actual amount of the contractor's gross volume of work, a contractor may increase the bond amount at any time. A surety bond or cash deposit in lieu of a bond cannot be decreased except at the time of license renewal.
- E. Effective date of bonds and deposits.** A license bond or cash deposit is not effective until the licensee files it at a Registrar of Contractors office. If a license bond is filed before the effective date indicated on the bond, the bond becomes effective on the indicated date.
- F. The changes to bond amounts made in this Section become enforceable on the next license renewal after June 30, 2014.**

Historical Note

Former Rule 12. Former Section R4-9-12 repealed, new Section R4-9-12 adopted effective February 23, 1976 (Supp. 76-1). Amended effective October 17, 1978 (Supp. 78-5). Amended subsection (C) effective August 15, 1980 (Supp. 80-4). Amended subsections (A), (B), and (C) effective July 9, 1987; former Section R4-9-12 renumbered as Section R4-9-112 (Supp. 87-3). Amended effective January 20, 1998 (Supp. 98-1). Amended by final rulemaking at 10 A.A.R. 5185, effective February 5, 2005 (04-4). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-113. Application Process

- A. Time Frames for New Licenses.**
- Overall Time Frame for Issuing New Licenses. When deciding whether to grant or deny a new contractor's license, the Registrar must operate within an overall time frame of 60 calendar days.
 - Administrative Completeness Review Time Frame. During the overall time frame of 60 calendar days, the Registrar must perform the administrative completeness review within 20 days.

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3. Substantive Review Time Frame. During the overall time frame of 60 calendar days, the Registrar must perform the substantive review within 40 days.
- B. Return of License Application.
 1. Registrar's Right to Return Application. The Registrar may return an application if the Registrar:
 - a. Issues either:
 - i. A written notice of deficiencies under A.R.S. § 41-1074; or
 - ii. A comprehensive written request for additional information under A.R.S. § 41-1075; and
 - b. Does not receive within 30 calendar days information sufficiently responsive to either the notice or the request.
 2. Consequences for Fees. If the Registrar returns an application, then:
 - a. The applicant forfeits the application fee; but
 - b. The Registrar must return all other license fees.
 3. Resubmission Requires New Fee. If the applicant resubmits a license application that has been returned, then the applicant must pay a new application fee.
- C. Withdrawal of the License Application.
 1. Applicant's Right to Withdraw. An applicant may withdraw its license application at any time.
 2. Written Request. The applicant's request for withdrawal must be in writing.
 3. Consequences for Fees. If the applicant withdraws its application, then:
 - a. The applicant forfeits the application fee; but
 - b. The Registrar must return all other license fees.

Historical Note

Adopted effective January 20, 1998 (Supp. 98-1).
Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 2525, effective November 5, 2017 (Supp. 17-3).

R4-9-114. Reserved**R4-9-115. Expired****Historical Note**

Former Rule 15. Former Section R4-9-15 repealed, new Section R4-9-15 adopted effective February 23, 1976 (Supp. 76-1). Former Section R4-9-15 renumbered without change as Section R4-9-115 (Supp. 87-3). Amended by final rulemaking at 10 A.A.R. 5185, effective February 5, 2005 (04-4). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 2525, effective November 5, 2017 (Supp. 17-3). Section expired under A.R.S. § 41-1056(J), at 28 A.A.R. 624 (March 18, 2022), effective March 1, 2022 (Supp. 22-1).

R4-9-116. Expired**Historical Note**

Former Rule 16. Former Section R4-9-16 repealed, new Section R4-9-16 adopted effective February 23, 1976 (Supp. 76-1). Amended effective October 14, 1977 (Supp. 77-5). Amended effective October 26, 1978 (Supp. 78-5). Amended effective April 18, 1984 (Supp. 84-2). Former Section R4-9-16 renumbered without change as Section R4-9-116 (Supp. 87-3). Amended by final rulemaking at 10 A.A.R. 5185, effective February 5,

2005 (04-4). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1). Section expired under A.R.S. § 41-1056(J) at 25 A.A.R. 373, effective December 29, 2016, filed in the Office February 1, 2019 (Supp. 19-1).

R4-9-117. Prior Record

In determining the appropriate discipline for a licensed contractor, the Administrative Law Judge and the Registrar may consider not only facts in the current case, but also facts in prior cases and any documents regarding the contractor on file with the Registrar.

Historical Note

Former Rule 17. Former Section R4-9-17 repealed, new Section R4-9-17 adopted effective February 23, 1976 (Supp. 76-1). Former Section R4-9-17 renumbered without change as Section R4-9-117 (Supp. 87-3). Amended by final rulemaking at 9 A.A.R. 3182, effective August 30, 2003 (Supp. 03-3). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 2525, effective November 5, 2017 (Supp. 17-3).

R4-9-118. Prehearing Disclosure Requirement

- A. Disclosure Statement. Before the hearing, a party must prepare a disclosure statement. The disclosure statement must contain:
 1. A list of all the witnesses the party will call to testify, including the witnesses' contact information and a brief description of the subject matter of the witnesses' expected testimony; and,
 2. A list of all the exhibits that the party will use at the hearing.
- B. Exchanging Disclosure Statements and Exhibits.
 1. Contents. A party to the hearing must serve on every other party and file with the Office of Administrative Hearings a copy of:
 - a. The disclosure statement; and,
 - b. Any exhibit that the party will use at the hearing.
 2. Manner of Service and Filing. The service and filing requirement in (B)(1) must be performed in accordance with Arizona Administrative Code R2-19-108 Filing Documents.
 3. Timing of Service and Filing. The disclosure statement and the exhibits must be served and filed not less than seven calendar days before the date of the hearing.
- C. Consequences for Failing to Disclose.
 1. Administrative Law Judge's Discretion. If a witness or an exhibit was not timely disclosed as required under subsection (B), and good cause for the failure to disclose is not shown then the administrative law judge may:
 - a. Order that certain witnesses or exhibits not be used at the hearing;
 - b. Order that a particular fact is or is not established for the record; or,
 - c. Order that a charge, a defense, a claim, or some portion thereof, be dismissed.
 2. Administrative Record. Nothing in this Section prohibits the administrative law judge from considering anything contained in the administrative record

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2525, effective November 5, 2017 (Supp. 17-3). Under

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A.R.S. 41-1011(C) the redundant phrases “of this Rule” and “of this Section” have been removed (Supp. 22-1).

R4-9-119. Minimum Trade Experience Required for Licensing

- A.** Type of Trade Experience Prior To Licensure. For purposes of examining an applicant’s trade experience dealing specifically with the type of construction, or its equivalent, for which the applicant is applying for a license, as required under A.R.S. § 32-1122(E):
1. The Registrar must accept the following as evidence of an applicant’s trade experience:
 - a. Military service or training;
 - b. Diplomas or transcripts from accredited training programs; and
 - c. Completion certificates from an apprenticeship approved by the United States Department of Labor or a state apprenticeship agency.
 2. The Registrar must accept evidence of trade experience regardless of whether:
 - a. The applicant was licensed or working for a properly licensed entity at the time the experience was obtained; or
 - b. The applicant was a minor at the time the experience was obtained.
 3. The Registrar may also accept any evidence of an applicant’s trade experience it deems appropriate to determine compliance with A.R.S. § 32-1122(E).
- B.** Nothing in this Section prohibits the Registrar from enforcing the provisions of A.R.S. § 32-1122(D), or any other provision of Arizona law.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 2419, effective January 1, 2019 (Supp. 18-3).

R4-9-120. Rehearing or Review of Decision

- A.** The Registrar of Contractors shall provide an opportunity for a rehearing or review of its decisions on a hearing under A.R.S. Title 41, Chapter 6, Article 10 and the rules established by the Office of Administrative Hearings.
- B.** Except as provided in subsection (F), any party who is aggrieved by the decision on a hearing in a contested case or appealable agency action before the Registrar of Contractors may file with the Registrar of Contractors a written motion for rehearing or review of the decision specifying the particular grounds for the rehearing or review.
- C.** The Registrar of Contractors may grant a rehearing or review of a decision for any of the following causes materially affecting the moving party’s rights:
1. Irregularity in the proceedings of the Registrar of Contractors or the Administrative Law Judge, or any order or abuse of discretion that deprived the moving party of a fair hearing;
 2. Misconduct of the Registrar of Contractors, Office of Administrative Hearings, Administrative Law Judge, or prevailing party;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
 5. Excessive or insufficient penalties;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing or during the progress of the proceeding; or

7. The decision is not justified by the evidence or is contrary to law.

- D.** The Registrar of Contractors may affirm or modify a decision on a hearing or grant a rehearing or review to all or any of the parties on all or part of the issues for any of the reasons in subsection (C). After giving the parties notice and an opportunity to be heard, the Registrar of Contractors may grant a motion for rehearing for a reason not stated in the motion. An order modifying a decision or granting a rehearing shall specify the particular ground for the order. A rehearing shall cover only the matter specified in the order.
- E.** Not later than 35 days after the date of a decision, and after giving the parties notice and an opportunity to be heard, the Registrar of Contractors may, on its own initiative, order a rehearing or review of its decision on a hearing for any reason for which it might have granted relief on motion of a party.
- F.** If the Registrar of Contractors makes a specific finding that the immediate effectiveness of a decision on a hearing is necessary for the preservation of the public health, safety, or welfare and that a rehearing or review of the decision on a hearing is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision on a hearing is issued as a final decision without an opportunity for review or rehearing, an application for judicial review of the decision may be made within the time limits permitted for applications for judicial review of the Registrar of Contractors’ final decisions.
- G.** For purposes of this Section the terms “contested case” and “party” have the same meanings as in A.R.S. § 41-1001.
- H.** To the extent that the provisions of this Section are in conflict with the provisions of any statute providing for review or rehearing of a decision of the Registrar of Contractors, the statutory provisions govern.

Historical Note

Former Rule 20. Repealed effective February 23, 1976 (Supp. 76-1). New Section R4-9-20 adopted effective June 18, 1982 (Supp. 82-3). Former Section R4-9-20 renumbered without change as Section R4-9-120 (Supp. 87-3). Amended by final rulemaking at 9 A.A.R. 1350, effective June 6, 2003 (Supp. 03-2). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-121. Expired**Historical Note**

Repealed effective February 23, 1976 (Supp. 76-1). New Section R4-9-21 adopted effective April 18, 1984 (Supp. 84-2). Amended effective July 9, 1987; former Section R4-9-21 renumbered as Section R4-9-121 (Supp. 87-3). Amended effective February 4, 1993 (Supp. 93-1). Repealed by final rulemaking at 9 A.A.R. 3182, effective August 30, 2003 (Supp. 03-3). New Section R4-9-121 made by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1). Section expired under A.R.S. § 41-1056(J) at 25 A.A.R.373, effective December 29, 2016, filed in the Office February 1, 2019 (Supp. 19-1).

R4-9-122. Repealed**Historical Note**

Adopted effective November 4, 1992 (Supp. 92-4). Repealed effective December 17, 1993 (Supp. 93-4).

R4-9-123. Repealed

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Historical Note

Adopted effective November 4, 1992 (Supp. 92-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R4-9-124. Repealed**Historical Note**

Adopted effective November 4, 1992 (Supp. 92-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R4-9-125. Repealed**Historical Note**

Adopted effective November 4, 1992 (Supp. 92-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R4-9-126. Repealed**Historical Note**

Adopted effective November 4, 1992 (Supp. 92-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R4-9-127. Repealed**Historical Note**

Adopted effective November 4, 1992 (Supp. 92-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R4-9-128. Repealed**Historical Note**

Adopted effective November 4, 1992 (Supp. 92-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R4-9-129. Repealed**Historical Note**

Adopted effective November 4, 1992 (Supp. 92-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R4-9-130. Schedule of Fees

An applicant shall submit a separate application for each classification of license. The following application fees, biennial license fees, biennial license renewal fees and fees for other services shall be applicable in accordance with the provisions of A.R.S. §§ 32-1123.01, 32-1126 and 32-1132. The fee for an annual license granted pursuant to A.R.S. § 32-1123.01, as an exception to the biennial license renewal requirement, shall be one-half of the fee for the biennial license renewal.

Classification of License	Application Processing Fee	Fee for Each Biennial License	Fee for Each Biennial License Renewal
1. COMMERCIAL CONTRACTING			
a. General Commercial Contracting (Includes all A and B Commercial classifications)	\$200	\$580	\$580
b. Specialty Commercial Contracting (Includes all C classifications)	\$100	\$480	\$480
2. RESIDENTIAL CONTRACTING			
a. General Residential Contracting (Includes all B Residential classifications)	\$180	\$320	\$320

- b. Specialty Residential Contracting (Includes all R classifications) \$80 \$270 \$270

3. GENERAL DUAL LICENSED CONTRACTING

General Dual Licensed Contracting (Includes all KA, KB, KE and KO classifications) \$200 \$480 \$480

4. SPECIALTY DUAL LICENSE CONTRACTING

Class CR \$100 \$380 \$380

5. PARTICIPATION IN RECOVERY FUND

Recovery Fund Assessment \$370 \$270

6. FEES FOR OTHER SERVICES

- a. Application to change qualifying party \$100
b. Application to change name of licensee \$30

Historical Note

Adopted effective February 4, 1993 (Supp. 93-1).
Amended effective January 20, 1998 (Supp. 98-1).
Amended by final rulemaking at 7 A.A.R. 3160, effective July 2, 2001 (Supp. 01-3). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

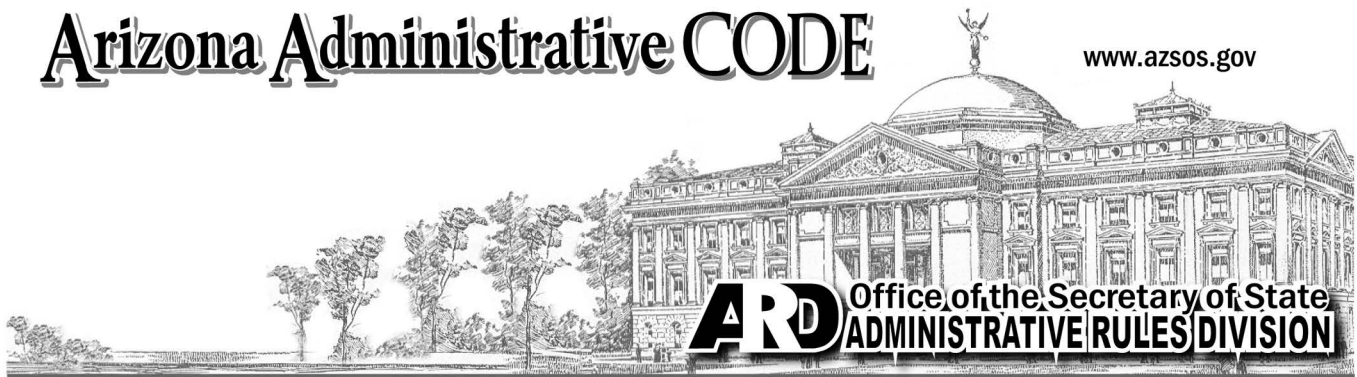
R4-9-131. Assessment of Civil Penalties

In assessing a civil penalty as provided for under A.R.S. § 32-1166(A), the Registrar shall give due consideration to whether the person cited or any individual acting on that person's behalf has committed one or more of the following acts in determining the gravity of the cited violation:

1. Falsely represented to be a licensed contractor.
2. Failed to perform any work for which money was received.
3. Executed or used any false or misleading documents for the purpose of inducing a person to enter into a contract or to pay money for work to be performed.
4. Made false or misleading statements for the purpose of inducing a person to enter into a contract or to pay money for work to be performed.
5. Failed or neglected to apply funds which were received for the purpose of obtaining or paying for services, labor, materials, or equipment.
6. Performed work that was or had the potential to become hazardous to the health, safety, or general welfare of the public.
7. Performed work that deliberately was in violation of building codes, safety laws, labor laws, workers' compensation laws, or unemployment insurance laws.
8. Performed work that failed to meet minimum acceptable trade or industry standards or practices or was not performed in a good and workmanlike manner.
9. Has committed any other act which would otherwise be cause for disciplinary action if the person cited had been properly licensed pursuant to A.R.S. Title 32, Chapter 10.
10. Has committed two or more prior violations.
11. Performed work that has caused loss or damage to the structure, its appurtenances, or property being worked upon or has caused loss or injury to any person.

Historical Note

Adopted effective May 26, 1994 (Supp. 94-2).



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CHAPTER 11. STATE BOARD OF DENTAL EXAMINERS

The table of contents on page one contains links to the referenced page numbers in this Chapter.
Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
April 1, 2023 through June 30, 2023

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Questions about these rules? Contact:

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The release of this Chapter in Supp. 23-2 replaces Supp. 22-3, 1-36 pages.

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

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

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

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

ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

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

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

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

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

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

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division

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TITLE 4. PROFESSIONS AND OCCUPATIONS**CHAPTER 11. STATE BOARD OF DENTAL EXAMINERS**

Authority: A.R.S. §§ 32-1201 et seq.

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Editor's Note: All former rules renumbered, new Article 11 added (Supp. 81-4).

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TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 11. STATE BOARD OF DENTAL EXAMINERS

ARTICLE 1. DEFINITIONS

R4-11-101. Definitions

The following definitions, and definitions in A.R.S. § 32-1201, apply to this Chapter:

“Analgesia” means a state of decreased sensibility to pain produced by using nitrous oxide and oxygen with or without Local Anesthesia.

“Business Entity” means a business organization that offers to the public professional services regulated by the Board and is established under the laws of any state or foreign country, including a sole practitioner, partnership, limited liability partnership, corporation, and limited liability company, unless specifically exempted by A.R.S. § 32-1213(J).

“Calculus” means a hard, mineralized deposit attached to the teeth.

“Charitable Dental Clinic or Organization” means a non-profit organization meeting the requirements of 26 U.S.C. 501(c)(3) and providing dental, dental therapy, or dental hygiene services.

“Clinical evaluation” means a dental examination of a patient named in a complaint regarding the patient’s dental condition as it exists at the time the examination is performed.

“Controlled substance” has the meaning prescribed in A.R.S. § 36-2501(A)(3).

“Credit hour” means one clock hour of participation in a Recognized Continuing Dental Education program.

“Deep sedation” is a Drug-induced depression of consciousness during which a patient cannot be easily aroused but responds purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. The patient may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is maintained.

“Dentist of record” means a dentist who examines, diagnoses, and formulates treatment plans for a patient and may provide treatment to the patient.

“Direct supervision” means, for purposes of Article 7 only, that a licensed dentist is present in the office and available to provide immediate treatment or care to a patient and observe a dental assistant’s work.

“Disabled” means a dentist, dental therapist, dental hygienist, or dentist has totally withdrawn from the active practice of dentistry, dental therapy, dental hygiene, or denturism due to a permanent medical disability and based on a physician’s order.

“Documentation of attendance” means documents that contain the following information:

- Name of sponsoring entity;
- Course title;
- Number of Credit Hours;
- Name of speaker; and
- Date, time, and location of the course.

“Drug” means:

- Articles recognized, or for which standards or specifications are prescribed, in the official compendium;

- Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in the human body;

Articles other than food intended to affect the structure of any function of the human body; or

Articles intended for use as a component of any articles specified in this definition but does not include devices or components, parts, or accessories of devices.

“Emerging scientific technology” means any technology used in the treatment of oral disease that is not currently generally accepted or taught in a recognized dental, dental therapy, or dental hygiene school and use of the technology poses material risks.

“Epithelial attachment” means the layer of cells that extends apically from the depth of the gingival sulcus along the tooth, forming an organic attachment.

“Ex-parte communication” means a written or oral communication between a decision maker, fact finder, or Board member and one party to the proceeding, in the absence of other parties.

“General anesthesia” is a Drug-induced loss of consciousness during which the patient is not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. The patient often requires assistance in maintaining a patent airway, and positive-pressure ventilation may be required because of depressed spontaneous ventilation or Drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

“General supervision” means, for purposes of Article 7 only, a licensed dentist is available for consultation, whether or not the dentist is in the office, regarding procedures or treatment that the dentist authorizes and for which the dentist remains responsible.

“Homebound patient” means a person who is unable to receive dental care in a dental office as a result of a medically diagnosed disabling physical or mental condition.

“Irreversible procedure” means a single treatment, or a step in a series of treatments, that causes change in the affected hard or soft tissues and is permanent or may require reconstructive or corrective procedures to correct the changes.

“Licensee” means a dentist, dental therapist, dental hygienist, dental consultant, retired licensee, or person who holds a restricted permit under A.R.S. §§ 32-1237 or 32-1292.

“Local anesthesia” is the elimination of sensations, such as pain, in one part of the body by the injection of an anesthetic Drug.

“Minimal sedation” is a minimally depressed level of consciousness that retains a patient’s ability to independently and continuously maintain an airway and respond appropriately to light tactile stimulation, not limited to reflex withdrawal from a painful stimulus, or verbal command and that is produced by a pharmacological or non-pharmacological method or a combination thereof. Although cognitive function and coordination may be modestly impaired, ventilatory and cardiovascular functions are unaffected. In accord with this particular definition, the Drugs or techniques used should carry a margin of safety wide enough to render unintended loss of consciousness unlikely.

“Mobile dental permit holder” means a Licensee or dentist who holds a mobile permit under R4-11-1301, R4-11-1302, or R4-11-1303.

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“Moderate sedation” is Drug-induced depression of consciousness during which a patient responds purposefully to verbal commands either alone or accompanied by light tactile stimulation, not limited to reflex withdrawal from a painful stimulus. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is maintained. The Drugs or techniques used should carry a margin of safety wide enough to render unintended loss of consciousness unlikely. Repeated dosing of a Drug before the effects of previous dosing can be fully recognized may result in a greater alteration of the state of consciousness than intended by the permit holder.

“Nitrous oxide analgesia” means nitrous oxide used as an inhalation analgesic.

“Official compendium” means the latest revision of the United States Pharmacopeia and the National Formulary and any current supplement.

“Oral sedation” is the enteral administration of a Drug or non-Drug substance or combination inhalation and enterally administered Drug or non-Drug substance in a dental office or dental clinic to achieve Minimal Sedation or Moderate Sedation.

“Parenteral sedation” is a minimally depressed level of consciousness that allows the patient to retain the ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command and is induced by a pharmacological or non-pharmacological method or a combination of both methods of administration in which the Drug bypasses the gastrointestinal tract.

“Periodontal pocket” means a pathologic fissure bordered on one side by the tooth and on the opposite side by crevicular epithelium and limited in its depth by the Epithelial Attachment.

“Plaque” means a film-like sticky substance composed of mucoid secretions containing bacteria and toxic products, dead tissue cells, and debris.

“Polishing” means a procedure limited to the removal of Plaque and extrinsic stain from exposed natural and restored tooth surfaces that utilizes an appropriate rotary instrument with rubber cup or brush and Polishing agent. A Licensee or dental assistant shall not represent that this procedure alone constitutes an oral Prophylaxis.

“Prescription-only device” means:

Any device that is restricted by the federal act, as defined in A.R.S. § 32-1901, to use only under the supervision of a medical practitioner; or

Any device required by the federal act, as defined in A.R.S. § 32-1901, to bear on its label the legend “RX Only.”

“Prescription-only Drug” does not include a Controlled Substance but does include:

Any Drug that, because of its toxicity or other potentiality for harmful effect, the method of its use, or the collateral measures necessary to its use, is not generally recognized among experts, qualified by scientific training and experience to evaluate its safety and efficacy, as safe for use except by or under the supervision of a medical practitioner;

Any Drug that is limited by an approved new Drug application under the federal act or A.R.S. § 32-1962 to use under the supervision of a medical practitioner;

Every potentially harmful Drug, the labeling of which does not bear or contain full and adequate directions for use by the consumer; or

Any Drug required by the federal act to bear on its label the legend “RX Only.”

“President’s designee” means the Board’s executive director, an investigator, or a Board member acting on behalf of the Board president.

“Preventative and therapeutic agents” means substances that affect the hard or soft oral tissues to aid in preventing or treating oral disease.

“Prophylaxis” means a Scaling and Polishing procedure performed on patients with healthy tissues to remove coronal Plaque, Calculus, and stains.

“Recognized continuing dental education” means a program whose content directly relates to the art and science of oral health and treatment, provided by a recognized dental school, recognized dental therapy school, recognized dental hygiene school, or recognized denturist school, or sponsored by a national or state dental, dental therapy, dental hygiene, or denturist association, American Dental Association Continuing Education Recognition Program or Academy of General Dentistry, Program Approval for Continuing Education approved provider, dental, dental therapy, dental hygiene, or denturist Study Club, governmental agency, commercial dental supplier, non-profit organization, accredited hospital, or programs or courses approved by other state, district, or territorial dental licensing boards.

“Restricted permit holder” means a dentist who meets the requirements of A.R.S. § 32-1237, or a dental hygienist who meets the requirements of A.R.S. § 32-1292 and is issued a restricted permit by the Board.

“Retired” means a dentist, dental therapist, dental hygienist, or denturist is at least 65 years old and has totally withdrawn from the active practice of dentistry, dental therapy, dental hygiene, or denturism.

“Root planing” means a definitive treatment procedure designed to remove cementum or surface dentin that is rough, impregnated with Calculus, or contaminated with toxins or microorganisms.

“Scaling” means use of instruments on the crown and root surfaces of the teeth to remove Plaque, Calculus, and stains from these surfaces.

“Section 1301 permit” means a permit to administer General Anesthesia and Deep Sedation, employ or work with a physician anesthesiologist, or employ or work with a Certified Registered Nurse Anesthetist under Article 13.

“Section 1302 permit” means a permit to administer Parenteral Sedation, employ or work with a physician anesthesiologist, or employ or work with a Certified Registered Nurse Anesthetist under Article 13.

“Section 1303 permit” means a permit to administer Oral Sedation, employ or work with a physician anesthesiologist, or employ or work with a Certified Registered Nurse Anesthetist under Article 13.

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“Section 1304 permit” means a permit to employ or work with a physician anesthesiologist, or employ or work with a Certified Registered Nurse Anesthetist under Article 13.

“Study club” means a group of at least five Arizona licensed dentists, dental therapists, dental hygienists, or denturists who provide written course materials or a written outline for a continuing education presentation that meets the requirements of Article 12.

“Treatment records” means all documentation related directly or indirectly to the dental treatment of a patient.

Historical Note

Adopted effective May 12, 1977 (Supp. 77-3). Former Section R4-11-02 renumbered as Section R4-11-102 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-101 renumbered to R4-11-201, new Section R4-11-101 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 9 A.A.R. 1054, effective May 6, 2003 (Supp. 03-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 13 A.A.R. 962, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 19 A.A.R. 334 and at 19 A.A.R. 341, effective April 6, 2013 (Supp. 13-1). Amended by final rulemaking at 19 A.A.R. 3873, effective January 5, 2014 (Supp. 13-4). Amended by final rulemaking at 29 A.A.R. 1330 (June 9, 2023), effective July 10, 2023 (Supp. 23-2).

R4-11-102. Renumbered**Historical Note**

Adopted effective May 12, 1977 (Supp. 77-3). Former Section R4-11-02 renumbered as Section R4-11-102 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-102 renumbered to R4-11-202 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-103. Renumbered**Historical Note**

Adopted effective May 12, 1977 (Supp. 77-3). Former Section R4-11-03 renumbered as Section R4-11-103 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-103 renumbered to R4-11-203 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-104. Repealed**Historical Note**

Adopted effective May 12, 1977 (Supp. 77-3). Former Section R4-11-04 renumbered as Section R4-11-104 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-104 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-105. Repealed**Historical Note**

Adopted effective May 12, 1977 (Supp. 77-3). Former Section R4-11-05 renumbered as Section R4-11-105 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-105 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

ARTICLE 2. LICENSURE BY CREDENTIAL

New Article 2, consisting of Sections R4-11-201 through R4-11-205, made by final rulemaking at 9 A.A.R. 4126, effective November 8, 2003 (Supp. 03-3).

R4-11-201. Clinical Examination; Requirements

- A. If an applicant is applying under A.R.S. §§ 32-1240, 32-1276.07, or 32-1292.01, the Board shall ensure that the applicant has passed the clinical examination of A.R.S. §§ 32-1233(2) for dentists, or 32-1276.01(B)(3)(a) for dental therapists, or 32-1285(2) for dental hygienists, notwithstanding each respective statute's timing stipulation. Satisfactory completion of the clinical examination may be demonstrated by certified documentation, sent directly from another state, United States territory, District of Columbia or a testing agency that meets the requirements of A.R.S. §§ 32-1233(2) for dentists, or 32-1276.01(B)(3)(a) for dental therapists, or 32-1285(2) for dental hygienists, notwithstanding each respective statute's timing stipulation, that confirms successful completion of the clinical examination or multiple examinations administered by the state, United States territory, District of Columbia or testing agency. The certified documentation shall contain the name of the applicant, date of examination or examinations and proof of a passing score.
- B. An applicant shall meet the licensure requirements in R4-11-301 and R4-11-303.

Historical Note

Former Rule 2a; Amended effective November 20, 1979 (Supp. 79-6). Amended effective November 28, 1980 (Supp. 80-6). Former Section R4-11-11 renumbered as Section R4-11-201 and amended effective July 29, 1981 (Supp. 81-4). Former Section R4-11-201 renumbered to R4-11-301, new Section R4-11-201 renumbered from R4-11-101 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section expired under A.R.S. § 41-1056(E), effective April 30, 2001 (Supp. 01-2). New Section made by final rulemaking at 9 A.A.R. 4126, effective November 8, 2003 (Supp. 03-3). Amended by final rulemaking at 22 A.A.R. 371, effective April 3, 2016 (Supp. 16-1). Amended by final rulemaking at 29 A.A.R. 1330 (June 9, 2023), effective July 10, 2023 (Supp. 23-2).

R4-11-202. Dental Licensure by Credential; Application

- A. A dentist applying under A.R.S. § 32-1240 shall comply with all other applicable requirements in A.R.S. Title 32, Chapter 11 and this Article.
- B. A dentist applying under A.R.S. § 32-1240 shall:
 1. Have a current dental license in another state, territory or district of the United States;
 2. Submit a written affidavit affirming that the dentist has practiced dentistry for a minimum of 5000 hours during the five years immediately before applying for licensure by credential. For purposes of this subsection, dental practice includes experience as a dental educator at a dental program accredited by the Commission on Dental Accreditation or another post-secondary dental education program accrediting agency recognized by the U.S. Department of Education, or employment as a dentist in a public health setting;
 3. Submit a written affidavit affirming that the applicant has complied with the continuing dental education requirement of the state in which the applicant is currently licensed;

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4. Provide evidence regarding the clinical examination by complying with R4-11-201(A); and
 5. Pass the Arizona jurisprudence examination with a minimum score of 75%.
- C.** For any application submitted under A.R.S. § 32-1240, the Board may request additional clarifying evidence required under R4-11-201(A).
- D.** An applicant for dental licensure by credential shall pay the fee prescribed in A.R.S. § 32-1240, except the fee is reduced by 50% for applicants who will be employed or working under contract in:
1. Underserved areas, such as declared or eligible Health Professional Shortage Areas; or
 2. Other facilities caring for underserved populations as recognized by the Arizona Department of Health Services and approved by the Board.
- E.** An applicant for dental licensure by credential who works in areas or facilities described in subsection (D) shall:
1. Commit to a three-year, exclusive service period,
 2. File a copy of a contract or employment verification statement with the Board, and
 3. As a Licensee, submit an annual contract or employment verification statement to the Board by December 31 of each year.
- F.** A Licensee's failure to comply with the requirements in subsection (E) is considered unprofessional conduct and may result in disciplinary action based on the circumstances of the case.

Historical Note

Former Rule 2b; Former Section R4-11-12 renumbered as Section R4-11-202 and amended effective July 29, 1981 (Supp. 81-4). Former Section R4-11-202 repealed, new Section R4-11-202 renumbered from R4-11-102 and the heading amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Labeling changes made to reflect current style requirements (Supp. 99-1). Section expired under A.R.S. § 41-1056(E), effective April 30, 2001 (Supp. 01-2). New Section made by final rulemaking at 9 A.A.R. 4126, effective November 8, 2003 (Supp. 03-3). Amended by final rulemaking at 22 A.A.R. 371, effective April 3, 2016 (Supp. 16-1). Amended by final rulemaking at 29 A.A.R. 1330 (June 9, 2023), effective July 10, 2023 (Supp. 23-2).

R4-11-203. Dental Hygienist Licensure by Credential; Application

- A.** A dental hygienist applying under A.R.S. § 32-1292.01 shall comply with all other applicable requirements in A.R.S. Title 32, Chapter 11 and this Article.
- B.** A dental hygienist applying under A.R.S. § 32-1292.01 shall:
1. Have a current dental hygienist license in another state, territory, or district of the United States;
 2. Submit a written affidavit affirming that the applicant has practiced as a dental hygienist for a minimum of 1000 hours during the two years immediately before applying for licensure by credential. For purposes of this subsection, dental hygienist practice includes experience as a dental hygienist educator at a dental program accredited by the Commission on Dental Accreditation or another post-secondary dental education program accrediting agency recognized by the U.S. Department of Education, or employment as a dental hygienist in a public health setting;

3. Submit a written affidavit affirming that the applicant has complied with the continuing dental hygienist education requirement of the state in which the applicant is currently licensed;
 4. Provide evidence regarding the clinical examination by complying with R4-11-201(A); and
 5. Pass the Arizona jurisprudence examination with a minimum score of 75%.
- C.** For any application submitted under A.R.S. § 32-1292.01, the Board may request additional clarifying evidence as required under R4-11-201(A).
- D.** An applicant for dental hygienist licensure by credential shall pay the fee prescribed in A.R.S. § 32-1292.01, except the fee is reduced by 50% for applicants who will be employed or working under contract in:
1. Underserved areas such as declared or eligible Health Professional Shortage Areas; or
 2. Other facilities caring for underserved populations, as recognized by the Arizona Department of Health Services and approved by the Board.
- E.** An applicant for dental hygienist licensure by credential who works in areas or facilities described in subsection (D) shall:
1. Commit to a three-year exclusive service period,
 2. File a copy of a contract or employment verification statement with the Board, and
 3. As a Licensee, submit an annual contract or employment verification statement to the Board by December 31 of each year.
- F.** A Licensee's failure to comply with the requirements in R4-11-203(E) is considered unprofessional conduct and may result in disciplinary action based on the circumstances of the case.

Historical Note

Former Rule 2c; Former Section R4-11-13 repealed, new Section R4-11-13 adopted effective November 20, 1979 (Supp. 79-6). Amended effective October 30, 1980 (Supp. 80-5). Former Section R4-11-13 renumbered as Section R4-11-203 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-203 renumbered to R4-11-302, new Section R4-11-203 renumbered from R4-11-103 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section expired under A.R.S. § 41-1056(E), effective April 30, 2001 (Supp. 01-2). New Section made by final rulemaking at 9 A.A.R. 4126, effective November 8, 2003 (Supp. 03-3). Amended by final rulemaking at 22 A.A.R. 371, effective April 3, 2016 (Supp. 16-1). Amended by final rulemaking at 29 A.A.R. 1330 (June 9, 2023), effective July 10, 2023 (Supp. 23-2).

R4-11-204. Dental Assistant Radiography Certification by Credential

Eligibility. To be eligible for dental assistant radiography certification by credential, an applicant shall have a current certificate or other form of approval for taking dental radiographs, issued by a professional licensing agency in another state, United States territory or the District of Columbia that required successful completion of a written dental radiography examination.

Historical Note

Former Rule 2d; Former Section R4-11-14 repealed, new Section R4-11-14 adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-14 renumbered as Section R4-11-204, repealed, and new Section R4-11-204 adopted effective July 29, 1981 (Supp. 81-4). Former

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Section R4-11-204 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). New Section made by final rulemaking at 9 A.A.R. 4126, effective November 8, 2003 (Supp. 03-3). Amended by final rulemaking at 22 A.A.R. 371, effective April 3, 2016 (Supp. 16-1).

R4-11-205. Application for Dental Assistant Radiography Certification by Credential

- A. An applicant for dental assistant radiography certification by credential shall provide to the Board a completed application, on a form furnished by the Board that contains the following information:
1. A sworn statement of the applicant's eligibility, and
 2. A letter from the issuing institution that verifies compliance with R4-11-204.
- B. Based upon review of information provided under subsection (A), the Board or its designee shall request that an applicant for dental assistant radiography certification by credential provide a copy of a certified document that indicates the reason for a name change if the applicant's documentation contains different names.

Historical Note

Former Rule 2e; Former Section R4-11-15 renumbered as Section R4-11-205 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-205 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). New Section made by final rulemaking at 9 A.A.R. 4126, effective November 8, 2003 (Supp. 03-3).

R4-11-206. Dental Therapist Licensure by Credential; Application

- A. A dental therapist applying under A.R.S. § 32-1276.07 shall comply with all other applicable requirements in A.R.S. Title 32, Chapter 11 and this Article.
- B. A dental therapist applying under A.R.S. § 32-1276.07 shall:
1. Have a current dental therapy license in another state, territory or district of the United States with substantially the same scope of practice as defined in A.R.S. § 32-1276.03;
 2. Submit a written affidavit affirming that the applicant has practiced as a dental therapist for a minimum of 3000 hours during the five years immediately before applying for licensure by credential. For purposes of this subsection, dental therapy practice includes experience as a dental therapy educator at a dental program accredited by the Commission on Dental Accreditation or another post-secondary dental education program accrediting agency recognized by the U.S. Department of Education, or employment as a dental therapist in a public health setting;
 3. Submit a written affidavit affirming that the applicant has complied with the continuing dental therapy education requirement of the state in which the applicant is currently licensed;
 4. Provide evidence showing that five years or more before applying for licensure under this Section, the applicant completed the clinical examination by complying with R4-11-201(A);
 5. Submit official transcripts to the Board directly from a recognized dental therapy school as defined by A.R.S. § 32-1201(21) or an approved third party showing a degree was conferred to the applicant; and

6. Not be required to obtain an Arizona dental hygienist license, if the dental therapist submits one of the following:
 - a. Certified documentation of a current or past dental hygiene license sent directly from the applicable state, United States territory, District of Columbia to the Board; or
 - b. Official transcripts sent to the Board directly from a recognized dental hygiene school as defined by A.R.S. § 32-1201(19) or an approved third party showing a degree was conferred to the applicant; or
 - c. A written affidavit from a recognized dental therapy school as defined in A.R.S. § 32-1201(21) affirming that all dental hygiene procedures defined in A.R.S. § 32-1281 were part of the education the applicant received.
- C. For any application submitted under A.R.S. § 32-1276.07, the Board may request additional clarifying evidence required under R4-11-201(A).
- D. If an applicant meets all the requirements set forth in this Section except that their current dental therapy license is from a state, territory, or district of the United States that does not include one or more of the following procedures in its legally defined scope, then the applicant must provide evidence of competency before being granted a dental therapy license by credential:
1. Fabricating soft occlusal guards;
 2. Administering Nitrous Oxide Analgesia;
 3. Performing nonsurgical extractions of periodontally diseased permanent teeth that exhibit plus or grade three mobility and that are not impacted, fractured, unerupted or in need of sectioning for removal;
 4. Suturing; or
 5. Placing space maintainers.
- E. The Board will accept the any of following as evidence of competency in the aforementioned procedures:
1. A certificate or credential in the procedure or procedures issued by a state licensing jurisdiction; or
 2. A signed affidavit from a recognized dental therapy school, recognized dental hygiene school, or recognized dental school, affirming that the applicant successfully completed academic coursework that included both theory and supervised clinical practice in the procedure or procedures.
- F. Subject to A.R.S. § 32-1276.04, an applicant for licensure under this Section shall pay the fee prescribed in A.R.S. § 32-1276.07, except the fee is reduced by 50% for applicants who will be employed or working under contract in:
1. Underserved areas, such as declared or eligible Health Professional Shortage Areas; or
 2. Other facilities caring for underserved populations as recognized by the Arizona Department of Health Services and approved by the Board.
- G. An applicant for dental therapist licensure by credential who works in areas or facilities described in subsection (F) shall:
1. Commit to a three-year, exclusive service period,
 2. File a copy of a contract or employment verification statement with the Board, and
 3. As a Licensee, submit an annual contract or employment verification statement to the Board by December 31 of each year.
- H. A Licensee's failure to comply with the requirements in subsection (G) is considered unprofessional conduct and may

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result in disciplinary action based on the circumstances of the case.

Historical Note

Former Rule 2f; Amended as an emergency effective July 7, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-4). Former emergency adoption now adopted and amended effective September 7, 1979 (Supp. 79-5). Former Section R4-11-16 renumbered as Section R4-11-206 and amended effective July 29, 1981 (Supp. 81-4). Former Section R4-11-206 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). New Section made by final rulemaking at 29 A.A.R. 1330 (June 30, 2023), effective July 10, 2023 (Supp. 23-2).

R4-11-207. Repealed**Historical Note**

Former Rule 2g; Former Section R4-11-17 renumbered as Section R4-11-207, repealed, and new Section R4-11-207 adopted effective July 29, 1981 (Supp. 81-4). Former Section R4-11-207 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-208. Repealed**Historical Note**

Former Section R4-11-20 repealed, new Section R4-11-20 adopted effective May 12, 1977 (Supp. 77-3). Amended effective October 30, 1980 (Supp. 80-5). Former Section R4-11-20 renumbered as Section R4-11-208 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-208 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-209. Repealed**Historical Note**

Adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-19 renumbered as R4-11-209 and repealed. Former Section R4-11-21 renumbered as Section R4-11-209 and amended effective July 29, 1981 (Supp. 81-4). Former Section R4-11-209 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-210. Repealed**Historical Note**

Adopted effective March 23, 1976 (Supp. 76-2). Amended effective June 7, 1978 (Supp. 78-3). Former Section R4-11-22 renumbered as Section R4-11-210 and amended effective July 29, 1981 (Supp. 81-4). Former Section R4-11-210 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-211. Repealed**Historical Note**

Adopted effective August 26, 1977 (Supp. 77-4). Former Section R4-11-23 renumbered as Section R4-11-211 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-211 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-212. Repealed**Historical Note**

Adopted effective March 28, 1978 (Supp. 78-2). Former Section R4-11-24 renumbered as Section R4-11-212 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-212 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-213. Repealed**Historical Note**

Adopted as an emergency effective July 7, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-4). Former emergency adoption now adopted effective September 7, 1979 (Supp. 79-5). Former Section R4-11-25 renumbered as Section R4-11-213, repealed, and new Section R4-11-213 adopted effective July 29, 1981 (Supp. 81-4). Former Section R4-11-213 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-214. Repealed**Historical Note**

Former Rule 2h; Amended effective March 23, 1976 (Supp. 76-2). Former Section R4-11-18 renumbered as Section R4-11-214 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-214 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-215. Repealed**Historical Note**

Adopted effective June 16, 1982 (Supp. 82-3). Former Section R4-11-215 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-216. Repealed**Historical Note**

Adopted effective June 16, 1982 (Supp. 82-3). Former Section R4-11-216 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

ARTICLE 3. EXAMINATIONS, LICENSING QUALIFICATIONS, APPLICATION AND RENEWAL, TIME- FRAMES

R4-11-301. Application

- A. An applicant for licensure or certification shall provide the following information and documentation:
1. A sworn statement of the applicant's qualifications for the license or certificate on a form provided by the Board;
 2. A photograph of the applicant that is no more than 6 months old;
 3. An official, sealed transcript sent directly to the Board from either:
 - a. The applicant's dental, dental therapy, dental hygiene, or denturist school, or
 - b. A verified third-party transcript provider.
 4. Except for a dental consultant license applicant, a dental, dental therapy, and dental hygiene license applicant shall provide proof of successfully completing a clinical examination by submitting:
 - a. If applying for dental licensure by examination, a copy of the certificate or scorecard sent to the Board directly from a clinical examination administered by a state or testing agency that meets the requirements of A.R.S. § 32-1233(2), indicating that the applicant

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passed a state or regional testing agency examination that meets the requirements of A.R.S. § 32-1233(2) within the five years immediately before the date the application is filed with the Board;

- b. If applying for dental therapy licensure by examination, a copy of the certificate or scorecard sent to the Board directly from a clinical examination administered by a state, United States territory, District of Columbia or testing agency that meets the requirements of A.R.S. § 32-1276.01(B)(3)(a). The certificate or scorecard must indicate that the applicant passed the examination within the five years immediately before the date the application is filed with the Board. The application must also include the applicant's Arizona dental hygiene license number;

- c. If applying for dental hygiene licensure by examination, a copy of the certificate or scorecard sent to the Board directly from a clinical examination administered by a state, United States territory, District of Columbia or testing agency that meets the requirements of A.R.S. § 32-1285(2). The certificate or scorecard must indicate that the applicant passed the examination within the five years immediately before the date the application is filed with the Board;

5. Except for a dental consultant license applicant as provided in A.R.S. § 32-1234(A)(7), dental and dental hygiene license applicants must have an official scorecard sent directly from the National Board examination to the Board;
6. A copy showing the expiration date of the applicant's current cardiopulmonary resuscitation healthcare provider level certificate from the American Red Cross, the American Heart Association, or another certifying agency that follows the same procedures, standards, and techniques for cardiopulmonary resuscitation training and certification as the American Red Cross or American Heart Association;
7. A license or certification verification from any other jurisdiction in which an applicant is licensed or certified, sent directly from that jurisdiction to the Board. If the license verification cannot be sent directly to the Board from the other jurisdiction, the applicant must submit a written affidavit affirming that the license verification submitted was issued by the other jurisdiction;
8. If an applicant has been licensed or certified in another jurisdiction, a copy of the self-inquiry from the National Practitioner Data Bank that is no more than 30 calendar days old;
9. If the applicant is in the military or employed by the United States government, a letter sent to the Board directly from the applicant's commanding officer or supervisor verifying the applicant is licensed or certified by the military or United States government; and
10. The jurisprudence examination fee paid by a method authorized by law.

B. The Board may request that an applicant provide:

1. An official copy of the applicant's dental, dental therapy, dental hygiene, or denturist school diploma from the issuing institution;
2. A copy of a certified document that indicates the reason for a name change if the applicant's application contains different names;
3. Written verification of the applicant's work history; and

4. A copy of a high school diploma or equivalent certificate.
- C.** An applicant shall pass the Arizona jurisprudence examination with a minimum score of 75%.

Historical Note

Former Rule 3A; Former Section R4-11-29 repealed, new Section R4-11-29 adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-29 renumbered as Section R4-11-301 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-301 repealed, new Section R4-11-301 renumbered from R4-11-201 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 22 A.A.R. 371, effective April 3, 2016 (Supp. 16-1). Amended by final rulemaking at 29 A.A.R. 1330 (June 9, 2023), effective July 10, 2023 (Supp. 23-2).

R4-11-302. Repealed

Historical Note

Former Rule 3B; Former Section R4-11-30 repealed, new Section R4-11-30 adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-30 renumbered as Section R4-11-302 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-302 repealed, new Section R4-11-302 renumbered from R4-11-203 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed by final rulemaking at 22 A.A.R. 371, effective April 3, 2016 (Supp. 16-1).

R4-11-303. Application Processing Procedures: Issuance, Denial, and Renewal of Dental Licenses, Dental Therapy Licenses, Restricted Permits, Dental Hygiene Licenses, Dental Consultant Licenses, Denturist Certificates, Drug or Device Dispensing Registrations, Business Entity Registration and Mobile Dental Facility and Portable Dental Unit Permits

- A.** The Board office shall complete an administrative completeness review within 30 calendar days of the date of receipt of an application for a license, certificate, permit, or registration.
1. Within 30 calendar days of receiving an initial or renewal application for a dental license, restricted permit, dental therapy license, dental hygiene license, dental consultant license, denturist certificate, Business Entity registration, mobile dental facility or portable dental unit permit, the Board office shall notify the applicant, in writing, whether the application package is complete or incomplete.
 2. If the application package is incomplete, the Board office shall provide the applicant with a written notice that includes a comprehensive list of the missing information. The 30 calendar day time-frame for the Board office to finish the administrative completeness review is suspended from the date the notice of incompleteness is served until the applicant provides the Board office with all missing information.
 3. If the Board office does not provide the applicant with notice regarding administrative completeness, the application package shall be deemed complete 30 calendar days after receipt by the Board office.
- B.** An applicant with an incomplete application package shall submit all missing information within 60 calendar days of service of the notice of incompleteness.

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- C. Upon receipt of all missing information, the Board office shall notify the applicant, in writing, within 30 calendar days, that the application package is complete. If an applicant fails to submit a complete application package within the time allowed in subsection (B), the Board office shall close the applicant's file. An applicant whose file is closed and who later wishes to obtain a license, certificate, permit, or registration shall apply again as required in R4-11-301.
- D. The Board shall not approve or deny an application until the applicant has fully complied with the requirements of A.A.C. Title 4, Chapter 11, Article 3.
- E. The Board shall complete a substantive review of the applicant's qualifications in no more than 90 calendar days from the date on which the administrative completeness review of an application package is complete.
 - 1. If the Board finds an applicant to be eligible for a license, certificate, permit, or registration and grants the license, certificate, permit, or registration, the Board office shall notify the applicant in writing.
 - 2. If the Board finds an applicant to be ineligible for a license, certificate, permit, or registration, the Board office shall issue a written notice of denial to the applicant that includes:
 - a. Each reason for the denial, with citations to the statutes or rules on which the denial is based;
 - b. The applicant's right to request a hearing on the denial, including the number of days the applicant has to file the request;
 - c. The applicant's right to request an informal settlement conference under A.R.S. § 41-1092.06; and
 - d. The name and telephone number of an agency contact person who can answer questions regarding the application process.
 - 3. If the Board finds deficiencies during the substantive review of an application package, the Board office may issue a comprehensive written request to the applicant for additional documentation. An additional supplemental written request for information may be issued upon mutual agreement between the Board or Board office and the applicant.
 - 4. The 90-day time-frame for a substantive review of an applicant's qualifications is suspended from the date of a written request for additional documentation until the date that all documentation is received. The applicant shall submit the additional documentation before the next regularly scheduled Board meeting.
 - 5. If the applicant and the Board office mutually agree in writing, the 90-day substantive review time-frame may be extended once for no more than 28 days.
- F. The following time-frames apply for an initial or renewal application governed by this Section:
 - 1. Administrative completeness review time-frame: 30 calendar days.
 - 2. Substantive review time-frame: 90 calendar days.
 - 3. Overall time-frame: 120 calendar days.
- G. An applicant whose license is denied has a right to a hearing, an opportunity for rehearing, and, if the denial is upheld, may seek judicial review pursuant to A.R.S. Title 41, Chapter 6, Article 10, and A.R.S. Title 12, Chapter 7, Article 6.

Historical Note

Former Rule 3C; Former Section R4-11-31 renumbered as Section R4-11-303 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-303 repealed, new Section R4-11-303 adopted by final rulemaking at 5

A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 22 A.A.R. 371, effective April 3, 2016 (Supp. 16-1). Amended by final rulemaking at 28 A.A.R. 1885 (August 5, 2022), effective September 12, 2022 (Supp. 22-3). Amended by final rulemaking at 29 A.A.R. 1330 (June 9, 2023), effective July 10, 2023 (Supp. 23-2).

R4-11-304. Application Processing Procedures: Issuance and Denial of Dental Assistant Certificates Radiography Certification by Credential

- A. Within 30 calendar days of receiving an application from an applicant for a dental assistant radiography certification by credential, the Board or its designee shall notify the applicant, in writing, that the application package is complete or incomplete. If the package is incomplete, the notice shall specify what information is missing.
- B. An applicant with an incomplete application package shall supply the missing information within 60 calendar days from the date of the notice. If the applicant fails to do so, an applicant shall begin the application process anew.
- C. Upon receipt of all missing information, within 10 calendar days, the Board or its designee shall notify the applicant, in writing, that the application is complete.
- D. The Board or its designee shall not process an application until the applicant has fully complied with the requirements of this Article.
- E. The Board or its designee shall notify an applicant, in writing, whether the certificate is granted or denied, no later than 90 calendar days after the date of the notice advising the applicant that the package is complete.
- F. The notice of denial shall inform the applicant of the following:
 - 1. The reason for the denial, with a citation to the statute or rule which requires the applicant to pass the examination;
 - 2. The applicant's right to request a hearing on the denial, including the number of days the applicant has to file the request;
 - 3. The applicant's right to request an informal settlement conference under A.R.S. § 41-1092.06; and
 - 4. The name and telephone number of an agency contact person or a designee who can answer questions regarding the application process.
- G. The following time-frames apply for certificate applications governed by this Section:
 - 1. Administrative completeness review time-frame: 24 calendar days.
 - 2. Substantive review time-frame: 90 calendar days.
 - 3. Overall time-frame: 114 calendar days.
- H. An applicant whose certificate is denied has a right to a hearing, an opportunity for rehearing, and, if the denial is upheld, may seek judicial review pursuant to A.R.S. Title 41, Chapter 6, Article 10, and A.R.S. Title 12, Chapter 7, Article 6.

Historical Note

Former Rule 3D; Former Section R4-11-32 renumbered as Section R4-11-304 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-304 repealed, new Section R4-11-304 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 22 A.A.R. 371, effective April 3, 2016 (Supp. 16-1). Amended by final rulemaking

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at 28 A.A.R. 1885 (August 5, 2022), effective September 12, 2022 (Supp. 22-3).

R4-11-305. Application Processing Procedures: Issuance, Denial, and Renewal of General Anesthesia and Deep Sedation Permits, Parenteral Sedation Permits, Oral Sedation Permits, and Permit to Employ a Physician Anesthesiologist or Certified Registered Nurse Anesthetist

- A.** The Board office shall complete an administrative completeness review within 24 days from the date of the receipt of an application for a permit.
1. Within 30 calendar days of receiving an initial or renewal application for a General Anesthesia and Deep Sedation permit, parenteral sedation permit, Oral Sedation permit or permit to employ a physician anesthesiologist or Certified Registered Nurse Anesthetist the Board office shall notify the applicant, in writing, whether the application package is complete or incomplete.
 2. If the application package is incomplete, the Board office shall provide the applicant with a written notice that includes a comprehensive list of the missing information. The 24-day time-frame for the Board office to finish the administrative completeness review is suspended from the date the notice of incompleteness is served until the applicant provides the Board office with all missing information.
 3. If the Board office does not provide the applicant with notice regarding administrative completeness, the application package shall be deemed complete 24 days after receipt by the Board office.
- B.** An applicant with an incomplete application package shall submit all missing information within 60 calendar days of service of the notice of incompleteness.
- C.** Upon receipt of all missing information, the Board office shall notify the applicant, in writing, within 10 calendar days, that the application package is complete. If an applicant fails to submit a complete application package within the time allowed in subsection (B), the Board office shall close the applicant's file. An applicant whose file is closed and who later wishes to obtain a permit shall apply again as required in A.A.C. Title 4, Chapter 11, Article 13.
- D.** The Board shall not approve or deny an application until the applicant has fully complied with the requirements of this Section and A.A.C. Title 4, Chapter 11, Article 13.
- E.** The Board shall complete a substantive review of the applicant's qualifications in no more than 120 calendar days from the date on which the administrative completeness review of an application package is complete.
1. If the Board finds an applicant to be eligible for a permit and grants the permit, the Board office shall notify the applicant in writing.
 2. If the Board finds an applicant to be ineligible for a permit, the Board office shall issue a written notice of denial to the applicant that includes:
 - a. Each reason for the denial, with citations to the statutes or rules on which the denial is based;
 - b. The applicant's right to request a hearing on the denial, including the number of days the applicant has to file the request;
 - c. The applicant's right to request an informal settlement conference under A.R.S. § 41-1092.06; and
 - d. The name and telephone number of an agency contact person who can answer questions regarding the application process.

3. If the Board finds deficiencies during the substantive review of an application package, the Board office shall issue a comprehensive written request to the applicant for additional documentation.
 4. The 120-day time-frame for a substantive review of an applicant's qualifications is suspended from the date of a written request for additional documentation until the date that all documentation is received.
 5. If the applicant and the Board office mutually agree in writing, the 120-day substantive review time-frame may be extended once for no more than 36 days.
- F.** The following time-frames apply for an initial or renewal application governed by this Section:
1. Administrative completeness review time-frame: 24 calendar days.
 2. Substantive review time-frame: 120 calendar days.
 3. Overall time-frame: 144 calendar days.

Historical Note

New Section R4-11-305 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 22 A.A.R. 371, effective April 3, 2016 (Supp. 16-1). Amended by final rulemaking at 28 A.A.R. 1885 (August 5, 2022), effective September 12, 2022 (Supp. 22-3).

ARTICLE 4. FEES

R4-11-401. Retired or Disabled Licensure Renewal Fee

As expressly authorized under A.R.S. § 32-1207(B)(3)(c), the licensure renewal fee for a Retired Licensee or Disabled Licensee is \$15 and shall be paid by a method authorized by law.

Historical Note

Adopted effective December 6, 1974 (Supp. 75-1). Amended effective March 23, 1976 (Supp. 76-2). Former Section R4-11-42 renumbered as Section R4-11-401 and repealed effective July 29, 1981 (Supp. 81-4). Adopted effective February 16, 1995 (Supp. 95-1). Former Section R4-11-401 repealed, new Section R4-11-401 renumbered from R4-11-901 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 748, effective February 2, 2000 (Supp. 00-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 22 A.A.R. 3697, effective February 6, 2017 (Supp. 16-4). Amended by final rulemaking at 29 A.A.R. 1330 (June 9, 2023), effective July 10, 2023 (Supp. 23-2).

R4-11-402. Business Entity Fees

As expressly authorized under A.R.S. § 32-1213, the Board establishes and shall collect the following fees from a Business Entity offering dental services paid by credit card on the Board's website or by money order or cashier's check:

1. Initial triennial registration, \$300 per location;
2. Renewal of triennial registration, \$300 per location; and
3. Late triennial registration renewal, \$100 per location in addition to the fee under subsection (2).

Historical Note

Adopted effective December 6, 1974 (Supp. 75-1). Amended effective March 23, 1976 (Supp. 76-2). Former Section R4-11-43 renumbered as Section R4-11-402,

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repealed, and new Section R4-11-402 adopted effective July 29, 1981 (Supp. 81-4). Amended effective February 16, 1995 (Supp. 95-1). Former Section R4-11-402 renumbered to R4-11-601, new Section R4-11-402 renumbered from R4-11-902 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 748, effective February 2, 2000 (Supp. 00-1). Section repealed; new Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (05-1). Amended by final rulemaking at 22 A.A.R. 3697, effective February 6, 2017 (Supp. 16-4). Amended by final rulemaking at 28 A.A.R. 1885 (August 5, 2022), effective September 12, 2022 (Supp. 22-3).

R4-11-403. Licensing Fees

- A.** As expressly authorized under A.R.S. §§ 32-1236, 32-1276.02, 32-1287, and 32-1297.06, the Board establishes and shall collect the following licensing fees paid by a method authorized by law:
1. Dentist triennial renewal fee: \$510;
 2. Dentist prorated initial license fee: \$110;
 3. Dental therapist triennial renewal fee: \$375;
 4. Dental therapist prorated initial license fee: \$80;
 5. Dental hygienist triennial renewal fee: \$255;
 6. Dental hygienist prorated initial license fee: \$55;
 7. Denturist triennial renewal fee: \$233; and
 8. Denturist prorated initial license fee: \$46.
- B.** The following license-related fees are established in or expressly authorized by statute. The Board shall collect the following fees paid by a method authorized by law:
1. Jurisprudence examination fee:
 - a. Dentists: \$300;
 - b. Dental therapists: \$200;
 - c. Dental hygienists: \$100; and
 - d. Denturists: \$250.
 2. Licensure by credential fee:
 - a. Dentists: \$2,000; and
 - b. Dental therapists: \$1,500;
 - c. Dental hygienists: \$1,000.
 3. Penalty to reinstate an expired license or certificate: \$100 for a dentist, dental therapist, dental hygienist, or denturist in addition to renewal fee specified under subsection (A).
 4. Penalty for a dentist, dental therapist, dental hygienist, or denturist who fails to notify Board of a change of mailing address:
 - a. Failure after 10 days: \$50; and
 - b. Failure after 30 days: \$100.

Historical Note

Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-44 renumbered as Section R4-11-403 and repealed effective July 29, 1981 (Supp. 81-4). Adopted effective February 16, 1995 (Supp. 95-1). Former Section R4-11-403 renumbered to R4-11-602, new Section R4-11-403 renumbered from R4-11-903 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 748, effective February 2, 2000 (Supp. 00-1). Section repealed by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (05-1). New Section made by final rulemaking at 22 A.A.R. 3697, effective February 6, 2017 (Supp. 16-4).

Amended by final rulemaking at 29 A.A.R. 1330 (June 9, 2023), effective July 10, 2023 (Supp. 23-2).

R4-11-404. Repealed**Historical Note**

Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-45 renumbered as Section R4-11-404 without change effective July 29, 1981 (Supp. 81-4). Repealed effective February 16, 1995 (Supp. 95-1). New Section R4-11-404 renumbered from R4-11-904 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 748, effective February 2, 2000 (Supp. 00-1). Section repealed by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (05-1).

R4-11-405. Charges for Board Services

The Board shall charge the following fees for the services provided paid by credit card on the Board's website or by money order or cashier's check:

1. Duplicate license: \$25;
2. Duplicate certificate: \$25;
3. License verification: \$25;
4. Copy of audio recording: \$10;
5. Photocopies (per page): \$.25;
6. Mailing lists of Licensees in digital format: \$100

Historical Note

Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-46 repealed, new Section R4-11-46 adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-46 renumbered as Section R4-11-405 without change effective July 29, 1981 (Supp. 81-4). Repealed effective February 16, 1995 (Supp. 95-1). New Section R4-11-405 renumbered from R4-11-905 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 748, effective February 2, 2000 (Supp. 00-1). Amended by final rulemaking at 22 A.A.R. 3697, effective February 6, 2017 (Supp. 16-4). Amended by final rulemaking at 28 A.A.R. 1885 (August 5, 2022), effective September 12, 2022 (Supp. 22-3).

R4-11-406. Anesthesia and Sedation Permit Fees

- A.** As expressly authorized under A.R.S. § 32-1207, the Board establishes and shall collect the following fees:
1. Section 1301 permit fee: \$300 plus \$25 for each additional location;
 2. Section 1302 permit fee: \$300 plus \$25 for each additional location;
 3. Section 1303 permit fee: \$300 plus \$25 for each additional location; and
 4. Section 1304 permit fee: \$300 plus \$25 for each additional location.
- B.** Upon successful completion of an initial onsite evaluation and upon receipt of the required permit fee, the Board shall issue a separate Section 1301, 1302, 1303, or 1304 permit to a dentist for each location requested by the dentist. A permit expires on December 31 of every fifth year.
- C.** Permit renewal fees:
1. Section 1301 permit renewal fee: \$300 plus \$25 for each additional location;
 2. Section 1302 permit renewal fee: \$300 plus \$25 for each additional location;
 3. Section 1303 permit renewal fee: \$300 plus \$25 for each additional location; and

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4. Section 1304 permit renewal fee: \$300 plus \$25 for each additional location.

Historical Note

Adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-47 renumbered as Section R4-11-406 without change effective July 29, 1981 (Supp. 81-4). Repealed effective February 16, 1995 (Supp. 95-1). New Section R4-11-406 renumbered from R4-11-906 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section R4-11-406 renumbered from R4-11-407 and amended by final rulemaking at 6 A.A.R. 748, effective February 2, 2000 (Supp. 00-1). Amended by final rulemaking at 9 A.A.R. 4130, effective November 8, 2003 (Supp. 03-3). Amended by final rulemaking at 22 A.A.R. 3697, effective February 6, 2017 (Supp. 16-4).

R4-11-407. Renumbered**Historical Note**

Adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-48 renumbered as Section R4-11-407 without change effective July 29, 1981 (Supp. 81-4). Repealed effective February 16, 1995 (Supp. 95-1). New Section R4-11-407 renumbered from R4-11-909 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section R4-11-407 renumbered to R4-11-406 by final rulemaking at 6 A.A.R. 748, effective February 2, 2000 (Supp. 00-1).

R4-11-408. Repealed**Historical Note**

Adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-49 renumbered as Section R4-11-408 without change effective July 29, 1981 (Supp. 81-4). Repealed effective February 16, 1995 (Supp. 95-1).

R4-11-409. Repealed**Historical Note**

Adopted effective September 12, 1985 (Supp. 85-5). Repealed effective July 21, 1995 (Supp. 95-3).

ARTICLE 5. DENTISTS**R4-11-501. Dentist of Record**

- A. A dentist of record shall ensure that each patient record has the treatment records for a patient treated in any dental office, clinic, hospital dental clinic, or charitable organization that offers dental services, and the full name of a dentist who is responsible for all of the patient's treatment.
- B. A dentist of record shall obtain a patient's consent to change the treatment plan before changing the treatment plan that the patient originally agreed to, including any additional costs the patient may incur because of the change.
- C. When a dentist who is a dentist of record decides to leave the practice of dentistry or a particular place of practice in which the dentist is the dentist of record, the dentist shall ensure before leaving the practice that a new dentist of record is entered on each patient record.
- D. A dentist of record is responsible for the care given to a patient while the dentist was the dentist of record even after being replaced as the dentist of record by another dentist.
- E. A dentist of record shall:
 1. Remain responsible for the care of a patient during the course of treatment; and

2. Be available to the patient through the dentist's office, an emergency number, an answering service, or a substituting dentist.

- F. A dentist's failure to comply with subsection (E) constitutes patient abandonment, and the Board may impose discipline under A.R.S. Title 32, Chapter 11, Article 3.

Historical Note

Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-62 renumbered as Section R4-11-501 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-501 repealed, new Section R4-11-501 renumbered from R4-11-1102 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-502. Affiliated Practice

- A. A dentist in a private for profit setting shall not enter into more than 15 affiliated practice relationships under A.R.S. § 32-1289 at one time.
- B. There is no limit to the number of affiliated practice relationships a dentist may enter into when working in a government, public health, or non-profit organization under Section 501(C)(3) of the Internal Revenue Code.
- C. Each affiliated practice dentist shall be available telephonically or electronically during the business hours of the affiliated practice dental hygienist to provide an appropriate level of contact, communication, and consultation.
- D. The affiliated practice agreement shall include a provision for a substitute dentist in addition to the requirements of A.R.S. § 32-1289(F), to cover an extenuating circumstance that renders the affiliated practice dentist unavailable for contact, communication, or consultation with the affiliated practice dental hygienist.

Historical Note

Adopted effective December 6, 1974 (Supp. 75-1). Amended effective March 23, 1976 (Supp. 76-2). Former Section R4-11-63 renumbered as Section R4-11-502 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-502 renumbered to R4-11-701 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). New Section made by final rulemaking at 13 A.A.R. 962, effective May 5, 2007 (Supp. 07-1).

R4-11-503. Repealed**Historical Note**

Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-64 repealed, new Section R4-11-64 adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-64 renumbered as Section R4-11-503 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-503 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-504. Renumbered**Historical Note**

Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-65 repealed, new Section R4-11-65 adopted effective May 23, 1976 (Supp. 76-2). Former Section R4-11-65 renumbered as Section R4-11-504, repealed, and new Section R4-11-504 adopted effective July 29, 1981 (Supp. 81-4). Former Section R4-11-504

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renumbered to R4-11-702 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-505. Repealed**Historical Note**

Adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-66 renumbered as Section R4-11-505 and repealed effective July 29, 1981 (Supp. 81-4).

R4-11-506. Repealed**Historical Note**

Adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-67 renumbered as Section R4-11-506 and repealed effective July 29, 1981 (Supp. 81-4).

ARTICLE 6. DENTAL HYGIENISTS**R4-11-601. Duties and Qualifications**

- A. A dental hygienist may apply Preventative and Therapeutic Agents under the general supervision of a licensed dentist.
- B. A dental hygienist may perform a procedure not specifically authorized by A.R.S. § 32-1281 when all of the following conditions are satisfied:
 1. The procedure is recommended or prescribed by the supervising dentist;
 2. The dental hygienist has received instruction, training, or education to perform the procedure in a safe manner; and
 3. The procedure is performed under the general supervision of a licensed dentist.
- C. A dental hygienist shall not perform an Irreversible Procedure.
- D. To qualify to use Emerging Scientific Technology as authorized by A.R.S. § 32-1281(C)(2), a dental hygienist shall successfully complete a course of study that meets the following criteria:
 1. Is a course offered by a recognized dental school as defined in A.R.S. § 32-1201, a recognized dental hygiene school as defined in A.R.S. § 32-1201, or sponsored by a national or state dental or dental hygiene association or government agency;
 2. Includes didactic instruction with a written examination;
 3. Includes hands-on clinical instruction; and
 4. Is technology that is scientifically based and supported by studies published in peer reviewed dental journals.

Historical Note

Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-82 renumbered as Section R4-11-601 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-601 repealed, new Section R4-11-601 renumbered from R4-11-402 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 13 A.A.R. 962, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 28 A.A.R. 1885 (August 5, 2022), effective September 12, 2022 (Supp. 22-3).

R4-11-602. Care of Homebound Patients

Dental hygienists treating homebound patients shall provide only treatment prescribed by the dentist of record in the diagnosis and treatment plan. The diagnosis and treatment plan shall be based on examination data obtained not more than 12 months before the treatment is administered.

Historical Note

Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-83 renumbered as Section R4-11-602 without change effective July 29, 1981 (Supp. 81-4). For-

mer Section R4-11-602 renumbered to R4-11-1001, new Section R4-11-602 renumbered from R4-11-403 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-603. Limitation on Number Supervised

A dentist shall not supervise more than three dental hygienists at a time.

Historical Note

Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-84 renumbered as Section R4-11-603 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-603 renumbered to R4-11-1002, new Section R4-11-603 renumbered from R4-11-408 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-604. Selection Committee and Process

- A. The Board shall appoint a selection committee to screen candidates for the dental hygiene committee. The selection committee consists of three members. The Board shall appoint at least two members who are dental hygienists and one member who is a current Board member. The Board shall fill any vacancy for the unexpired portion of the term.
- B. Each selection committee member's term is one year.
- C. By majority vote, the selection committee shall nominate each candidate for the dental hygiene committee and transmit a list of names to the Board for approval, including at least one alternate.

Historical Note

New Section R4-11-604 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-605. Dental Hygiene Committee

- A. The Board shall appoint seven members to the dental hygiene committee as follows:
 1. One dentist appointed at the annual December Board meeting, currently serving as a Board member, for a one year term;
 2. One dental hygienist appointed at the annual December Board meeting, currently serving as a Board member and possessing the qualifications required in Article 6, for a one-year term;
 3. Four dental hygienists that possess the qualifications required in Article 6; and
 4. One lay person.
- B. Except for members appointed as prescribed in subsections (A)(1) and (2), the Board shall appoint dental hygiene committee members for staggered terms of three years, beginning January 1, 1999, and limit each member to two consecutive terms. The Board shall fill any vacancy for the unexpired portion of the term.
- C. The dental hygiene committee shall annually elect a chairperson at the first meeting convened during the calendar year.

Historical Note

New Section R4-11-605 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-606. Candidate Qualifications and Submissions

- A. A dental hygienist who seeks membership on the dental hygiene committee shall possess a license in good standing, issued by the Board.

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- B. A dental hygienist who is not a Board member and qualifies under subsection (A) shall submit a letter of intent and resume to the Board.
- C. The selection committee shall consider all of the following criteria when nominating a candidate for the dental hygiene committee:
 1. Geographic representation,
 2. Experience in postsecondary curriculum analysis and course development,
 3. Public health experience, and
 4. Dental hygiene clinical experience.

Historical Note

New Section R4-11-606 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-607. Duties of the Dental Hygiene Committee

- A. The committee shall advise the Board on all matters relating to the regulation of dental hygienists.
- B. In performing the duty in subsection (A), the committee may:
 1. Act as a liaison for the Board, promoting communication and providing a forum for discussion of dental hygiene regulatory issues;
 2. Review applications, syllabi, and related materials and make recommendations to the Board regarding certification of courses in Local Anesthesia, Nitrous Oxide Analgesia, and suture placement under Article 6 and other procedures which may require certification under Article 6;
 3. Review documentation submitted by dental hygienists to determine compliance with the continuing education requirement for license renewal under Article 12 and make recommendations to the Board regarding compliance;
 4. Make recommendations to the Board concerning statute and rule development which affect dental hygienists' education, licensure, regulation, or practice;
 5. Provide advice to the Board on standards and scope of practice which affect dental hygiene practice;
 6. Provide ad hoc committees to the Board upon request;
 7. Request that the Board consider recommendations of the committee at the next regularly scheduled Board meeting; and
 8. Make recommendations to the Board for approval of dental hygiene consultants.
- C. Committee members who are licensed dentists or dental hygienists may serve as dental hygiene examiners or Board consultants.
- D. The committee shall meet at least two times per calendar year. The chairperson or the president of the Board, or their respective designees, may call a meeting of the committee.
- E. The Board may assign additional duties to the committee.

Historical Note

New Section R4-11-607 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 28 A.A.R. 1885 (August 5, 2022), effective September 12, 2022 (Supp. 22-3).

R4-11-608. Dental Hygiene Consultants

After submission of a current curriculum vitae or resume and approval by the Board, dental hygiene consultants may:

1. Act as dental hygiene examiners for the clinical portion of the dental hygiene examination;
2. Act as dental hygiene examiners for the Local Anesthesia portion of the dental hygiene examination;

3. Participate in Board-related procedures, including Clinical Evaluations, investigation of complaints concerning infection control, insurance fraud, or the practice of supervised personnel, and any other procedures not directly related to evaluating a dentist's quality of care; and
4. Participate in onsite office evaluations for infection control, as part of a team.

Historical Note

New Section R4-11-608 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 28 A.A.R. 1885 (August 5, 2022), effective September 12, 2022 (Supp. 22-3).

R4-11-609. Affiliated Practice

- A. To perform dental hygiene services under an affiliated practice relationship pursuant to A.R.S. § 32-1289.01, a dental hygienist shall:
 1. Provide evidence to the Board of successfully completing a total of 12 hours of Recognized Continuing Dental Education that consists of the following subject areas:
 - a. A minimum of four hours in medical emergencies; and
 - b. A minimum of eight hours in at least two of the following areas:
 - i. Pediatric or other special health care needs,
 - ii. Preventative dentistry, or
 - iii. Public health community-based dentistry, and
 2. Hold a current certificate in basic cardiopulmonary resuscitation.
- B. A dental hygienist shall complete the required continuing dental education before entering an affiliated practice relationship. The dental hygienist shall complete the continuing dental education in subsection (A) before renewing the dental hygienist's license. The dental hygienist may take the continuing dental education online but shall not exceed the allowable hours indicated in R4-11-1209(B)(1).
- C. To comply with A.R.S. § 32-1287(B) and this Section, a dental hygienist shall submit a completed affidavit on a form supplied by the Board office. Board staff shall review the affidavit to determine compliance with all requirements.
- D. Each affiliated practice dentist shall be available telephonically or electronically during the business hours of the affiliated practice dental hygienist to provide an appropriate level of contact, communication, and consultation.
- E. The affiliated practice agreement shall include a provision for a substitute dentist, to cover an extenuating circumstance that renders the affiliated practice dentist unavailable for contact, communication, and consultation with the affiliated practice dental hygienist.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 962, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 28 A.A.R. 1885 (August 5, 2022), effective September 12, 2022 (Supp. 22-3).

ARTICLE 7. DENTAL ASSISTANTS**R4-11-701. Procedures and Functions Performed by a Dental Assistant under Supervision**

- A. A dental assistant may perform the following procedures and functions under the Direct Supervision of a licensed dentist or a licensed dental therapist:

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1. Place dental material into a patient's mouth in response to a licensed dentist's or licensed dental therapist's instruction;
2. Cleanse the supragingival surface of the tooth in preparation for:
 - a. The placement of bands, crowns, and restorations;
 - b. Dental dam application;
 - c. Acid etch procedures; and
 - d. Removal of dressings and packs;
3. Remove excess cement from inlays, crowns, bridges, and orthodontic appliances with hand instruments;
4. Remove temporary cement, interim restorations, and periodontal dressings with hand instruments;
5. Remove sutures;
6. Place and remove dental dams and matrix bands;
7. Fabricate and place interim restorations with temporary cement;
8. Apply sealants;
9. Apply topical fluorides;
10. Take final digital impressions for any activating orthodontic appliance, fixed, or removable prosthesis;
11. Prepare a patient for Nitrous Oxide Analgesia administration upon the direct instruction and presence of a dentist or licensed dental therapist; or
12. Observe a patient during Nitrous Oxide Analgesia as instructed by the dentist or licensed dental therapist.

B. A dental assistant may perform the following procedures and functions under the general supervision of a licensed dentist or a licensed dental therapist:

1. Train or instruct patients in oral hygiene techniques, preventive procedures, dietary counseling for caries and Plaque control, and provide pre-and post-operative instructions relative to specific office treatment;
2. Collect and record information pertaining to extraoral conditions; and
3. Collect and record information pertaining to existing intraoral conditions.

Historical Note

Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-100 renumbered as Section R4-11-701 and amended effective July 29, 1981 (Supp. 81-4). Former Section R4-11-701 renumbered to R4-11-1701, new Section R4-11-701 renumbered from R4-11-502 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 29 A.A.R. 1330 (June 9, 2023), effective July 10, 2023 (Supp. 23-2).

R4-11-702. Limitations on Procedures or Functions Performed by a Dental Assistant under Supervision

A dental assistant shall not perform the following procedures or functions:

1. A procedure which by law only licensed dentists, licensed dental therapists, licensed dental hygienists, or certified denturists can perform;
2. Intraoral carvings of dental restorations or prostheses;
3. Final jaw registrations;
4. Taking final impressions, other than digital impressions, for any activating orthodontic appliance, fixed or removable prosthesis;
5. Activating orthodontic appliances; or
6. An Irreversible Procedure.

Historical Note

Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-101 renumbered as Section R4-11-702 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-702 repealed, new Section R4-11-702 renumbered from R4-11-504 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 29 A.A.R. 1330 (June 9, 2023), effective July 10, 2023 (Supp. 23-2).

R4-11-703. Repealed

Historical Note

Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-102 renumbered as Section R4-11-703 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-703 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-704. Repealed

Historical Note

Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-103 renumbered as Section R4-11-704 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-704 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-705. Repealed

Historical Note

Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-104 renumbered as Section R4-11-705 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-705 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-706. Repealed

Historical Note

Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-105 renumbered as Section R4-11-706 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-706 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-707. Repealed

Historical Note

Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-106 renumbered as Section R4-11-707 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-707 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-708. Repealed

Historical Note

Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-107 renumbered as Section R4-11-708 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-708 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-709. Repealed

Historical Note

Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-108 renumbered as Section R4-11-709 without change effective July 29, 1981 (Supp. 81-4). For-

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mer Section R4-11-709 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-710. Repealed**Historical Note**

Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-109 renumbered as Section R4-11-710 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-710 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

ARTICLE 8. DENTURISTS**R4-11-801. Expired****Historical Note**

Adopted effective March 28, 1978 (Supp. 78-2). Former Section R4-11-120 renumbered as Section R4-11-801 without change effective July 29, 1981 (Supp. 81-4). Section R4-11-801 repealed, new Section filed April 4, 1986, adopted effective January 1, 1988 (Supp. 86-2). Amended effective May 17, 1995 (Supp. 95-2). Former Section R4-11-801 repealed, new Section R4-11-801 renumbered from R4-11-1201 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 2575, effective August 25, 2017 (Supp. 17-3).

R4-11-802. Expired**Historical Note**

Adopted effective March 28, 1978 (Supp. 78-2). Former Section R4-11-121 renumbered as Section R4-11-802 without change effective July 29, 1981 (Supp. 81-4). Section R4-11-802 repealed, new Section filed April 4, 1986, adopted effective January 1, 1988 (Supp. 86-2). Amended effective May 17, 1995 (Supp. 95-2). Former Section R4-11-802 renumbered to R4-11-1301, new Section R4-11-802 renumbered from R4-11-1202 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 2575, effective August 25, 2017 (Supp. 17-3).

R4-11-803. Renumbered**Historical Note**

Adopted effective March 28, 1978 (Supp. 78-2). Former Section R4-11-122 renumbered as Section R4-11-803 without change effective July 29, 1981 (Supp. 81-4). Section R4-11-803 repealed, new Section filed April 4, 1986, adopted effective January 1, 1988 (Supp. 86-2). Amended effective May 17, 1995 (Supp. 95-2). Former Section R4-11-803 renumbered to R4-11-1302 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-804. Renumbered**Historical Note**

Adopted effective March 28, 1978 (Supp. 78-2). Former Section R4-11-123 renumbered as Section R4-11-804 without change effective July 29, 1981 (Supp. 81-4). Section R4-11-804 repealed, new Section filed April 4, 1986, adopted effective January 1, 1988 (Supp. 86-2). Former Section R4-11-804 renumbered to R4-11-1303 by final

rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-805. Renumbered**Historical Note**

Adopted as filed April 4, 1986, adopted effective January 1, 1988 (Supp. 86-2). Amended effective May 17, 1995 (Supp. 95-2). Former Section R4-11-805 renumbered to R4-11-1304 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-806. Renumbered**Historical Note**

Adopted effective May 17, 1995 (Supp. 95-2). Former Section R4-11-806 renumbered to R4-11-1305 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

ARTICLE 9. RESTRICTED PERMITS**R4-11-901. Application for Restricted Permit**

- A. An applicant for a restricted permit shall provide the following information and documentation on a form provided by the Board:
1. A sworn statement of the applicant's qualifications for a restricted permit;
 2. A photograph of the applicant that is no more than six months old;
 3. A letter from any other jurisdiction in which an applicant is licensed or certified verifying that the applicant is licensed or certified in that jurisdiction, sent directly from that jurisdiction to the Board;
 4. If the applicant is in the military or employed by the United States government, a letter from the applicant's commanding officer or supervisor verifying the applicant is licensed or certified by the military or United States government;
 5. A copy of the applicant's current cardiopulmonary resuscitation certification that meets the requirements of R4-11-301(A)(6); and
 6. A copy of the applicant's pending contract with a Charitable Dental Clinic or Organization offering dental or dental hygiene services.
- B. The Board may request that an applicant provide a copy of a certified document that indicates the reason for a name change if the applicant's application contains different names.

Historical Note

Adopted effective September 7, 1979 (Supp. 79-5). Former Section R4-11-130 renumbered as Section R4-11-901, repealed, and new Section R4-11-901 adopted effective July 29, 1981 (Supp. 81-4). Amended effective April 4, 1986 (Supp. 86-2). Emergency amendment adopted effective June 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Adopted effective July 13, 1992 (Supp. 92-3). Former Section R4-11-901 renumbered to R4-11-401, new Section R4-11-901 renumbered from R4-11-1001 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 28 A.A.R. 1885 (August 5, 2022), effective September 12, 2022 (Supp. 22-3).

R4-11-902. Issuance of a Restricted Permit

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Before issuing a restricted permit under A.R.S. §§ 32-1237 through 32-1239 or 32-1292, the Board shall investigate the statutory qualifications of the charitable dental clinic or organization. The Board shall not recognize a dental clinic or organization under A.R.S. §§ 32-1237 through 32-1239 or 32-1292 as a charitable dental clinic or organization permitted to employ dentists or dental hygienists not licensed in Arizona who hold restricted permits unless the Board makes the following findings of fact:

1. That the entity is a dental clinic or organization offering professional dental or dental hygiene services in a manner consistent with the public health;
2. That the dental clinic or organization offering dental or dental hygiene services is operated for charitable purposes only, offering dental or dental hygiene services either without compensation to the clinic or organization or with compensation at the minimum rate to provide only reimbursement for dental supplies and overhead costs;
3. That the persons performing dental or dental hygiene services for the dental clinic or organization do so without compensation; and
4. That the charitable dental clinic or organization operates in accordance with applicable provisions of law.

Historical Note

Adopted effective September 7, 1979 (Supp. 79-5). Former Section R4-11-131 renumbered as Section R4-11-902, repealed, and new Section R4-11-902 adopted effective July 29, 1981 (Supp. 81-4). Amended effective April 4, 1986 (Supp. 86-2). Emergency amendment adopted effective June 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Adopted effective July 13, 1992 (Supp. 92-3). Former Section R4-11-902 renumbered to R4-11-402, new Section R4-11-902 renumbered from R4-11-1002 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-903. Recognition of a Charitable Dental Clinic Organization

In order for the Board to make the findings required in R4-11-902, the charitable clinic or organization shall provide information to the Board, such as employment contracts with restricted permit holders, Articles and Bylaws, and financial records.

Historical Note

Adopted effective September 7, 1979 (Supp. 79-5). Former Section R4-11-132 renumbered as Section R4-11-903, repealed, and new Section R4-11-903 adopted effective July 29, 1981 (Supp. 81-4). Former Section R4-11-903 renumbered to R4-11-403, new Section R4-11-903 renumbered from R4-11-1003 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-904. Determination of Minimum Rate

In determining whether professional services are provided at the minimum rate to provide reimbursement for dental supplies and overhead costs under A.R.S. §§ 32-1237(1) or 32-1292(A)(1), the Board shall obtain and review information relating to the actual cost of dental supplies to the dental clinic or organization, the actual overhead costs of the dental clinic or organization, the amount of charges for the dental or dental hygiene services offered, and any other information relevant to its inquiry.

Historical Note

Adopted effective September 7, 1979 (Supp. 79-5). Former Section R4-11-133 renumbered as Section R4-11-904 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-904 renumbered to R4-11-404, new Section R4-11-904 renumbered from R4-11-1004 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-905. Expired**Historical Note**

Adopted effective September 7, 1979 (Supp. 79-5). Former Section R4-11-134 renumbered as Section R4-11-905 without change effective July 29, 1981 (Supp. 81-4). Amended effective April 4, 1986 (Supp. 86-2). Former Section R4-11-905 renumbered to R4-11-405, new Section R4-11-905 renumbered from R4-11-1005 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 2575, effective August 25, 2017 (Supp. 17-3).

R4-11-906. Expired**Historical Note**

Adopted effective July 29, 1981 (Supp. 81-4). Amended effective April 4, 1986 (Supp. 86-4). Emergency amendment adopted effective June 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Adopted effective July 13, 1992 (Supp. 92-3). Former Section R4-11-906 renumbered to R4-11-406, new Section R4-11-906 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 2575, effective August 25, 2017 (Supp. 17-3).

R4-11-907. Repealed**Historical Note**

Adopted effective April 4, 1986 (Supp. 86-2). Former Section R4-11-907 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-908. Repealed**Historical Note**

Adopted effective April 4, 1986 (Supp. 86-2). Former Section R4-11-908 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-909. Renumbered**Historical Note**

Adopted effective May 17, 1995 (Supp. 95-2). Former Section R4-11-909 renumbered to R4-11-407 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

ARTICLE 10. DENTAL TECHNICIANS**R4-11-1001. Expired****Historical Note**

Adopted effective November 28, 1980 (Supp. 80-6). Former Section R4-11-140 renumbered as Section R4-11-

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1001 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-1001 renumbered to R4-11-901, new Section R4-11-1001 renumbered from R4-11-602 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 2575, effective August 25, 2017 (Supp. 17-3).

R4-11-1002. Expired**Historical Note**

Adopted effective November 28, 1980 (Supp. 80-6). Former Section R4-11-141 renumbered as Section R4-11-1002 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-1002 renumbered to R4-11-902, new Section R4-11-1002 renumbered from R4-11-603 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 2575, effective August 25, 2017 (Supp. 17-3).

R4-11-1003. Renumbered**Historical Note**

Adopted effective November 28, 1980 (Supp. 80-6). Former Section R4-11-142 renumbered as Section R4-11-1003 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-1003 renumbered to R4-11-903 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-1004. Renumbered**Historical Note**

Adopted effective November 28, 1980 (Supp. 80-6). Former Section R4-11-143 renumbered as Section R4-11-1004 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-1004 renumbered to R4-11-904 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-1005. Renumbered**Historical Note**

Adopted effective November 28, 1980 (Supp. 80-6). Former Section R4-11-144 renumbered as Section R4-11-1005 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-1005 renumbered to R4-11-905 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-1006. Repealed**Historical Note**

Adopted effective September 12, 1985 (Supp. 85-5).
Repealed effective July 21, 1995 (Supp. 95-3).

ARTICLE 11. ADVERTISING**R4-11-1101. Advertising**

A dentist may advertise specific dental services or certification in a non-specialty area only if the advertisement includes the phrase "Services provided by an Arizona licensed general dentist." A dental hygienist may advertise specific dental hygiene services only if the advertisement includes the phrase "Services provided by an Arizona licensed dental hygienist." A denturist may advertise specific denture services only if the advertisement includes the phrase "Services provided by an Arizona certified denturist."

Historical Note

Adopted effective July 29, 1981 (Supp. 81-4). Amended by repealing the former guideline on "Management of Craniomandibular Disorders" and adopting a new guideline effective June 16, 1982 (Supp. 82-3). Repealed effective November 20, 1992 (Supp. 92-4). Former Section R4-11-1101 repealed, new Section R4-11-1101 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-1102. Advertising as a Recognized Specialist

- A.** A dentist may advertise as a specialist or use the terms "specialty" or "specialist" to describe professional services only if the dentist limits the dentist's practice exclusively to one or more specialty area that are:
 1. Recognized by a board that certifies specialists for the area of specialty; and
 2. Accredited by the Commission on Dental Accreditation of the American Dental Association.
- B.** The following specialty areas meet the requirements of subsection (A):
 1. Endodontics,
 2. Oral and maxillofacial surgery,
 3. Orthodontics and dentofacial orthopedics,
 4. Pediatric dentistry,
 5. Periodontics,
 6. Prosthodontics,
 7. Dental Public Health,
 8. Oral and Maxillofacial Pathology, and
 9. Oral and Maxillofacial Radiology.
- C.** For purposes of this Article, a dentist who wishes to advertise as a specialist or a multiple-specialist in a recognized field under subsection (B) shall meet the criteria in one or more of the following categories:
 1. Grandfathered: A dentist who declared a specialty area before December 31, 1964, according to requirements established by the American Dental Association, and has a practice limited to a dentistry area approved by the American Dental Association;
 2. Educationally qualified: A dentist who has successfully completed an educational program of two or more years in a specialty area accredited by the Commission on Dental Accreditation of the American Dental Association, as specified by the Council on Dental Education of the American Dental Association;
 3. Board eligible: A dentist who has met the guidelines of a specialty board that operates in accordance with the requirements established by the American Dental Association in a specialty area recognized by the Board, if the specialty board:
 - a. Has established examination requirements and standards,
 - b. Appraised an applicant's qualifications,
 - c. Administered comprehensive examinations, and
 - d. Upon completion issues a certificate to a dentist who has achieved diplomate status; or
 4. Board certified: A dentist who has met the requirements of a specialty board referenced in subsection (C)(3), and who has received a certificate from the specialty board, indicating the dentist has achieved diplomate status.
- D.** A dentist, dental hygienist, or denturist whose advertising implies that services rendered in a dental office are of a specialty area other than those listed in subsection (B) and recog-

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nized by a specialty board that has been accredited by the Commission on Dental Accreditation of the American Dental Association violates this Article and A.R.S. § 32-1201(18)(u), and is subject to discipline under A.R.S. Title 32, Chapter 11.

Historical Note

Adopted effective July 29, 1981 (Supp. 81-4). Former Section R4-11-1102 renumbered to R4-11-501 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). New Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-1103. Reserved**R4-11-1104. Repealed****Historical Note**

Adopted effective November 25, 1985 (Supp. 85-6). Former Section R4-11-1104 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-1105. Repealed**Historical Note**

Adopted effective September 12, 1985 (Supp. 85-5).
Repealed effective July 21, 1995 (Supp. 95-3).

ARTICLE 12. CONTINUING DENTAL EDUCATION AND RENEWAL REQUIREMENTS**R4-11-1201. Continuing Dental Education**

- A.** A licensee or certificate holder shall:
1. Satisfy a continuing dental education requirement that is designed to provide an understanding of current developments, skills, procedures, or treatment related to the licensee's or certificate holder's practice; and
 2. Complete the recognized continuing dental education required by this Article each renewal period.
- B.** A licensee or certificate holder receiving an initial license or certificate shall complete the prescribed credit hours of recognized continuing dental education by the end of the first full renewal period.

Historical Note

Adopted effective May 21, 1982 (Supp. 82-3). Former Section R4-11-1201 renumbered to R4-11-801, new Section R4-11-1201 renumbered from R4-11-1402 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-1202. Continuing Dental Education Compliance and Renewal Requirements

- A.** When applying for a renewal license, certificate, or restricted permit, a Licensee, dentist, or Restricted Permit Holder shall complete a renewal application provided by the Board.
- B.** Before receiving a renewal license or certificate, each Licensee or dentist shall possess a current form of one of the following:
1. A cardiopulmonary resuscitation healthcare provider level certificate from the American Red Cross, the American Heart Association, or another certifying agency;
 2. Advanced cardiac life support course completion confirmation from the American Heart Association or another agency. The confirmation must indicate that the course was completed within two years immediately before submitting a renewal application; or

3. Pediatric advanced life support course completion confirmation from the American Heart Association or another agency. The confirmation must indicate that the course was completed within two years immediately before submitting a renewal application.

- C.** A Licensee or dentist shall include an affidavit affirming the Licensee's or dentist's completion of the prescribed Credit Hours of Recognized Continuing Dental Education with a renewal application. A Licensee or dentist shall include on the affidavit the Licensee's or dentist's name, license or certificate number, the number of hours completed in each category, and the total number of hours completed for activities defined in R4-11-1209(A)(4).
- D.** A Licensee or dentist shall submit a written request for an extension before the renewal deadline prescribed in A.R.S. §§ 32-1236, 32-1276.02, 32-1287, and 32-1297.06. If a Licensee or dentist fails to meet the Credit Hours requirement because of military service, dental or religious missionary activity, residence in a foreign country, or other extenuating circumstances as determined by the Board, the Board, upon written request, may grant an extension of time to complete the Recognized Continuing Dental Education Credit Hour requirement.
- E.** The Board shall:
1. Only accept Recognized Continuing Dental Education credits accrued during the prescribed period immediately before license or certificate renewal, and
 2. Not allow Recognized Continuing Dental Education credit accrued in a renewal period in excess of the amount required in this Article to be carried forward to the next renewal period.
- F.** A Licensee or dentist shall maintain Documentation of Attendance for each program for which credit is claimed that verifies the Recognized Continuing Dental Education Credit Hours the Licensee or dentist participated in during the most recently completed renewal period.
- G.** Each year, the Board shall audit continuing dental education requirement compliance on a random basis or when information is obtained which indicates a Licensee or dentist may not be in compliance with this Article. A Licensee or dentist selected for audit shall provide the Board with Documentation of Attendance that shows compliance with the continuing dental education requirements within 35 calendar days from the date the Board issues notice of the audit by certified mail.
- H.** If a Licensee or dentist is found to not be in compliance with the continuing dental education requirements, the Board may take any disciplinary or non-disciplinary action authorized by A.R.S. Title 32, Chapter 11.

Historical Note

Adopted effective May 21, 1982 (Supp. 82-3). Former Section R4-11-1202 renumbered to R4-11-802, new Section R4-11-1202 renumbered from R4-11-1403 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 3873, effective January 5, 2014 (Supp. 13-4). Amended by final rulemaking at 21 A.A.R. 921, effective August 3, 2015 (Supp. 15-2). Amended by final rulemaking at 28 A.A.R. 344 (February 4, 2022), effective March 14, 2022 (Supp. 22-1). Amended by final rulemaking at 28 A.A.R. 1898 (August 5, 2022), effective September 12, 2022 (Supp. 22-3).

R4-11-1203. Dentists and Dental Consultants

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Dentists and dental consultants shall complete 63 hours of Recognized Continuing Dental Education in each renewal period as follows:

1. At least 36 Credit Hours in any one or more of the following areas: Dental and medical health, preventive services, dental diagnosis and treatment planning, dental recordkeeping, dental clinical procedures, managing medical emergencies, pain management, dental public health, and courses in corrective and restorative oral health and basic dental sciences, which may include current research, new concepts in dentistry, chemical dependency, tobacco cessation, and behavioral and biological sciences that are oriented to dentistry. A Licensee who holds a permit to administer General Anesthesia, Deep Sedation, Parenteral Sedation, or Oral Sedation who is required to obtain continuing education pursuant to Article 13 may apply those Credit Hours to the requirements of this Section;
2. No more than 15 Credit Hours in one or more of the following areas: Dental practice organization and management, patient management skills, and methods of health care delivery;
3. At least three Credit Hours in opioid education;
4. At least three Credit Hours in infectious diseases or infectious disease control;
5. At least three Credit Hours in cardiopulmonary resuscitation healthcare provider level, advanced cardiac life support or pediatric advanced life support. Coursework may be completed online if the course requires a physical demonstration of skills; and
6. At least three Credit Hours in ethics or Arizona dental jurisprudence.

Historical Note

Adopted effective September 12, 1985 (Supp. 85-5). Repealed effective July 21, 1995 (Supp. 95-3). New Section R4-11-1203 renumbered from R4-11-1404 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 3873, effective January 5, 2014 (Supp. 13-4). Amended by final rulemaking at 28 A.A.R. 1898 (August 5, 2022), effective September 12, 2022 (Supp. 22-3).

R4-11-1204. Dental Hygienists

A. A dental hygienist shall complete 45 Credit Hours of Recognized Continuing Dental Education in each renewal period as follows:

1. At least 25 Credit Hours in any one or more of the following areas: Dental and medical health, and dental hygiene services, periodontal disease, care of implants, maintenance of cosmetic restorations and sealants, radiology safety and techniques, managing medical emergencies, pain management, dental recordkeeping, dental public health, and new concepts in dental hygiene;
2. No more than 11 Credit Hours in one or more of the following areas: Dental hygiene practice organization and management, patient management skills, and methods of health care delivery;
3. At least three Credit Hours in one or more of the following areas: chemical dependency, tobacco cessation, ethics, risk management, or Arizona dental jurisprudence;
4. At least three Credit Hours in infectious diseases or infectious disease control; and

5. At least three Credit Hours in cardiopulmonary resuscitation healthcare provider level, advanced cardiac life support and pediatric advanced life support. Coursework may be completed online if the course requires a physical demonstration of skills.

B. A Licensee who performs dental hygiene services under an affiliated practice relationship who is required to obtain continuing education under R4-11-609 may apply those Credit Hours to the requirements of this Section.

Historical Note

New Section R4-11-1204 renumbered from R4-11-1405 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 13 A.A.R. 962, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 19 A.A.R. 3873, effective January 5, 2014 (Supp. 13-4). Amended by final rulemaking at 28 A.A.R. 1898 (August 5, 2022), effective September 12, 2022 (Supp. 22-3).

R4-11-1205. Denturists

Denturists shall complete 27 Credit Hours of Recognized Continuing Dental Education in each renewal period as follows:

1. At least 15 Credit Hours in any one or more of the following areas: Medical and dental health, laboratory procedures, clinical procedures, dental recordkeeping, removable prosthetics, pain management, dental public health, and new technology in dentistry;
2. No more than three Credit Hours in one or more of the following areas: Denturist practice organization and management, patient management skills, and methods of health care delivery;
3. At least one Credit Hour in chemical dependency, which may include tobacco cessation;
4. At least two Credit Hours in infectious diseases or infectious disease control;
5. At least three Credit Hours in cardiopulmonary resuscitation healthcare provider level, advanced cardiac life support and pediatric advanced life support. Coursework may be completed online if the course requires a physical demonstration of skills; and
6. At least three Credit Hours in ethics or Arizona dental jurisprudence.

Historical Note

New Section R4-11-1205 renumbered from R4-11-1406 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 3873, effective January 5, 2014 (Supp. 13-4). Amended by final rulemaking at 28 A.A.R. 1898 (August 5, 2022), effective September 12, 2022 (Supp. 22-3).

R4-11-1206. Restricted Permit Holders - Dental

In addition to the requirements in R4-11-1202, a dental Restricted Permit Holder shall comply with the following requirements:

1. When applying for renewal under A.R.S. § 32-1238, the Restricted Permit Holder shall provide information to the Board that the Restricted Permit Holder has completed 15 Credit Hours of Recognized Continuing Dental Education yearly.
2. To determine whether to grant the renewal, the Board shall only consider Recognized Continuing Dental Edu-

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cation credits accrued during the 36 months immediately before the renewal deadline prescribed in A.R.S. § 32-1236.

3. A dental Restricted Permit Holder shall complete the 15 hours of Recognized Continuing Dental Education before renewal as follows:
 - a. At least six Credit Hours in one or more of the subjects enumerated in R4-11-1203(1);
 - b. No more than three Credit Hours in one or more of the subjects enumerated in R4-11-1203(2);
 - c. At least one Credit Hour in the subjects enumerated in R4-11-1203(3);
 - d. At least one Credit Hour in the subjects enumerated in R4-11-1203(4).
 - e. At least three Credit Hours in the subjects enumerated in R4-11-1203(5); and
 - f. At least one Credit Hour in the subjects enumerated in R4-11-1203(6).

Historical Note

New Section R4-11-1206 renumbered from R4-11-1407 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 3873, effective January 5, 2014 (Supp. 13-4). Amended by final rulemaking at 28 A.A.R. 344 (February 4, 2022), effective March 14, 2022 (Supp. 22-1). Amended by final rulemaking at 28 A.A.R. 1898 (August 5, 2022), effective September 12, 2022 (Supp. 22-3).

R4-11-1207. Restricted Permit Holders - Dental Hygiene

In addition to the requirements in R4-11-1202, a dental hygiene Restricted Permit Holder shall comply with the following:

1. When applying for renewal under A.R.S. § 32-1292, the Restricted Permit Holder shall provide information to the Board that the Restricted Permit Holder has completed nine Credit Hours of Recognized Continuing Dental Education yearly.
2. To determine whether to grant renewal, the Board shall only consider Recognized Continuing Dental Education credits accrued during the 36 months immediately before the renewal deadline prescribed in A.R.S. § 32-1287.
3. A dental hygiene Restricted Permit Holder shall complete the nine hours of Recognized Continuing Dental Education before renewal as follows:
 - a. At least three Credit Hours in one or more of the subjects enumerated in R4-11-1204(1);
 - b. No more than three Credit Hours in one or more of the subjects enumerated in R4-11-1204(2);
 - c. At least one Credit Hour in the subjects enumerated in R4-11-1204(3);
 - d. At least two Credit Hours in the subjects enumerated in R4-11-1204(4) and
 - e. At least three Credit Hours in the subjects enumerated in R4-11-1204(5).

Historical Note

New Section R4-11-1207 renumbered from R4-11-1408 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 3873, effective January 5, 2014 (Supp. 13-4). Amended by final rulemaking at 28 A.A.R. 344 (February 4, 2022), effective March 14, 2022 (Supp.

22-1). Amended by final rulemaking at 28 A.A.R. 1898 (August 5, 2022), effective September 12, 2022 (Supp. 22-3).

R4-11-1208. Retired Licensees or Retired Denturists

A Retired Licensee or Retired denturist shall:

1. Except for the number of Credit Hours required, comply with the requirements in R4-11-1202; and
2. When applying for renewal under A.R.S. § 32-1236 for a dentist, A.R.S. § 32-1276.02 for a dental therapist, A.R.S. § 32-1287 for a dental hygienist, and A.R.S. § 32-1297.06 for a denturist, provide information to the Board that the Retired Licensee or Retired denturist has completed the following Credit Hours of Recognized Continuing Dental Education per renewal period:
 - a. Dentist - 24 Credit Hours of which no less than three Credit Hours shall be for cardiopulmonary resuscitation-healthcare provider level;
 - b. Dental therapist - 21 Credit Hours of which no less than three Credit Hours shall be for cardiopulmonary resuscitation- healthcare provider level;
 - c. Dental hygienist - 18 Credit Hours of which no less than three Credit Hours shall be for cardiopulmonary resuscitation-healthcare provider level; and
 - d. Denturist - six Credit Hours of which no less than three Credit Hours shall be for cardiopulmonary resuscitation-healthcare provider level.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 28 A.A.R. 1898 (August 5, 2022), effective September 12, 2022 (Supp. 22-3).

R4-11-1209. Types of Courses

A. A Licensee or denturist shall obtain Recognized Continuing Dental Education from one or more of the following activities:

1. Seminars, symposiums, lectures, or programs designed to provide an understanding of current developments, skills, procedures, or treatment related to the practice of dentistry;
2. Seminars, symposiums, lectures, or programs designed to provide an understanding of current developments, skills, procedures, or treatment related to the practice of dentistry by means of audio-video technology in which the Licensee is provided all seminar, symposium, lecture or program materials and the technology permits attendees to fully participate; or
3. Curricula designed to prepare for specialty board certification as a specialist or recertification examinations or advanced training at an accredited institution as defined in A.R.S. Title 32, Chapter 11; and
4. Subject to the limitations in subsection (B), any of the following activities that provide an understanding of current developments, skills, procedures, or treatment related to the practice of dentistry:
 - a. A correspondence course, video, internet or similar self-study course, if the course includes an examination and the Licensee or denturist passes the examination;
 - b. Participation on the Board, in Board complaint investigations including Clinical Evaluations or anesthesia and sedation permit evaluations;
 - c. Participation in peer review of a national or state dental, dental therapy, dental hygiene, or denturist association or participation in quality of care or utili-

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- zation review in a hospital, institution, or governmental agency;
- d. Providing dental-related instruction to dental, dental therapy, dental hygiene, or denturist students, or allied health professionals in a recognized dental school, recognized dental therapy school, recognized dental hygiene school, or recognized denturist school or providing dental-related instruction sponsored by a national, state, or local dental, dental therapy, dental hygiene, or denturist association;
 - e. Publication or presentation of a dental paper, report, or book authored by the Licensee or denturist that provides information on current developments, skills, procedures, or treatment related to the practice of dentistry. A Licensee or denturist may claim Credit Hours:
 - i. Only once for materials presented;
 - ii. Only if the date of publication or original presentation was during the applicable renewal period; and
 - iii. One Credit Hour for each hour of preparation, writing, and presentation; or
 - f. Providing dental, dental therapy, dental hygiene, or denturist services in a Board-recognized Charitable Dental Clinic or Organization.

- B.** The following limitations apply to the total number of Credit Hours earned per renewal period in any combination of the activities listed in subsection (A)(4):
1. Dentists, no more than 21 hours;
 2. Dental therapists, no more than 18 hours;
 3. Dental hygienists, no more than 15 hours;
 4. Denturists, no more than nine hours;
 5. Retired or Restricted Permit Holder dentists, dental therapists, or dental hygienists, no more than two hours; and
 6. Retired denturists, no more than two hours.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 3873, effective January 5, 2014 (Supp. 13-4). Amended by final rulemaking at 28 A.A.R. 1898 (August 5, 2022), effective September 12, 2022 (Supp. 22-3).

R4-11-1210. Dental Therapists

Dental therapists shall complete 54 hours of Recognized Continuing Dental Education in each renewal period as follows:

1. At least 31 Credit Hours in any one or more of the following areas: Dental and medical health, dental therapy services, dental therapy treatment planning, preventive services, dental diagnosis and treatment planning, dental recordkeeping, dental clinical procedures, managing medical emergencies, pain management, dental public health, periodontal disease, care of implants, maintenance of cosmetic restorations and sealants, radiology safety and techniques, and courses in corrective and restorative oral health and basic dental sciences, which may include current research, new concepts in dentistry, and behavioral and biological sciences that are oriented to dentistry;
2. No more than 14 Credit Hours in any one or more of the following areas: Dental practice organization and management, patient management skills, and methods of health care delivery;
3. At least three Credit Hours in infectious diseases or infectious disease control;

4. At least three Credit Hours in cardiopulmonary resuscitation healthcare provider level, advanced cardiac life support or pediatric advanced life support. Coursework may be completed online if the course requires a physical demonstration of skills; and
5. At least three Credit Hours in any one or more of the following areas: ethics, risk management, chemical dependency, tobacco cessation, or Arizona dental jurisprudence.

Historical Note

New Section made by final rulemaking at 29 A.A.R. 1330 (June 30, 2023), effective July 10, 2023 (Supp. 23-2).

ARTICLE 13. GENERAL ANESTHESIA AND SEDATION**R4-11-1301. General Anesthesia and Deep Sedation**

- A.** Before administering General Anesthesia, or Deep Sedation by any means, in a dental office or dental clinic, a dentist shall possess a Section 1301 Permit issued by the Board. The dentist may renew a Section 1301 Permit every five years by complying with R4-11-1307.
- B.** To obtain or renew a Section 1301 Permit, a dentist shall:
1. Submit a completed application on a form provided by the Board office that, in addition to the requirements of subsections (B)(2) and (3), and R4-11-1307, includes:
 - a. General information about the applicant such as:
 - i. Name;
 - ii. Home and office addresses and telephone numbers;
 - iii. Limitations of practice;
 - iv. Hospital affiliations;
 - v. Denial, curtailment, revocation, or suspension of hospital privileges;
 - vi. Denial of membership in, denial of renewal of membership in, or disciplinary action by a dental organization; and
 - vii. Denial of licensure by, denial of renewal of licensure by, or disciplinary action by a dental regulatory body; and
 - b. The dentist's dated and signed affidavit stating that the information provided is true, and that the dentist has read and complied with the Board's statutes and rules;
 2. On forms provided by the Board, provide a dated and signed affidavit attesting that any office or dental clinic where the dentist will administer General Anesthesia or Deep Sedation:
 - a. Contains the following properly operating equipment and supplies during the provision of General Anesthesia and Deep Sedation:
 - i. Emergency Drugs;
 - ii. Electrocardiograph monitor;
 - iii. Pulse oximeter;
 - iv. Cardiac defibrillator or automated external defibrillator;
 - v. Positive pressure oxygen and supplemental oxygen;
 - vi. Suction equipment, including endotracheal, tonsillar, or pharyngeal and emergency backup medical suction device;
 - vii. Laryngoscope, multiple blades, backup batteries, and backup bulbs;
 - viii. Endotracheal tubes and appropriate connectors;
 - ix. Magill forceps;

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- x. Oropharyngeal and nasopharyngeal airways;
 - xi. Auxiliary lighting;
 - xii. Stethoscope; and
 - xiii. Blood pressure monitoring device; and
- b. Maintains a staff of supervised personnel capable of handling procedures, complications, and emergency incidents. All personnel involved in administering and monitoring General Anesthesia or Deep Sedation shall hold a current course completion confirmation in cardiopulmonary resuscitation healthcare provider level;
- 3. Hold a valid license to practice dentistry in this state;
- 4. Maintain a current permit to prescribe and administer Controlled Substances in this state issued by the United States Drug Enforcement Administration; and
- 5. Provide confirmation of completing coursework within the two years prior to submitting the permit application in one or more of the following:
 - a. Advanced cardiac life support from the American Heart Association or another agency that follows the same procedures, standards, and techniques for training as the American Heart Association;
 - b. Pediatric advanced life support in a practice treating pediatric patients; or
 - c. A recognized continuing education course in advanced airway management.
- C. Initial applicants shall meet one or more of the following conditions by submitting to the Board verification of meeting the condition directly from the issuing institution:
 - 1. Complete, within the three years before submitting the permit application, a full credit load, as defined by the training program, during one calendar year of training, in anesthesiology or related academic subjects, beyond the undergraduate dental school level in a training program described in R4-11-1306(A), offered by a hospital accredited by the Joint Commission on Accreditation of Hospitals Organization, or sponsored by a university accredited by the American Dental Association Commission on Dental Accreditation;
 - 2. Be, within the three years before submitting the permit application, a Diplomate of the American Board of Oral and Maxillofacial Surgeons or eligible for examination by the American Board of Oral and Maxillofacial surgeons, a Fellow of the American Association of Oral and Maxillofacial surgeons, a Fellow of the American Dental Society of Anesthesiology, a Diplomate of the National Dental Board of Anesthesiology, or a Diplomate of the American Dental Board of Anesthesiology; or
 - 3. For an applicant who completed the requirements of subsections (C)(1) or (C)(2) more than three years before submitting the permit application, provide the following documentation:
 - a. On a form provided by the Board, a written affidavit affirming that the applicant has administered General Anesthesia or Deep Sedation to a minimum of 25 patients within the year before submitting the permit application or 75 patients within the last five years before submitting the permit application;
 - b. A copy of the General Anesthesia or Deep Sedation permit in effect in another state or certification of military training in General Anesthesia or Deep Sedation from the applicant's commanding officer; and
 - c. On a form provided by the Board, a written affidavit affirming the completion of 30 clock hours of continuing education taken within the last five years as outlined in R4-11-1306(B)(1)(a) through (f).
- D. After submitting the application and written evidence of compliance with requirements in subsection (B) and, if applicable, subsection (C) to the Board, the applicant shall schedule an onsite evaluation by the Board during which the applicant shall administer General Anesthesia or Deep Sedation. After the applicant completes the application requirements and successfully completes the onsite evaluation, a Section 1301 Permit shall be issued to the applicant.
 - 1. The onsite evaluation team shall consist of:
 - a. Two dentists who are Board members, or Board designees for initial applications; or
 - b. One dentist who is a Board member or Board designee for renewal applications.
 - 2. The onsite team shall evaluate the following:
 - a. The availability of equipment and personnel as specified in subsection (B)(2);
 - b. Proper administration of General Anesthesia or Deep Sedation to a patient by the applicant in the presence of the evaluation team;
 - c. Successful responses by the applicant to oral examination questions from the evaluation team about patient management, medical emergencies, and emergency medications;
 - d. Proper documentation of Controlled Substances, that includes a perpetual inventory log showing the receipt, administration, dispensing, and destruction of Controlled Substances;
 - e. Proper recordkeeping as specified in subsection (E) by reviewing the records generated for the patient specified in subsection (D)(2)(b); and
 - f. For renewal applicants, records supporting continued competency as specified in R4-11-1306.
 - 3. The evaluation team shall recommend one of the following:
 - a. Pass. Successful completion of the onsite evaluation;
 - b. Conditional Approval for failing to have appropriate equipment, proper documentation of Controlled Substances, or proper recordkeeping. The applicant must submit proof of correcting the deficiencies before a permit is issued;
 - c. Category 1 Evaluation Failure. The applicant must review the appropriate subject matter and schedule a subsequent evaluation by two Board Members or Board designees not less than 30 days from the failed evaluation. An example is failure to recognize and manage one emergency;
 - d. Category 2 Evaluation Failure. The applicant must complete Board approved continuing education in subject matter within the scope of the onsite evaluation as identified by the evaluators and schedule a subsequent evaluation by two Board Members or Board designees not less than 60 days from the failed evaluation. An example is failure to recognize and manage more than one emergency; or
 - e. Category 3 Evaluation Failure. The applicant must complete Board approved remedial continuing education with the subject matter outlined in R4-11-1306 as identified by the evaluators and reapply not less than 90 days from the failed evaluation. An

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example is failure to recognize and manage an anesthetic urgency.

4. The onsite evaluation of an additional dental office or dental clinic in which General Anesthesia or Deep Sedation is administered by an existing Section 1301 Permit holder may be waived by the Board staff upon receipt in the Board office of an affidavit verifying compliance with subsection (D)(2)(a).
5. A Section 1301 mobile permit may be issued if a Section 1301 Permit holder travels to dental offices or dental clinics to provide anesthesia or Deep Sedation. The applicant must submit a completed affidavit verifying:
 - a. That the equipment and supplies for the provision of anesthesia or Deep Sedation as required in subsection (B)(2)(a) either travel with the Section 1301 Permit holder or are in place and in appropriate condition at the dental office or dental clinic where anesthesia or Deep Sedation is provided, and
 - b. Compliance with subsection (B)(2)(b).
- E. A Section 1301 Permit holder shall keep an anesthesia or Deep Sedation record for each General Anesthesia and Deep Sedation procedure that includes the following entries:
 1. Pre-operative and post-operative electrocardiograph documentation;
 2. Pre-operative, intra-operative, and post-operative pulse oximeter documentation;
 3. Pre-operative, intra-operative, and post-operative blood pressure and vital sign documentation;
 4. A list of all medications given, with dosage and time intervals, and route and site of administration;
 5. Type of catheter or portal with gauge;
 6. Indicate nothing by mouth or time of last intake of food or water;
 7. Consent form; and
 8. Time of discharge and status, including name of escort.
- F. The Section 1301 Permit holder, for intravenous access, shall use a new infusion set, including a new infusion line and new bag of fluid, for each patient.
- G. The Section 1301 Permit holder shall utilize supplemental oxygen for patients receiving General Anesthesia or Deep Sedation for the duration of the procedure.
- H. The Section 1301 Permit holder shall continuously supervise the patient from the initiation of anesthesia or Deep Sedation until termination of the anesthesia or Deep Sedation procedure and oxygenation, ventilation, and circulation are stable. The Section 1301 Permit holder shall not commence with the administration of a subsequent anesthetic case until the patient is in monitored recovery or meets the guidelines for discharge.
- I. A Section 1301 Permit holder may employ the following health care professionals to provide anesthesia or sedation services and shall ensure that the health care professional continuously supervises the patient from the administration of anesthesia or sedation until termination of the anesthesia or sedation procedure and oxygenation, ventilation, and circulation are stable:
 1. An allopathic or osteopathic physician currently licensed in Arizona by the Arizona Medical Board or the Arizona Board of Osteopathic Examiners who has successfully completed a residency program in anesthesiology approved by the American Council on Graduate Medical Education or the American Osteopathic Association or who is certified by either the American Board of Anesthesiology or the American Osteopathic Board of Anes-

thesiology and is credentialed with anesthesia privileges through an Arizona licensed medical facility, or

2. A Certified Registered Nurse Anesthesiology currently licensed in Arizona who provides services under the Nurse Practice Act in A.R.S. Title 32, Chapter 15.
- J. A Section 1301 Permit holder may also administer parenteral sedation without obtaining a Section 1302 Permit.

Historical Note

New Section R4-11-1301 renumbered from R4-11-802 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 9 A.A.R. 1054, effective May 6, 2003 (Supp. 03-1). Amended by final rulemaking at 19 A.A.R. 341, effective April 6, 2013 (Supp. 13-1). Amended by final rulemaking at 28 A.A.R. 1898 (August 5, 2022), effective September 12, 2022 (Supp. 22-3).

R4-11-1302. Parenteral Sedation

- A. Before administering parenteral sedation in a dental office or dental clinic, a dentist shall possess a Section 1302 Permit issued by the Board. The dentist may renew a Section 1302 Permit every five years by complying with R4-11-1307.
 1. A Section 1301 Permit holder may also administer parenteral sedation.
 2. A Section 1302 Permit holder shall not administer or employ any agents which have a narrow margin for maintaining consciousness including, but not limited to, ultra-short acting barbiturates, propofol, parenteral ketamine, or similarly acting Drugs, agents, or techniques, or any combination thereof that would likely render a patient deeply sedated, generally anesthetized or otherwise not meeting the conditions of Moderate Sedation.
- B. To obtain or renew a Section 1302 Permit, the dentist shall:
 1. Submit a completed application on a form provided by the Board office that, in addition to the requirements of subsections (B)(2) and (3) and R4-11-1307, includes:
 - a. General information about the applicant such as:
 - i. Name;
 - ii. Home and office addresses and telephone numbers;
 - iii. Limitations of practice;
 - iv. Hospital affiliations;
 - v. Denial, curtailment, revocation, or suspension of hospital privileges;
 - vi. Denial of membership in, denial of renewal of membership in, or disciplinary action by a dental organization; and
 - vii. Denial of licensure by, denial of renewal of licensure by, or disciplinary action by a dental regulatory body; and
 - b. The dentist's dated and signed affidavit stating that the information provided is true, and that the dentist has read and complied with the Board's statutes and rules;
 2. On forms provided by the Board, provide a dated and signed affidavit attesting that any dental office or dental clinic where the dentist will administer parenteral sedation by intravenous or intramuscular route:
 - a. Contains the following properly operating equipment and supplies during the provision of parenteral sedation by the permit holder or General Anesthesia or Deep Sedation by a physician anesthesiologist or Certified Registered Nurse Anesthetist:
 - i. Emergency Drugs;

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- ii. Positive pressure oxygen and supplemental oxygen;
 - iii. Stethoscope;
 - iv. Suction equipment, including tonsillar or pharyngeal and emergency backup medical suction device;
 - v. Oropharyngeal and nasopharyngeal airways;
 - vi. Pulse oximeter;
 - vii. Auxiliary lighting;
 - viii. Blood pressure monitoring device; and
 - ix. Cardiac defibrillator or automated external defibrillator; and
 - b. Maintains a staff of supervised personnel capable of handling procedures, complications, and emergency incidents, including at least one staff member who:
 - i. Holds a current course completion confirmation in cardiopulmonary resuscitation health-care provider level;
 - ii. Is present during the parenteral sedation procedure; and
 - iii. After the procedure, monitors the patient until discharge;
 - 3. Hold a valid license to practice dentistry in this state;
 - 4. Maintain a current permit to prescribe and administer Controlled Substances in this state issued by the United States Drug Enforcement Administration;
 - 5. Provide confirmation of completing coursework within the two years prior to submitting the permit application in one or more of the following:
 - a. Advanced cardiac life support from the American Heart Association or another agency that follows the same procedures, standards, and techniques for training as the American Heart Association;
 - b. Pediatric advanced life support in a practice treating pediatric patients; or
 - c. A recognized continuing education course in advanced airway management.
- C. Initial applicants shall meet one of the following conditions by submitting to the Board verification of meeting the condition directly from the issuing institution:
- 1. Successfully complete Board-recognized undergraduate, graduate, or postgraduate education within the three years before submitting the permit application, that includes the following:
 - a. Sixty didactic hours of basic parenteral sedation to include:
 - i. Physical evaluation;
 - ii. Management of medical emergencies;
 - iii. The importance of and techniques for maintaining proper documentation; and
 - iv. Monitoring and the use of monitoring equipment; and
 - b. Hands-on administration of parenteral sedative medications to at least 20 patients in a manner consistent with this Section; or
 - 2. An applicant who completed training in parenteral sedation more than three years before submitting the permit application shall provide the following documentation:
 - a. On a form provided by the Board, a written affidavit affirming that the applicant has administered parenteral sedation to a minimum of 25 patients within the year or 75 patients within the last five years before submitting the permit application;
 - b. A copy of the parenteral sedation permit in effect in another state or certification of military training in parenteral sedation from the applicant's commanding officer; and
 - c. On a form provided by the Board, a written affidavit affirming the completion of 30 clock hours of continuing education taken within the last five years as outlined in R4-11-1306(B)(1)(b) through (f).
- D. After submitting the application and written evidence of compliance with requirements outlined in subsection (B) and, if applicable, subsection (C) to the Board, the applicant shall schedule an onsite evaluation by the Board during which the applicant shall administer parenteral sedation. After the applicant completes the application requirements and successfully completes the onsite evaluation, the Board shall issue a Section 1302 Permit to the applicant.
- 1. The onsite evaluation team shall consist of:
 - a. Two dentists who are Board members, or Board designees for initial applications, or
 - b. One dentist who is a Board member or Board designee for renewal applications.
 - 2. The onsite team shall evaluate the following:
 - a. The availability of equipment and personnel as specified in subsection (B)(2);
 - b. Proper administration of parenteral sedation to a patient by the applicant in the presence of the evaluation team;
 - c. Successful responses by the applicant to oral examination questions from the evaluation team about patient management, medical emergencies, and emergency medications;
 - d. Proper documentation of Controlled Substances, that includes a perpetual inventory log showing the receipt, administration, dispensing, and destruction of all Controlled Substances;
 - e. Proper recordkeeping as specified in subsection (E) by reviewing the records generated for the patient receiving parenteral sedation as specified in subsection (D)(2)(b); and
 - f. For renewal applicants, records supporting continued competency as specified in R4-11-1306.
 - 3. The evaluation team shall recommend one of the following:
 - a. Pass. Successful completion of the onsite evaluation;
 - b. Conditional Approval for failing to have appropriate equipment, proper documentation of Controlled Substances, or proper recordkeeping. The applicant must submit proof of correcting the deficiencies before a permit is issued;
 - c. Category 1 Evaluation Failure. The applicant must review the appropriate subject matter and schedule a subsequent evaluation by two Board Members or Board designees not less than 30 days from the failed evaluation. An example is failure to recognize and manage one emergency;
 - d. Category 2 Evaluation Failure. The applicant must complete Board approved continuing education in subject matter within the scope of the onsite evaluation as identified by the evaluators and schedule a subsequent evaluation by two Board Members or Board designees not less than 60 days from the failed evaluation. An example is failure to recognize and manage more than one emergency; or

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- e. Category 3 Evaluation Failure. The applicant must complete Board approved remedial continuing education with the subject matter outlined in R4-11-1306 as identified by the evaluators and reapply not less than 90 days from the failed evaluation. An example is failure to recognize and manage an anesthetic urgency.
- 4. The onsite evaluation of an additional dental office or dental clinic in which parenteral sedation is administered by an existing Section 1302 Permit holder may be waived by the Board staff upon receipt in the Board office of an affidavit verifying compliance with subsection (D)(2)(a).
- 5. A Section 1302 mobile permit may be issued if a Section 1302 Permit holder travels to dental offices or dental clinics to provide parenteral sedation. The applicant must submit a completed affidavit verifying:
 - a. That the equipment and supplies for the provision of parenteral sedation as required in R4-11-1302(B)(2)(a) either travel with the Section 1302 Permit holder or are in place and in appropriate working condition at the dental office or dental clinic where parenteral sedation is provided, and
 - b. Compliance with R4-11-1302(B)(2)(b).
- E. A Section 1302 Permit holder shall keep a parenteral sedation record for each parenteral sedation procedure that:
 - 1. Includes the following entries:
 - a. Pre-operative, intra-operative, and post-operative pulse oximeter documentation;
 - b. Pre-operative, intra-operative, and post-operative blood pressure and vital sign documentation;
 - c. A list of all medications given, with dosage and time intervals and route and site of administration;
 - d. Type of catheter or portal with gauge;
 - e. Indicate nothing by mouth or time of last intake of food or water;
 - f. Consent form; and
 - g. Time of discharge and status, including name of escort; and
 - 2. May include pre-operative and post-operative electrocardiograph report.
- F. The Section 1302 Permit holder shall establish intravenous access on each patient receiving parenteral sedation utilizing a new infusion set, including a new infusion line and new bag of fluid.
- G. The Section 1302 Permit holder shall utilize supplemental oxygen for patients receiving parenteral sedation for the duration of the procedure.
- H. The Section 1302 Permit holder shall continuously supervise the patient from the initiation of parenteral sedation until termination of the parenteral sedation procedure and oxygenation, ventilation and circulation are stable. The Section 1302 Permit holder shall not commence with the administration of a subsequent anesthetic case until the patient is in monitored recovery or meets the guidelines for discharge.
- I. A Section 1302 Permit holder may employ a health care professional as specified in R4-11-1301(I).

Historical Note

New Section R4-11-1302 renumbered from R4-11-803 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 9 A.A.R. 1054, effective May 6, 2003 (Supp. 03-1). Amended by final rulemaking at 19 A.A.R. 341, effective April 6, 2013 (Supp. 13-1). Amended by

final rulemaking at 28 A.A.R. 1898 (August 5, 2022), effective September 12, 2022 (Supp. 22-3).

R4-11-1303. Oral Sedation

- A. Before administering Oral Sedation in a dental office or dental clinic, a dentist shall possess a Section 1303 Permit issued by the Board. The dentist may renew a Section 1303 Permit every five years by complying with R4-11-1307.
 - 1. A Section 1301 Permit holder or Section 1302 Permit holder may also administer Oral Sedation without obtaining a Section 1303 Permit.
 - 2. The administration of a single Drug for Minimal Sedation does not require a Section 1303 Permit if:
 - a. The administered dose is within the Food and Drug Administration's maximum recommended dose as printed in the Food and Drug Administration's approved labeling for unmonitored home use;
 - i. Incremental multiple doses of the Drug may be administered until the desired effect is reached, but does not exceed the maximum recommended dose; and
 - ii. During Minimal Sedation, a single supplemental dose may be administered. The supplemental dose may not exceed one-half of the initial dose and the total aggregate dose may not exceed one and one-half times the Food and Drug Administration's maximum recommended dose on the date of treatment; and
 - b. Nitrous oxide/oxygen may be administered in addition to the oral Drug as long as the combination does not exceed Minimal Sedation.
- B. To obtain or renew a Section 1303 Permit, a dentist shall:
 - 1. Submit a completed application on a form provided by the Board office that, in addition to the requirements of subsections (B)(2) and (3) and R4-11-1307, includes:
 - a. General information about the applicant such as:
 - i. Name;
 - ii. Home and office addresses and telephone numbers;
 - iii. Limitations of practice;
 - iv. Hospital affiliations;
 - v. Denial, curtailment, revocation, or suspension of hospital privileges;
 - vi. Denial of membership in, denial of renewal of membership in, or disciplinary action by a dental organization; and
 - vii. Denial of licensure by, denial of renewal of licensure by, or disciplinary action by a dental regulatory body; and
 - b. The dentist's dated and signed affidavit stating that the information provided is true, and that the dentist has read and complied with the Board's statutes and rules;
 - 2. On forms provided by the Board, provide a dated and signed affidavit attesting that any dental office or dental clinic where the dentist will administer Oral Sedation:
 - a. Contains the following properly operating equipment and supplies during the provision of sedation:
 - i. Emergency Drugs;
 - ii. Cardiac defibrillator or automated external defibrillator;
 - iii. Positive pressure oxygen and supplemental oxygen;
 - iv. Stethoscope;

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- v. Suction equipment, including tonsillar or pharyngeal and emergency backup medical suction device;
 - vi. Pulse oximeter;
 - vii. Blood pressure monitoring device; and
 - viii. Auxiliary lighting; and
 - b. Maintains a staff of supervised personnel capable of handling procedures, complications, and emergency incidents, including at least one staff member who:
 - i. Holds a current certificate in cardiopulmonary resuscitation healthcare provider level;
 - ii. Is present during the Oral Sedation procedure; and
 - iii. After the procedure, monitors the patient until discharge;
 - 3. Hold a valid license to practice dentistry in this state;
 - 4. Maintain a current permit to prescribe and administer Controlled Substances in this state issued by the United States Drug Enforcement Administration;
 - 5. Provide confirmation of completing coursework within the two years prior to submitting the permit application in one or more of the following:
 - a. Cardiopulmonary resuscitation healthcare provider level from the American Heart Association, American Red Cross, or another agency that follows the same procedures, standards, and techniques for training as the American Heart Association or American Red Cross;
 - b. Pediatric advanced life support in a practice treating pediatric patients; or
 - c. A recognized continuing education course in advanced airway management.
- C. Initial applicants shall meet one of the following by submitting to the Board verification of meeting the condition directly from the issuing institution:
- 1. Complete a Board-recognized post-doctoral residency program that includes documented training in Oral Sedation within the last three years before submitting the permit application; or
 - 2. Complete a Board recognized post-doctoral residency program that includes documented training in Oral Sedation more than three years before submitting the permit application shall provide the following documentation:
 - a. On a form provided by the Board, a written affidavit affirming that the applicant has administered Oral Sedation to a minimum of 25 patients within the year or 75 patients within the last five years before submitting the permit application;
 - b. A copy of the Oral Sedation permit in effect in another state or certification of military training in Oral Sedation from the applicant's commanding officer; and
 - c. On a form provided by the Board, a written affidavit affirming the completion of 30 hours of continuing education taken within the last five years as outlined in R4-11-1306(C)(1)(a) through (f); or
 - 3. Provide proof of participation in 30 clock hours of Board-recognized undergraduate, graduate, or post-graduate education in Oral Sedation within the three years before submitting the permit application that includes:
 - a. Training in basic Oral Sedation,
 - b. Pharmacology,
 - c. Physical evaluation,
 - d. Management of medical emergencies,
 - e. The importance of and techniques for maintaining proper documentation, and
 - f. Monitoring and the use of monitoring equipment.
- D. After submitting the application and written evidence of compliance with requirements in subsection (B) and, if applicable, subsection (C) to the Board, the applicant shall schedule an onsite evaluation by the Board. After the applicant completes the application requirements and successfully completes the onsite evaluation, the Board shall issue a Section 1303 Permit to the applicant.
- 1. The onsite evaluation team shall consist of:
 - a. For initial applications, two dentists who are Board members, or Board designees.
 - b. For renewal applications, one dentist who is a Board member, or Board designee.
 - 2. The onsite team shall evaluate the following:
 - a. The availability of equipment and personnel as specified in subsection (B)(2);
 - b. Successful responses by the applicant to oral examination questions from the evaluation team about patient management, medical emergencies, and emergency medications;
 - c. Proper documentation of Controlled Substances, that includes a perpetual inventory log showing the receipt, administration, dispensing, and destruction of Controlled Substances;
 - d. Proper recordkeeping as specified in subsection (E) by reviewing the forms that document the Oral Sedation record; and
 - e. For renewal applicants, records supporting continued competency as specified in R4-11-1306.
 - 3. The evaluation team shall recommend one of the following:
 - a. Pass. Successful completion of the onsite evaluation;
 - b. Conditional Approval for failing to have appropriate equipment, proper documentation of Controlled Substance, or proper recordkeeping. The applicant must submit proof of correcting the deficiencies before permit will be issued;
 - c. Category 1 Evaluation Failure. The applicant must review the appropriate subject matter and schedule a subsequent evaluation by two Board Members or Board designees not less than 30 days from the failed evaluation. An example is failure to recognize and manage one emergency; or
 - d. Category 2 Evaluation Failure. The applicant must complete Board approved continuing education in subject matter within the scope of the onsite evaluation as identified by the evaluators and schedule a subsequent evaluation by two Board Members or Board designees not less than 60 days from the failed evaluation. An example is failure to recognize and manage more than one emergency.
 - 4. The onsite evaluation of an additional dental office or dental clinic in which Oral Sedation is administered by a Section 1303 Permit holder may be waived by the Board staff upon receipt in the Board office of an affidavit verifying compliance with subsection (D)(2)(a).
 - 5. A Section 1303 mobile permit may be issued if the Section 1303 Permit holder travels to dental offices or dental clinics to provide Oral Sedation. The applicant must submit a completed affidavit verifying:

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- a. That the equipment and supplies for the provision of Oral Sedation as required in R4-11-1303(B)(2)(a) either travel with the Section 1303 Permit holder or are in place and in appropriate condition at the dental office or dental clinic where Oral Sedation is provided, and
 - b. Compliance with R4-11-1303(B)(2)(b).
- E. A Section 1303 Permit holder shall keep an Oral Sedation record for each Oral Sedation procedure that:
 - 1. Includes the following entries:
 - a. Pre-operative, intra-operative, and post-operative, pulse oximeter oxygen saturation and pulse rate documentation;
 - b. Pre-operative and post-operative blood pressure;
 - c. Documented reasons for not taking vital signs if a patient's behavior or emotional state prevents monitoring personnel from taking vital signs;
 - d. List of all medications given, including dosage and time intervals;
 - e. Patient's weight;
 - f. Consent form;
 - g. Special notes, such as, nothing by mouth or last intake of food or water; and
 - h. Time of discharge and status, including name of escort; and
 - 2. May include the following entries:
 - a. Pre-operative and post-operative electrocardiograph report; and
 - b. Intra-operative blood pressures.
- F. The Section 1303 Permit holder shall utilize supplemental oxygen for patients receiving Oral Sedation for the duration of the procedure.
- G. The Section 1303 Permit holder shall ensure the continuous supervision of the patient from the administration of Oral Sedation until oxygenation, ventilation and circulation are stable and the patient is appropriately responsive for discharge from the dental office or dental clinic.
- H. A Section 1303 Permit holder may employ a health care professional to provide anesthesia services, if all of the following conditions are met:
 - 1. The physician anesthesiologist or Certified Registered Nurse Anesthetist meets the requirements as specified in R4-11-1301(I);
 - 2. The Section 1303 Permit holder has completed coursework within the two years prior to submitting the permit application in one or more of the following:
 - a. Advanced cardiac life support from the American Heart Association or another agency that follows the same procedures, standards, and techniques for training as the American Heart Association;
 - b. Pediatric advanced life support in a practice treating pediatric patients;
 - c. A recognized continuing education course in advanced airway management;
 - 3. The Section 1303 Permit holder ensures that:
 - a. The dental office or clinic contains the equipment and supplies listed in R4-11-1304(B)(2)(a) during the provision of anesthesia or sedation by the physician anesthesiologist or Certified Registered Nurse Anesthetist;
 - b. The anesthesia or sedation record contains all the entries listed in R4-11-1304(D);
 - c. For intravenous access, the physician anesthesiologist or Certified Registered Nurse Anesthetist uses a

new infusion set, including a new infusion line and new bag of fluid for each patient; and

- d. The patient is continuously supervised from the administration of anesthesia or sedation until the termination of the anesthesia or sedation procedure and oxygenation, ventilation and circulation are stable. The Section 1303 Permit holder shall not commence with a subsequent procedure or treatment until the patient is in monitored recovery or meets the guidelines for discharge.

Historical Note

New Section R4-11-1303 renumbered from R4-11-805 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Former Section R4-11-1303 renumbered to R4-11-1304; new Section R4-11-1303 made by final rulemaking at 9 A.A.R. 1054, effective May 6, 2003 (Supp. 03-1). Amended by final rulemaking at 19 A.A.R. 341, effective April 6, 2013 (Supp. 13-1). Amended by final rulemaking at 28 A.A.R. 1898 (August 5, 2022), effective September 12, 2022 (Supp. 22-3).

R4-11-1304. Permit to Employ or Work with a Physician Anesthesiologist or Certified Registered Nurse Anesthetist (CRNA)

- A. This Section does not apply to a Section 1301 permit holder or a Section 1302 permit holder practicing under the provisions of R4-11-1302(I) or a Section 1303 permit holder practicing under the provisions of R4-11-1303(H). A dentist may utilize a physician anesthesiologist or certified registered nurse anesthetist (CRNA) for anesthesia or sedation services while the dentist provides treatment in the dentist's office or dental clinic after obtaining a Section 1304 permit issued by the Board.
 - 1. The physician anesthesiologist or CRNA meets the requirements as specified in R4-11-1301(I).
 - 2. The dentist permit holder shall provide all dental treatment and ensure that the physician anesthesiologist or CRNA remains on the dental office or dental clinic premises until any patient receiving anesthesia or sedation services is discharged.
 - 3. A dentist may renew a Section 1304 permit every five years by complying with R4-11-1307.
- B. To obtain or renew a Section 1304 permit, a dentist shall:
 - 1. Submit a completed application on a form provided by the Board office that, in addition to the requirements of subsections (B)(2) and (3) and R4-11-1307 includes:
 - a. General information about the applicant such as:
 - i. Name;
 - ii. Home and office addresses and telephone numbers;
 - iii. Limitations of practice;
 - iv. Hospital affiliations;
 - v. Denial, curtailment, revocation, or suspension of hospital privileges;
 - vi. Denial of membership in, denial of renewal of membership in, or disciplinary action by a dental organization; and
 - vii. Denial of licensure by, denial of renewal of licensure by, or disciplinary action by a dental regulatory body; and
 - b. The dentist's dated and signed affidavit stating that the information provided is true, and that the dentist

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- has read and complied with the Board's statutes and rules;
2. On forms provided by the Board, provide a dated and signed affidavit attesting that any dental office or dental clinic where the dentist provides treatment during administration of general anesthesia or sedation by a physician anesthesiologist or CRNA:
 - a. Contains the following properly operating equipment and supplies during the provision of general anesthesia and sedation:
 - i. Emergency drugs;
 - ii. Electrocardiograph monitor;
 - iii. Pulse oximeter;
 - iv. Cardiac defibrillator or automated external defibrillator (AED);
 - v. Positive pressure oxygen and supplemental continuous flow oxygen;
 - vi. Suction equipment, including endotracheal, tonsillar or pharyngeal and emergency backup medical suction device;
 - vii. Laryngoscope, multiple blades, backup batteries and backup bulbs;
 - viii. Endotracheal tubes and appropriate connectors;
 - ix. Magill forceps;
 - x. Oropharyngeal and nasopharyngeal airways;
 - xi. Auxiliary lighting;
 - xii. Stethoscope; and
 - xiii. Blood pressure monitoring device; and
 - b. Maintains a staff of supervised personnel capable of handling procedures, complications, and emergency incidents. All personnel involved in administering and monitoring general anesthesia or sedation shall hold a current course completion confirmation in cardiopulmonary resuscitation (CPR) Health Care Provider level;
 3. Hold a valid license to practice dentistry in this state; and
 4. Provide confirmation of completing coursework within the last two years prior to submitting the permit application in one or more of the following:
 - a. Advanced cardiac life support (ACLS) from the American Heart Association or another agency that follows the same procedures, standards, and techniques for training as the American Heart Association;
 - b. Pediatric advanced life support (PALS) in a practice treating pediatric patients; or
 - c. A recognized continuing education course in advanced airway management.
- C.** After submitting the application and written evidence of compliance with requirements in subsection (B) to the Board, the applicant shall schedule an onsite evaluation by the Board. After the applicant completes the application requirements and successfully completes the onsite evaluation, the Board shall issue the applicant a Section 1304 permit.
1. The onsite evaluation team shall consist of one dentist who is a Board member, or Board designee.
 2. The onsite team shall evaluate the following:
 - a. The availability of equipment and personnel as specified in subsection (B)(2);
 - b. Proper documentation of controlled substances, that includes a perpetual inventory log showing the receipt, administration, dispensing, and destruction of controlled substances; and
 - c. Proper recordkeeping as specified in subsection (E) by reviewing previous anesthesia or sedation records.
 3. The evaluation team shall recommend one of the following:
 - a. Pass. Successful completion of the onsite evaluation; or
 - b. Conditional approval for failing to have appropriate equipment, proper documentation of controlled substances, or proper recordkeeping. The applicant must submit proof of correcting the deficiencies before a permit is issued.
 4. The evaluation of an additional dental office or dental clinic in which a Section 1304 permit holder provides treatment during the administration general anesthesia or sedation by a physician anesthesiologist or CRNA may be waived by the Board staff upon receipt in the Board office of an affidavit verifying compliance with subsection (B)(2).
- D.** A Section 1304 permit holder shall keep an anesthesia or sedation record for each general anesthesia and sedation procedure that includes the following entries:
1. Pre-operative and post-operative electrocardiograph documentation;
 2. Pre-operative, intra-operative, and post-operative, pulse oximeter documentation;
 3. Pre-operative, intra-operative, and post-operative blood pressure and vital sign documentation; and
 4. A list of all medications given, with dosage and time intervals and route and site of administration;
 5. Type of catheter or portal with gauge;
 6. Indicate nothing by mouth or time of last intake of food or water;
 7. Consent form; and
 8. Time of discharge and status, including name of escort.
- E.** For intravenous access, a Section 1304 permit holder shall ensure that the physician anesthesiologist or CRNA uses a new infusion set, including a new infusion line and new bag of fluid for each patient.
- F.** A Section 1304 permit holder shall ensure that the physician anesthesiologist or CRNA utilizes supplemental continuous flow oxygen for patients receiving general anesthesia or sedation for the duration of the procedure.
- G.** The Section 1304 permit holder shall continuously supervise the patient from the administration of anesthesia or sedation until termination of the anesthesia or sedation procedure and oxygenation, ventilation and circulation are stable. The Section 1304 permit holder shall not commence with a subsequent procedure or treatment until the patient is in monitored recovery or meets the guidelines for discharge.

Historical Note

New Section R4-11-1304 renumbered from R4-11-805 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Former Section R4-11-1304 renumbered to R4-11-1305; new Section R4-11-1304 renumbered from R4-11-1303 and amended by final rulemaking at 9 A.A.R. 1054, effective May 6, 2003 (Supp. 03-1). Section repealed; new Section made by final rulemaking at 19 A.A.R. 341, effective April 6, 2013 (Supp. 13-1).

R4-11-1305. Reports of Adverse Occurrences

If a death, or incident requiring emergency medical response, occurs in a dental office or dental clinic during the administration of

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or recovery from general anesthesia, deep sedation, moderate sedation, or minimal sedation, the permit holder and the treating dentist involved shall submit a complete report of the incident to the Board within 10 days after the occurrence.

Historical Note

New Section R4-11-1305 renumbered from R4-11-806 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Former Section R4-11-1305 renumbered to R4-11-1306; new Section R4-11-1305 renumbered from R4-11-1304 and amended by final rulemaking at 9 A.A.R. 1054, effective May 6, 2003 (Supp. 03-1). Section repealed; new Section made by final rulemaking at 19 A.A.R. 341, effective April 6, 2013 (Supp. 13-1).

R4-11-1306. Education; Continued Competency

A. To obtain a Section 1301, permit by satisfying the education requirement of R4-11-1301(B)(6), a dentist shall successfully complete an advanced graduate or post-graduate education program in pain control.

1. The program shall include instruction in the following subject areas:
 - a. Anatomy and physiology of the human body and its response to the various pharmacologic agents used in pain control;
 - b. Physiological and psychological risks for the use of various modalities of pain control;
 - c. Psychological and physiological need for various forms of pain control and the potential response to pain control procedures;
 - d. Techniques of local anesthesia, sedation, and general anesthesia, and psychological management and behavior modification, as they relate to pain control in dentistry; and
 - e. Handling emergencies and complications related to pain control procedures, including the maintenance of respiration and circulation, immediate establishment of an airway, and cardiopulmonary resuscitation.
2. The program shall consist of didactic and clinical training. The didactic component of the program shall:
 - a. Be the same for all dentists, whether general practitioners or specialists; and
 - b. Include each subject area listed in subsection (A)(1).
3. The program shall provide at least one calendar year of training as prescribed in R4-11-1301(B)(6)(a).

B. To maintain a Section 1301 or 1302 permit under R4-11-1301 or R4-11-1302 a permit holder shall:

1. Participate in 30 clock hours of continuing education every five years in one or more of the following areas:
 - a. General anesthesia,
 - b. Parenteral sedation,
 - c. Physical evaluation,
 - d. Medical emergencies,
 - e. Monitoring and use of monitoring equipment, or
 - f. Pharmacology of drugs and non-drug substances used in general anesthesia or parenteral sedation; and
2. Provide confirmation of completing coursework within the two years prior to submitting the renewal application from one or more of the following:
 - a. Advanced cardiac life support (ACLS) from the American Heart Association or another agency that follows the same procedures, standards, and techniques for training as the American Heart Association;

or recovery from general anesthesia, deep sedation, moderate sedation, or minimal sedation, the permit holder and the treating dentist involved shall submit a complete report of the incident to the Board within 10 days after the occurrence.

- b. Pediatric advanced life support (PALS) in a practice treating pediatric patients; or
- c. A recognized continuing education course in advanced airway management;

3. Complete at least 10 general anesthesia, deep sedation or parenteral sedation cases a calendar year; and
4. Apply a maximum of six hours from subsection (B)(2) toward the continuing education requirements for subsection (B)(1).

C. To maintain a Section 1303 permit issued under R4-11-1303, a permit holder shall:

1. Participate in 30 clock hours of continuing education every five years in one or more of the following areas:
 - a. Oral sedation,
 - b. Physical evaluation,
 - c. Medical emergencies,
 - d. Monitoring and use of monitoring equipment, or
 - e. Pharmacology of oral sedation drugs and non-drug substances; and
2. Provide confirmation of completing coursework within the two years prior to submitting the renewal application from one or more of the following:
 - a. Cardiopulmonary resuscitation (CPR) Health Care Provider level from the American Heart Association, American Red Cross or another agency that follows the same procedures, standards, and techniques for training as the American Heart Association or American Red Cross;
 - b. Advanced cardiac life support (ACLS) from the American Heart Association or another agency that follows the same procedures, standards, and techniques for training as the American Heart Association;
 - c. Pediatric advanced life support (PALS);
 - d. A recognized continuing education course in advanced airway management; and
3. Complete at least 10 oral sedation cases a calendar year.

Historical Note

Section R4-11-1306 renumbered from R4-11-1305 and amended by final rulemaking at 9 A.A.R. 1054, effective May 6, 2003 (Supp. 03-1). Amended by final rulemaking at 19 A.A.R. 341, effective April 6, 2013 (Supp. 13-1).

R4-11-1307. Renewal of Permit

A. To renew a Section 1301, 1302, or 1303 permit, the permit holder shall:

1. Provide written documentation of compliance with the applicable continuing education requirements in R4-11-1306;
2. Provide written documentation of compliance with the continued competency requirements in R4-11-1306;
3. Before December 31 of the year the permit expires, submit a completed application on a form provided by the Board office as described in R4-11-1301, R4-11-1302, or R4-11-1303; and
4. Not less than 90 days before the expiration of a permit holder's current permit, arrange for an onsite evaluation as described in R4-11-1301, R4-11-1302, or R4-11-1303.

B. To renew a Section 1304 permit, the permit holder shall:

1. Before December 31 of the year the permit expires, submit a completed application on a form provided by the Board office as described in R4-11-1304; and

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2. Not less than 90 days before the expiration of a permit holder's current permit, arrange for an onsite evaluation as described in R4-11-1304.
- C. After the permit holder successfully completes the evaluation and submits the required affidavits, the Board shall renew a Section 1301, 1302, 1303, 1304 permit, as applicable.
- D. The Board may stagger due dates for renewal applications.

Historical Note

Made by final rulemaking at 19 A.A.R. 341, effective April 6, 2013 (Supp. 13-1).

ARTICLE 14. DISPENSING DRUGS AND DEVICES**R4-11-1401. Prescribing**

- A. In addition to the requirements of A.R.S. § 32-1298(C), a dentist shall ensure that a prescription order contains the following information:
 1. Date of issuance;
 2. Name and address of the patient to whom the prescription is issued;
 3. Name, strength, dosage form, and quantity of the drug or name and quantity of the device prescribed;
 4. Name and address of the dentist prescribing the drug; and
 5. Drug Enforcement Administration registration number of the dentist, if prescribing a controlled substance.
- B. Before dispensing a drug or device, a dentist shall present to the patient a written prescription for the drug or device being dispensed that includes on the prescription the following statement in bold type: "This prescription may be filled by the prescribing dentist or by a pharmacy of your choice."

Historical Note

Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1401 repealed, new Section R4-11-1401 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-1402. Labeling and Dispensing

- A. A dentist shall include the following information on the label of all drugs and devices dispensed:
 1. The dentist's name, address, and telephone number;
 2. The serial number;
 3. The date the drug or device is dispensed;
 4. The patient's name;
 5. Name, strength, and quantity of drug or name and quantity of device dispensed;
 6. The name of the drug or device manufacturer or distributor;
 7. Directions for use and cautionary statement necessary for safe and effective use of the drug or device; and
 8. If a controlled substance is prescribed, the cautionary statement "Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed."
- B. Before delivery to the patient, the dentist shall prepare and package the drug or device to ensure compliance with the prescription and personally inform the patient of the name of the drug or device, directions for its use, precautions, and storage requirements.
- C. A dentist shall purchase all dispensed drugs and devices from a manufacturer, distributor, or pharmacy that is properly licensed in this state or one of the other 49 states, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States of America.

- D. When dispensing a prescription drug or device from a prescription order, a dentist shall perform the following professional practices:

1. Verify the legality and pharmaceutical feasibility of dispensing a drug based upon:
 - a. A patient's allergies,
 - b. Incompatibilities with a patient's currently-taken medications,
 - c. A patient's use of unusual quantities of dangerous drugs or narcotics, and
 - d. The frequency of refills;
2. Verify that the dosage is within proper limits;
3. Interpret the prescription order;
4. Prepare, package, and label, or assume responsibility for preparing, packaging, and labeling, the drug or device dispensed under each prescription order;
5. Check the label to verify that the label precisely communicates the prescriber's directions and hand-initial each label;
6. Record, or assume responsibility for recording, the serial number and date dispensed on the front of the original prescription order; and
7. Record on the original prescription order the name or initials of the dentist who dispensed the order.

Historical Note

Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1402 renumbered to R4-11-1201, new Section R4-11-1402 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-1403. Storage and Packaging

A dentist shall:

1. Keep all prescription-only drugs and devices in a secured area and control access to the secured area by written procedure. The dentist shall make the written procedure available to the Board or its authorized agents on demand for inspection or copying;
2. Keep all controlled substances secured in a locked cabinet or room, control access to the cabinet or room by written procedure, and maintain an ongoing inventory of the contents. The dentist shall make the written procedure available to the Board or its authorized agents on demand for inspection or copying;
3. Maintain drug storage areas so that the temperature in the drug storage areas does not exceed 85° F;
4. Not dispense a drug or device that has expired or is improperly labeled;
5. Not redispense a drug or device that has been returned;
6. Dispense a drug or device:
 - a. In a prepackaged container or light-resistant container with a consumer safety cap, unless the patient or patient's representative requests a non-safety cap; and
 - b. With a label that is mechanically or electronically printed;
7. Destroy an outdated, deteriorated, or defective controlled substance according to Drug Enforcement Administration regulations or by using a reverse distributor. A list of reverse distributors may be obtained from the Drug Enforcement Administration; and
8. Destroy an outdated, deteriorated, or defective non-controlled substance drug or device by returning it to the sup-

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plier or by using a reverse distributor. A list of reverse distributors may be obtained from the Drug Enforcement Administration.

Historical Note

Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1403 renumbered to R4-11-1202, new Section R4-11-1403 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-1404. Recordkeeping**A.** A dentist shall:

1. Chronologically date and sequentially number prescription orders in the order that the drugs or devices are originally dispensed;
2. Sequentially file orders separately from patient records, as follows:
 - a. File Schedule II drug orders separately from all other prescription orders;
 - b. File Schedule III, IV, and V drug orders separately from all other prescription orders; and
 - c. File all other prescription orders separately from orders specified in subsections (A)(2)(a) and (b);
3. Record the name of the manufacturer or distributor of the drug or device dispensed on each prescription order and label;
4. Record the name or initials of the dentist dispensing the drug or device on each prescription order and label; and
5. Record the date the drug or device is dispensed on each prescription order and label.

B. A dentist shall record in the patient's dental record the name, dosage form, and strength of the drug or device dispensed, the quantity or volume dispensed, the date the drug or device is dispensed, and the dental therapeutic reasons for dispensing the drug or device.**C.** A dentist shall maintain:

1. Purchase records of all drugs and devices for three years from the date purchased; and
2. Dispensing records of all drugs and devices for three years from the date dispensed.

D. A dentist who dispenses controlled substances:

1. Shall inventory Schedule II, III, IV, and V controlled substances as prescribed by A.R.S. § 36-2523;
2. Shall perform a controlled substance inventory on March 1 annually, if directed by the Board, and at the opening or closing of a dental practice;
3. Shall maintain the inventory for three years from the inventory date;
4. May use one inventory book for all controlled substances;
5. When conducting an inventory of Schedule II controlled substances, shall take an exact count;
6. When conducting an inventory of Schedule III, IV, and V controlled substances, shall take an exact count or may take an estimated count if the stock container contains fewer than 1001 units.

E. A dentist shall maintain invoices for drugs and devices dispensed for three years from the date of the invoices, filed as follows:

1. File Schedule II controlled substance invoices separately from records that are not Schedule II controlled substance invoices;

2. File Schedule III, IV, and V controlled substance invoices separately from records that are not Schedule III, IV, and V controlled substance invoices; and
3. File all non-controlled substance invoices separately from the invoices referenced in subsections (E)(1) and (2).

F. A dentist shall file Drug Enforcement Administration order form (DEA Form 222) for a controlled substance sequentially and separately from every other record.**Historical Note**

Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1404 renumbered to R4-11-1203, new Section R4-11-1404 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-1405. Compliance**A.** A dentist who determines that there has been a theft or loss of Drugs or Controlled Substances from the dentist's office shall immediately notify a local law enforcement agency and the Board and provide written notice of the theft or loss in the following manner:

1. For non-Controlled Substance Drug theft or loss, provide the law enforcement agency and the Board with a written report explaining the theft or loss; or
2. For Controlled Substance theft or loss, complete a Drug Enforcement Administration's 106 form; and
3. Provide copies of the Drug Enforcement Administration's 106 form to the Drug Enforcement Administration and the Board within one day of the discovery.

B. A dentist who dispenses Drugs or devices in a manner inconsistent with this Article is subject to discipline under A.R.S. Title 32, Chapter 11, Article 3.**Historical Note**

Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1405 renumbered to R4-11-1204, new Section R4-11-1405 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 28 A.A.R. 1898 (August 5, 2022), effective September 12, 2022 (Supp. 22-3).

R4-11-1406. Dispensing for Profit Registration and Renewal**A.** A dentist who is currently licensed to practice dentistry in Arizona may dispense controlled substances, prescription-only drugs, and prescription-only devices for profit only after providing the Board the following information:

1. A completed registration form that includes the following information:
 - a. The dentist's name and dental license number;
 - b. A list of the types of drugs and devices to be dispensed for profit, including controlled substances; and
 - c. Locations where the dentist desires to dispense the drugs and devices for profit; and
2. A copy of the dentist's current Drug Enforcement Administration Certificate of Registration for each dispensing location from which the dentist desires to dispense the drugs and devices for profit.

B. The Board shall issue a numbered certificate indicating the dentist is registered with the Board to dispense drugs and devices for profit.

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- C. A dentist shall renew a registration to dispense drugs and devices for profit by complying with the requirements in subsection (A) before the dentist's license renewal date. When a dentist has made timely and complete application for the renewal of a registration, the dentist may continue to dispense until the Board approves or denies the application. Failure to renew a registration shall result in immediate loss of dispensing for profit privileges.

Historical Note

Adopted effective July 21, 1995; inadvertently not published with Supp. 95-3 (Supp. 95-4). Former Section R4-11-1406 renumbered to R4-11-1205, new Section R4-11-1406 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-1407. Renumbered**Historical Note**

Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1407 renumbered to R4-11-1206 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-1408. Renumbered**Historical Note**

Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1408 renumbered to R4-11-1207 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-1409. Repealed**Historical Note**

Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1409 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

ARTICLE 15. COMPLAINTS, INVESTIGATIONS, DISCIPLINARY ACTION**R4-11-1501. Ex-parte Communication**

A complainant, licensee, certificate holder, business entity or mobile dental permit holder against whom a complaint is filed, shall not engage in ex-parte communication by means of a written or oral communication between a decision maker, fact finder, or Board member and only one party to the proceeding.

Historical Note

New Section R4-11-1501 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 334, effective April 6, 2013 (Supp. 13-1).

R4-11-1502. Dental Consultant Qualifications

A dentist, dental therapist, dental hygienist, or denturist approved as a Board dental consultant shall:

1. Possess a valid license or certificate to practice in Arizona;
2. Have practiced at least five years in Arizona; and
3. Not have been disciplined by the Board within the past five years.

Historical Note

New Section R4-11-1502 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

Amended by final rulemaking at 19 A.A.R. 334, effective April 6, 2013 (Supp. 13-1). Amended by final rulemaking at 29 A.A.R. 1330 (June 9, 2023), effective July 10, 2023 (Supp. 23-2).

R4-11-1503. Initial Complaint Review**A.** The Board's procedures for complaint notification are:

1. The Board shall notify the Licensee, dentist, Business Entity or Mobile Dental Permit Holder by certified U.S. Mail when the following occurs:
 - a. A formal interview is scheduled, and
 - b. A subpoena, notice, or order is issued.
2. The Board shall notify the Licensee, dentist, Business Entity, or Mobile Dental Permit Holder by U.S. mail or email when the following occurs:
 - a. The complaint is tabled, and
 - b. The Board grants a postponement or continuance.
3. Board shall provide the Licensee, dentist, Business Entity, or Mobile Dental Permit Holder with a copy of the complaint.
4. If a complaint alleges a violation of the state or federal criminal code, the Board shall refer the complaint to the proper law enforcement agency.

B. The Board's procedures for complaints referred to Clinical Evaluation are:

1. Except as provided in subsection (B)(1)(a), the President's Designee shall appoint one or more dental consultants to perform a Clinical Evaluation. If there is more than one dental consultant, the dental consultants do not need to be present at the same time.
 - a. If the complaint involves a dental hygienist, dentist, dental therapist, or dentist who is a recognized specialist in one of the areas listed in R4-11-1102(B), the President's Designee shall appoint a dental consultant from that area of practice or specialty.
 - b. The Board shall not disclose the identity of the Licensee to a dental consultant performing a Clinical Evaluation before the Board receives the dental consultant's report.
2. The dental consultant shall prepare and submit a Clinical Evaluation report. The President's Designee shall provide a copy of the Clinical Evaluation report to the Licensee or dentist. The Licensee or dentist may submit a written response to the Clinical Evaluation report.

Historical Note

New Section R4-11-1503 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 334, effective April 6, 2013 (Supp. 13-1). Amended by final rulemaking at 29 A.A.R. 1330 (June 9, 2023), effective July 10, 2023 (Supp. 23-2).

R4-11-1504. Postponement of Interview**A.** The licensee, certificate holder, business entity, or mobile dental permit holder may request a postponement of a formal interview. The Board or its designee shall grant a postponement until the next regularly scheduled Board meeting if the licensee, certificate holder, business entity, or mobile dental permit holder makes a postponement request and the request:

1. Is made in writing,
2. States the reason for the postponement, and

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3. Is received by the Board within 15 calendar days after the date the respondent received the formal interview request.
- B. Within 48 hours of receipt of a request for postponement of a formal interview, the Board or its designee shall:
 1. Review and either deny or approve the request for postponement; and
 2. Notify in writing the complainant and licensee, certificate holder, business entity, or mobile dental permit holder of the decision to either deny or approve the request for postponement.

Historical Note

New Section R4-11-1504 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 3669, effective April 30, 2003 (Supp. 03-3). New Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 334, effective April 6, 2013 (Supp. 13-1).

ARTICLE 16. DENTAL THERAPISTS**R4-11-1601. Duties and Qualifications**

- A. A dental therapist may perform a procedure not specifically authorized by A.R.S. § 32-1276.03 when all of the following conditions are satisfied:
 1. The procedure is recommended or prescribed by the supervising dentist;
 2. The dental therapist has received training by a recognized dental school, recognized dental therapy school, recognized dental hygiene school, or recognized denturist school, as defined under A.R.S. § 32-1201, to perform the procedure in a safe manner; and
 3. The procedure is performed under the Direct Supervision of, or according to, a written collaborative practice agreement with a licensed dentist.
- B. A dental therapist may administer Nitrous Oxide Analgesia as authorized by A.R.S. § 32-1276.03(B)(12) if the dental therapist submits proof directly from an issuing institution of completing courses in the administration of Nitrous Oxide Analgesia offered by a recognized dental school, recognized dental therapy school, or recognized dental hygiene school, as defined under A.R.S. § 32-1201, that include both theory and supervised clinical practice in the procedures.
- C. A dental therapist may perform suturing and suture removal as authorized by A.R.S. § 32-1276.03(B)(21) if the dental therapist submits proof directly from an issuing institution of completing courses in suturing and suture removal offered by a recognized dental school, recognized dental therapy school, or recognized dental hygiene school, as defined under A.R.S. § 32-1201, that include both theory and supervised clinical practice in the procedures.
- D. A dental therapist may perform an Irreversible Procedure only if it is specifically authorized by A.R.S. § 32-1276.03 or meets the conditions of R4-11-1601(A).

Historical Note

New Section R4-11-1601 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section expired under A.R.S. § 41-1056(E) at 14 A.A.R. 3183, effective April 30, 2008. New Section made by final rulemaking at 29 A.A.R. 1330 (June 30, 2023), effective July 10, 2023 (Supp. 23-2).

R4-11-1602. Limitation on Number Supervised

A dentist shall not provide direct supervision for more than three dental therapists while the dental therapists are providing services or performing procedures under A.R.S. § 32-1276.03 or R4-11-1601.

Historical Note

New Section made by final rulemaking at 29 A.A.R. 1330 (June 30, 2023), effective July 10, 2023 (Supp. 23-2).

R4-11-1603. Dental Therapy Consultants

After submission of a current curriculum vitae or resume and approval by the Board, dental therapy consultants may:

1. Participate in Board-related procedures, including a Clinical Evaluation, investigation of complaints concerning infection control, insurance fraud, or the practice of supervised personnel, and any other procedures not directly related to evaluating a dentist's or denturist's quality of care; and
2. Participate in onsite office evaluations for infection control, as part of a team.

Historical Note

New Section made by final rulemaking at 29 A.A.R. 1330 (June 30, 2023), effective July 10, 2023 (Supp. 23-2).

R4-11-1604. Written Collaborative Practice Agreements; Collaborative Practice Relationships

- A. A dental therapist shall submit a signed affidavit to the Board affirming that:
 1. The Collaborative Practice Agreement complies with all the requirements listed in A.R.S. § 32-1276.04.
 2. The dental therapist is and will be continuously certified in basic life support, including healthcare provider level cardiopulmonary resuscitation and training in automated external defibrillator.
 3. The dental therapist is in compliance with the continuing dental education requirements of this state.
- B. Each dentist who enters into a Collaborative Practice Agreement shall be available telephonically or electronically during the business hours of the dental therapist to provide an appropriate level of contact, communication, and consultation.
- C. A Collaborative Practice Agreement shall include a provision for a substitute dentist, to cover an extenuating circumstance that renders the affiliated practice dentist unavailable for contact, communication, and consultation with the dental therapist.
- D. A Collaborative Practice Agreement shall include a signed and dated statement from the dentist providing Direct Supervision, verifying the dental therapist's completion of 1000 hours of dental therapy clinical practice according to A.R.S. § 32-1276.04(B).
- E. A Collaborative Practice Agreement shall be between one dentist and one dental therapist.

Historical Note

New Section made by final rulemaking at 29 A.A.R. 1330 (June 30, 2023), effective July 10, 2023 (Supp. 23-2).

ARTICLE 17. REHEARING OR REVIEW**R4-11-1701. Procedure**

- A. Except as provided in subsection (F), a licensee, certificate holder, or business entity who is aggrieved by an order issued by the Board may file a written motion for rehearing or review

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with the Board, pursuant to A.R.S. Title 41, Chapter 6, Article 10, specifying the grounds for rehearing or review.

- B.** A licensee, certificate holder, or business entity filing a motion for rehearing or review under this rule may amend the motion at any time before it is ruled upon by the Board. The opposing party may file a response within 15 days after the date the motion for rehearing or review is filed. The Board may require that the parties file supplemental memoranda explaining the issues raised in the motion, and may permit oral argument.
- C.** The Board may grant a rehearing or review of the order for any of the following causes materially affecting a licensee, certificate holder, or business entity's rights:
1. Irregularity in the proceedings of the Board or any order or abuse of discretion, which deprived a licensee, certificate holder, or business entity of a fair hearing;
 2. Misconduct of the Board, its personnel, the administrative law judge, or the prevailing party;
 3. Accident or surprise which could not have been prevented by ordinary prudence;
 4. Excessive or insufficient penalties;
 5. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceeding;
 6. That the findings of fact or decision is arbitrary, capricious, or an abuse of discretion;
 7. That the findings of fact or decision is not justified by the evidence or is contrary to law; or
 8. Newly discovered, material evidence which could not, with reasonable diligence, have been discovered and produced at the original hearing.
- D.** The Board may affirm or modify the order or grant a rehearing or review to all or part of the issues for any of the reasons in subsection (C). The Board, within the time for filing a motion for rehearing or review, may grant a rehearing or review on its own initiative for any reason for which it might have granted relief on motion of a party. An order granting a rehearing or review shall specify the grounds on which rehearing or review is granted, and any rehearing or review shall cover only those matters specified.
- E.** When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after such service, serve opposing affidavits.
- F.** If the Board makes specific findings that the immediate effectiveness of the order is necessary for the preservation of public health and safety and that a rehearing or review is impracticable, unnecessary, or contrary to the public interest, the order

may be issued as a final order without an opportunity for a rehearing or review. If an order is issued as a final order without an opportunity or rehearing or review, the aggrieved party shall make an application for judicial review of the order within the time limits permitted for application for judicial review of the Board's final order.

- G.** The Board shall rule on the motion for rehearing or review within 15 days after the response has been filed, or at the Board's next meeting after the motion is received, whichever is later.

Historical Note

New Section R4-11-1701 renumbered from R4-11-701 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 21 A.A.R. 2971, effective January 2, 2016 (Supp. 15-4).

ARTICLE 18. BUSINESS ENTITIES**R4-11-1801. Application**

Before offering dental services, a business entity required to be registered under A.R.S. § 32-1213 shall apply for registration on an application form supplied by the Board. In addition to the requirements of A.R.S. § 32-1213(B) and the fee under R4-11-402, the registration application shall include a sworn statement from the applicant that:

1. The information provided by the business entity is true and correct, and
2. No information is omitted from the application.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-1802. Display of Registration

- A.** A business entity shall ensure that the receipt for the current registration period is:
1. Conspicuously displayed in the dental practice in a manner that is always readily observable by patients and visitors, and
 2. Exhibited to members of the Board or to duly authorized agents of the Board on request.
- B.** A business entity's receipt for the licensure period immediately preceding shall be kept on display until replaced by the receipt for the current period.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

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4 A.A.C. 23

Supp. 23-2

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

The table of contents on page one contains links to the referenced page numbers in this Chapter.
Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
April 1, 2023 through June 30, 2023

Editor's note: This Chapter contains rules that were made under emergency rulemaking. Since an emergency rulemaking is effective for 180 days, the original rule text made before the emergency remain in the Chapter until the Board either:

- 1. Renews the emergency for an additional 180 days; or*
- 2. Makes, amends, repeals, and renumbers the emergency rules under the regular rulemaking process; or*
- 3. Lets the emergency rulemaking expire after the initial 180 days, or expire after the additional 180 days, in which case the rules revert back to the original rule text.*

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EMERGENCY RULEMAKING

[R4-23-1106.](#) [Continuing Education Requirements](#) 85

Questions about these rules? Contact:

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The release of this Chapter in Supp. 23-2 replaces Supp. 22-2, 1-82 pages.

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

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

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

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

ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

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

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

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

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

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

PERSONAL USE/COMMERCIAL USE

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division

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TITLE 4. PROFESSIONS AND OCCUPATIONS**CHAPTER 23. BOARD OF PHARMACY**

Authority: A.R.S. § 32-1904 et seq.

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TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 1. ADMINISTRATION**R4-23-101. General**

- A. 4 A.A.C. 23 applies to all actions and proceedings of the Board and shall be deemed a part of the record in any Board action or proceeding without formal introduction of, or reference to the rules. A party to a Board action is deemed to have knowledge of the rules. The Board office shall provide a copy of the rules:
1. To each license applicant who submits a completed application packet; and
 2. To each permit applicant during the final compliance inspection after the Board approves the permit application.
- B. The Board, within its jurisdiction, may, in the interest of justice, excuse the failure of any person to comply with the rules.
- C. The Board, within its jurisdiction, may grant an extension of time within which to comply with any rule when it deems the extension to be in the interest of justice.

Historical Note

Former Rules 1.1000, 1.1200, and 1.1300; Amended effective August 23, 1978 (Supp. 78-4). Amended by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1); Historical Note updated (Supp. 06-2).

R4-23-102. Meetings

- A. The Board shall hold not less than four meetings per fiscal year to conduct general business and interview permit and license applicants.
- B. A special meeting of the Board may be held at any time subject to the call of the President or a majority of the Board members and in compliance with the notification requirements of A.R.S. § 38-431.02.

Historical Note

Former Rules 1.2100, 1.2200, 1.2300, and 1.2400. Amended by final rulemaking at 7 A.A.R. 2143, effective May 1, 2001 (Supp. 01-2).

R4-23-103. Repealed**Historical Note**

Former Rules 1.3100, 1.3200, 1.3300, and 1.3400; Amended subsection (C) effective August 9, 1983 (Supp. 83-4). Section repealed by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1); Historical Note updated (Supp. 06-2).

R4-23-104. Repealed**Historical Note**

Former Rules 1.4011, 1.4110, 1.4120, 1.4200, 1.4210, 1.4220, 1.4300, 1.4400, 1.5500, 1.5600, 1.5700, and 1.4500; Amended effective August 23, 1978 (Supp. 78-5); Amended by deleting subsection (B) and renumbering subsections (C) through (J) as subsections (B) through (I) effective August 9, 1983 (Supp. 83-4). Amended effective February 8, 1991 (Supp. 91-1). Section repealed by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1); Historical Note updated (Supp. 06-2).

R4-23-105. Repealed**Historical Note**

Former Rules 1.5100, 1.5200, 1.5300, and 1.5400; Amended subsection (B) effective August 9, 1983 (Supp. 83-4). Section repealed by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1); Historical Note updated (Supp. 06-2).

R4-23-106. Repealed**Historical Note**

Former Rules 1.5800 and 1.5900. Section repealed by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1); Historical Note updated (Supp. 06-2).

R4-23-107. Repealed**Historical Note**

Former Rules 1.5910, 1.5920, 1.5921, and 1.5922. Section repealed by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1); Historical Note updated (Supp. 06-2).

R4-23-108. Repealed**Historical Note**

Former Rule 1.5930. Section repealed by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1); Historical Note updated (Supp. 06-2).

R4-23-109. Repealed**Historical Note**

Former Rules 1.7100, 1.7200, and 1.7300. Amended effective July 14, 1977 (Supp. 77-4). Amended effective February 8, 1991 (Supp. 91-1). Section repealed by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1); Historical Note updated (Supp. 06-2).

R4-23-110. Definitions

In addition to definitions in A.R.S. § 32-1901, the following definitions apply to this Chapter:

“Active ingredient” means any component that furnishes pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease or that affects the structure or any function of the body of man or other animals. The term includes those components that may undergo chemical change in the manufacture of the drug, that are present in the finished drug product in a modified form, and that furnish the specified activity or effect.

“AHCCCS” means the Arizona Health Care Cost Containment System.

“Annual family income” means the combined yearly gross earned income and unearned income of all adult individuals within a family unit.

“Approved course in pharmacy law” means a continuing education activity that addresses practice issues related to state or federal pharmacy statutes, rules, or regulations.

“Approved Provider” means an individual, institution, organization, association, corporation, or agency that is approved by the Accreditation Council for Pharmacy

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Education (ACPE) in accordance with ACPE's policy and procedures or by the Board as meeting criteria indicative of the ability to provide quality continuing education.

"Assisted living facility" means a residential care institution as defined in A.R.S. § 36-401.

"Authentication of product history" means identifying the purchasing source, the ultimate fate, and any intermediate handling of any component of a radiopharmaceutical or other drug.

"Automated dispensing system" means a mechanical system in a long-term care facility that performs operations or activities, other than compounding or administration, relative to the storage, packaging, counting, labeling, and dispensing of medications, and which collects, controls, and maintains all transaction information.

"Automated storage and distribution system" means a mechanical system that performs operations or activities other than counting, compounding, or administration, relative to the storage, packaging, or distributing of drugs or devices and that collects, controls, and maintains all transaction information.

"Batch" means a specific quantity of drug that has uniform character and quality, within specified limits, and is produced according to a single manufacturing order during the same cycle of manufacture.

"Beyond-use date" means:

A date determined by a pharmacist and placed on a prescription label at the time of dispensing to indicate a time beyond which the contents of the prescription are not recommended to be used; or

A date determined by a pharmacist and placed on a compounded pharmaceutical product's label at the time of preparation as specified in R4-23-410(B)(3)(d), R4-23-410(I)(6)(e), or R4-23-410(J)(1)(d) to indicate a time beyond which the compounded pharmaceutical product is not recommended to be used.

"Biological safety cabinet" means a containment unit suitable for the preparation of low to moderate risk agents when there is a need for protection of the product, personnel, and environment, consistent with National Sanitation Foundation (NSF) standards, published in the National Sanitation Foundation Standard 49, Class II (Laminar Flow) Biohazard Cabinetry, NSF International P. O. Box 130140, Ann Arbor, MI, revised June 1987 edition, (and no future amendments or editions), incorporated by reference and on file with the Board.

"Care-giver" means a person who cares for someone who is sick or disabled or an adult who cares for an infant or child and includes a patient's husband, wife, son, daughter, mother, father, sister, brother, legal guardian, nurse, or medical practitioner.

"Change of ownership," as used in A.R.S. § 32-1901.01(A), means a change of at least 30 percent in voting stock or vested interest that has direct operational oversight.

"Community pharmacy" means any place under the direct supervision of a pharmacist where the practice of pharmacy

occurs or where prescription orders are compounded and dispensed other than a hospital pharmacy or a limited service pharmacy.

"Component" means any ingredient used in compounding or manufacturing drugs in dosage form, including an ingredient that may not appear in the finished product.

"Compounding and dispensing counter" means a pharmacy counter working area defined in this Section where a pharmacist, intern, pharmacy technician, or pharmacy technician trainee under the supervision of a pharmacist compounds, mixes, combines, counts, pours, or prepares and packages a prescription medication to dispense an individual prescription order or prepackages a drug for future dispensing.

"Computer system" means an automated data-processing system that uses a programmable electronic device to store, retrieve, and process data.

"Computer system audit" means an accounting method, involving multiple single-drug usage reports and audits, used to determine a computer system's ability to store, retrieve, and process original and refill prescription dispensing information.

"Contact hour" means 50 minutes of participation in a continuing education activity sponsored by an Approved Provider.

"Container" means:

A receptacle, as described in the official compendium or the federal act, that is used in manufacturing or compounding a drug or in distributing, supplying, or dispensing the finished dosage form of a drug; or

A metal receptacle designed to contain liquefied or vaporized compressed medical gas and used in manufacturing, transfilling, distributing, supplying, or dispensing a compressed medical gas.

"Continuing education" means a structured learning process required of a licensee to maintain licensure that includes study in the general areas of socio-economic and legal aspects of health care; the properties and actions of drugs and dosage forms; etiology, characteristics and therapeutics of disease status; or pharmacy practice.

"Continuing education activity" means continuing education obtained through an institute, seminar, lecture, conference, workshop, mediated instruction, programmed learning course, or postgraduate study in an accredited college or school of pharmacy.

"Continuing education unit" or "CEU" means 10 contact hours of participation in a continuing education activity sponsored by an Approved Provider.

"Continuous quality assurance program" or "CQA program" means a planned process designed by a pharmacy permittee to identify, evaluate, and prevent medication errors.

"Correctional facility" has the same meaning as in A.R.S. §§ 13-2501 and 31-341.

"CRT" means a cathode ray tube or other mechanism used to view information produced or stored by a computer system.

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“CSPMP” means the Controlled Substances Prescription Monitoring Program established under A.R.S. Title 36, Chapter 28.

“Current good compounding practices” means the minimum standards for methods used in, and facilities or controls used for, compounding a drug to ensure that the drug has the identity and strength and meets the quality and purity characteristics it is represented to possess.

“Current good manufacturing practice” means the minimum standard for methods used in, and facilities or controls used for manufacturing, processing, packing, or holding a drug to ensure that the drug meets the requirements of the federal act as to safety, and has the identity and strength and meets the quality and purity characteristics it is represented to possess.

“Cytotoxic” means a pharmaceutical that is capable of killing living cells.

“Day” means a calendar day unless otherwise specified.

“DEA” means the Drug Enforcement Administration as defined in A.R.S. § 32-1901.

“Declared disaster areas” means areas designated by the governor or by a county, city, or town under A.R.S. § 32-1910 as those areas that have been adversely affected by a natural disaster or terrorist attack and require extraordinary measures to provide adequate, safe, and effective health care for the affected population.

“Delinquent license” means a pharmacist, intern, or pharmacy technician license the Board suspends for failure to renew or pay all required fees on or before the date the renewal is due.

“Dietary supplement or food supplement,” as used in A.R.S. § 32-1904(B), means a product (other than tobacco) that:

Is intended to supplement the diet that contains one or more of the following dietary ingredients: a vitamin, mineral, herb or other botanical, amino acid, dietary substance for use by humans to supplement the diet by increasing the total daily intake, or concentrate, metabolite, constituent, extract, or combinations of these ingredients;

Is intended for ingestion in pill, capsule, tablet, or liquid form;

Is not represented for use as a conventional food or as the sole item of a meal or diet; and

Is labeled as a “dietary supplement” or “food supplement.”

“Digital signature” has the same meaning as in A.R.S. § 41-132(E).

“Dispensing pharmacist” means a pharmacist who, in the process of dispensing a prescription medication after the complete preparation of the prescription medication and before delivery of the prescription medication to a patient or patient’s agent, verifies, checks, and initials the prescription medication label, as required in R4-23-402(A).

“Drug sample” means a unit of a prescription drug that a manufacturer provides free of charge to promote the sale of the drug.

“Durable medical equipment” or “DME” means technologically sophisticated medical equipment that may be used by a patient or consumer in a home or residence. DME may be prescription-only devices as defined in A.R.S. § 32-1901. DME includes:

Air-fluidized beds,

Apnea monitors,

Blood glucose monitors and diabetic testing strips,

Continuous Positive Airway Pressure (CPAP) machines,

Electronic and computerized wheelchairs and seating systems,

Feeding pumps,

Home phototherapy devices,

Hospital beds,

Infusion pumps,

Medical oxygen and oxygen delivery systems excluding compressed medical gases,

Nebulizers,

Respiratory disease management devices,

Sequential compression devices,

Transcutaneous electrical nerve stimulation (TENS) unit, and

Ventilators.

“Earned income” means monetary payments received by an individual as a result of work performed or rental property owned or leased by the individual, including:

Wages,

Commissions and fees,

Salaries and tips,

Profit from self-employment,

Profit from rent received from a tenant or boarder, and

Any other monetary payments received by an individual for work performed or rental of property.

“Electronic signature” has the same meaning as in A.R.S. § 44-7002.

“Eligible patient” means a patient who a pharmacist determines is eligible to receive an immunization using professional judgment after consulting with the patient regarding the patient’s current health condition, recent health condition, and allergies.

“Emergency drug supply unit” means those drugs that may be required to meet the immediate and emergency therapeutic needs of long-term care facility residents and hospice inpatient facility patients, and which are not available from any other

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authorized source in sufficient time to prevent risk of harm to residents or patients.

“Extreme emergency” means the occurrence of a fire, water leak, electrical failure, public disaster, or other catastrophe constituting an imminent threat of physical harm to pharmacy personnel or patrons.

“Family unit” means:

A group of individuals residing together who are related by birth, marriage, or adoption; or

An individual who:

Does not reside with another individual; or

Resides only with another individual or group of individuals to whom the individual is unrelated by birth, marriage, or adoption.

“FDA” means the Food and Drug Administration, a federal agency within the United States Department of Health and Human Services, established to set safety and quality standards for foods, drugs, cosmetics, and other consumer products.

“Health care decision maker” has the same meaning as in A.R.S. § 12-2291.

“Health care institution” has the same meaning as in A.R.S. § 36-401.

“Hospice inpatient facility” means a health care institution licensed under A.R.S. § 36-401 and Article 8 that provides hospice services to a patient requiring inpatient services.

“Immediate notice” means a required notice sent by mail, fax, or electronic mail to the Board Office within 24 hours.

“Immunizations training program” means an immunization training program for pharmacists and interns that meets the requirements of R4-23-411(E).

“Inactive ingredient” means any component other than an “active ingredient” present in a drug.

“Internal test assessment” means performing quality assurance or other procedures necessary to ensure the integrity of a test.

“ISO Class 5 environment” means an atmospheric environment that complies with the ISO/TC209 International Cleanroom Standards, specifically ANSI/IES/ISO-14644-1:1999: Cleanrooms and associated controlled environments--Part 1: Classification of air cleanliness, first edition dated May 1, 1999, (and no future amendments or editions), incorporated by reference and on file in the Board office.

“ISO Class 7 environment” means an atmospheric environment that complies with the ISO/TC209 International Cleanroom Standards, specifically ANSI/IES/ISO-14644-1:1999: Cleanrooms and associated controlled environments--Part 1: Classification of air cleanliness, first edition dated May 1, 1999, (and no future amendments or editions), incorporated by reference and on file in the Board office.

“Licensed health care professional” means an individual who is licensed and regulated under A.R.S. Title 32, Chapter 7, 11, 13, 14, 15, 16, 17, 18, 25, 29, or 35.

“Limited-service correctional pharmacy” means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that:

Holds a current Board permit under A.R.S. § 32-1931;

Is located in a correctional facility; and

Uses pharmacists, interns, and support personnel to compound, produce, dispense, and distribute drugs.

“Limited-service long-term care pharmacy” means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that holds a current Board-issued permit and dispenses prescription medication or prescription-only devices to patients in long-term care facilities.

“Limited-service mail-order pharmacy” means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that holds a current Board permit under A.R.S. § 32-1931 and dispenses a majority of its prescription medication or prescription-only devices by mailing or delivering the prescription medication or prescription-only device to an individual by the United States mail, a common or contract carrier, or a delivery service.

“Limited-service nuclear pharmacy” means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that holds a current Board permit under A.R.S. § 32-1931 and provides radiopharmaceutical services.

“Limited-service pharmacy permittee” means a person who holds a current limited-service pharmacy permit in compliance with A.R.S. §§ 32-1929, 32-1930, 32-1931, and A.A.C. R4-23-606.

“Limited-service sterile pharmaceutical products pharmacy” means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that holds a current Board permit under A.R.S. § 32-1931 and dispenses a majority of its prescription medication or prescription-only devices as sterile pharmaceutical products.

“Long-term care consultant pharmacist” means a pharmacist providing consulting services to a long-term care facility.

“Long-term care facility” or “LTCF” means a nursing care institution as defined in A.R.S. § 36-401.

“Lot” means a batch or any portion of a batch of a drug, or if a drug produced by a continuous process, an amount of drug produced in a unit of time or quantity in a manner that assures its uniformity. In either case, a lot is identified by a distinctive lot number and has uniform character and quality with specified limits.

“Lot number” or “control number” means any distinctive combination of letters or numbers, or both, from which the complete history of the compounding or manufacturing, control, packaging, and distribution of a batch or lot of a drug can be determined.

“Low-income subsidy” means Medicare-provided assistance that may partially or fully cover the costs of drugs and is based on the income of an individual and, if applicable, the individual’s spouse.

“Materials approval unit” means any organizational element having the authority and responsibility to approve or reject

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components, in-process materials, packaging components, and final products.

“Mechanical counting device for a drug in solid, oral dosage form” means a mechanical device that counts drugs in solid, oral dosage forms for dispensing and includes an electronic balance when used to count drugs.

“Mechanical storage and counting device for a drug in solid, oral dosage form” means a mechanical device that stores and counts and may package or label drugs in solid, oral dosage forms for dispensing.

“Mediated instruction” means information transmitted via intermediate mechanisms such as audio or video tape or telephone transmission.

“Medical practitioner-patient relationship” means that before prescribing, dispensing, or administering a prescription-only drug, prescription-only device, or controlled substance to a person, a medical practitioner, as defined in A.R.S. § 32-1901, shall first conduct a physical examination of that person or have previously conducted a physical examination. This subdivision does not apply to:

A medical practitioner who provides temporary patient supervision on behalf of the patient’s regular treating medical practitioner;

Emergency medical situations as defined in A.R.S. § 41-1831;

Prescriptions written to prepare a patient for a medical examination; or

Prescriptions written, prescription-only drugs, prescription-only devices, or controlled substances issued for use by a county or tribal public health department for immunization programs, emergency treatment, in response to an infectious disease investigation, public health emergency, infectious disease outbreak or act of bioterrorism. For purposes of this subsection, “bioterrorism” has the same meaning as in A.R.S. § 36-781.

“Medicare” means a federal health insurance program established under Title XVIII of the Social Security Act.

“Medication error” means any unintended variation from a prescription or medication order. Medication error does not include any variation that is corrected before the medication is dispensed to the patient or patient’s care-giver, or any variation allowed by law.

“Mobile pharmacy” means a pharmacy that is self-propelled or movable by another vehicle that is self-propelled.

“MPJE” means Multistate Pharmacy Jurisprudence Examination, a Board-approved national pharmacy law examination written and administered in cooperation with NABP.

“NABP” means National Association of Boards of Pharmacy.

“NABPLEX” means National Association of Boards of Pharmacy Licensure Examination.

“NAPLEX” means North American Pharmacist Licensure Examination.

“Order” means either of the following:

A prescription order as defined in A.R.S. § 32-1901; or

A medication order as defined in A.A.C. R4-23-651.

“Other designated personnel” means a non-pharmacist individual who is permitted in the pharmacy area, for a limited time, under the direct supervision of a pharmacist, to perform non-pharmacy related duties, such as trash removal, floor maintenance, and telephone or computer repair.

“Outpatient” means an individual who is not a residential patient in a health care institution.

“Outpatient setting” means a location that provides medical treatment to an outpatient.

“Patient profile” means a readily retrievable, centrally located information record that contains patient demographics, allergies, and medication profile.

“Pharmaceutical patient care services” means the provision of drug selection, drug utilization review, drug administration, drug therapy monitoring, and other drug-related patient care services intended to achieve outcomes related to curing or preventing a disease, eliminating or reducing a patient’s symptoms, or arresting or slowing a disease process, by identifying and resolving or preventing potential and actual drug-related problems.

“Pharmaceutical product” means a medicinal drug.

“Pharmacy counter working area” means a clear and continuous working area that contains no major obstacles such as a desktop computer, computer monitor, computer keyboard, external computer drive device, printer, fax machine, pharmacy balance, typewriter, or pill-counting machine, but may contain individual documents or prescription labels, pens, prescription blanks, refill log, pill-counting tray, spatula, stapler, or other similar items necessary for the prescription-filling process.

“Pharmacy law continuing education” means a continuing education activity that addresses practice issues related to state or federal pharmacy statutes, rules, or regulations, offered by an Approved Provider.

“Pharmacy permittee” means a person who holds a current pharmacy permit that complies with A.R.S. §§ 32-1929, 32-1930, 32-1931, 32-1934, and R4-23-606 and R4-23-652.

“Physician” means a medical practitioner licensed under A.R.S. Title 32, Chapter 13 or 17.

“Physician-in-charge” means a physician who is responsible to the Board for all aspects of a prescription medication donation program required in A.R.S. § 32-1909 and operated in the physician’s office or in a health care institution.

“Poverty level” means the annual family income for a family unit of a particular size, as specified in the poverty guidelines updated annually in the *Federal Register* by the U.S. Department of Health and Human Services.

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“Precursor chemical” means a precursor chemical I as defined in A.R.S. § 13-3401(26) and a precursor chemical II as defined in A.R.S. § 13-3401(27).

“Prepackaged drug” means a drug that is packaged in a frequently prescribed quantity, labeled in compliance with A.R.S. §§ 32-1967 and 32-1968, stored, and subsequently dispensed by a pharmacist or intern under the supervision of a pharmacist, who verifies at the time of dispensing that the drug container is properly labeled, in compliance with A.R.S. § 32-1968, for the patient.

“Prep area” means a specified area either within an ISO class 7 environment or adjacent to but outside an ISO class 7 environment that:

Allows the assembling of necessary drugs, supplies, and equipment for compounding sterile pharmaceutical products, but does not allow the use of paper products such as boxes or bulk drug storage;

Allows personnel to don personnel protective clothing, such as gown, gloves, head cover, and booties before entering the clean compounding area; and

Is a room or a specified area within a room, such as an area specified by a line on the floor.

“Primary care provider” means the medical practitioner who is treating an individual for a disease or medical condition.

“Proprietor” means the owner of a business permitted by the Board under A.R.S. §§ 32-1929, 32-1930, 32-1931, and 32-1934.

“Provider pharmacy” means a pharmacy that contracts with a long-term care facility to supply prescription medication or other services for residents of a long-term care facility.

“Radiopharmaceutical” means any drug that emits ionizing radiation and includes:

Any nonradioactive reagent kit, nuclide generator, or ancillary drug intended to be used in the preparation of a radiopharmaceutical, but does not include drugs such as carbon-containing compounds or potassium-containing salts, that contain trace quantities of naturally occurring radionuclides; and

Any biological product that is labeled with a radionuclide or intended to be labeled with a radionuclide.

“Radiopharmaceutical quality assurance” means performing and interpreting appropriate chemical, biological, and physical tests on radiopharmaceuticals to determine the suitability of the radiopharmaceutical for use in humans and animals. Radiopharmaceutical quality assurance includes internal test assessment, authentication of product history, and appropriate record retention.

“Radiopharmaceutical services” means procuring, storing, handling, compounding, preparing, labeling, quality assurance testing, dispensing, distributing, transferring, recordkeeping, and disposing of radiochemicals, radiopharmaceuticals, and ancillary drugs. Radiopharmaceutical services include quality assurance procedures, radiological health and safety procedures, consulting activities associated with the use of

radiopharmaceuticals, and any other activities required for the provision of pharmaceutical care.

“Red C stamp” means a device used with red ink to imprint an invoice with a red letter C at least one inch high, to make an invoice of a Schedule III through IV controlled substance, as defined in A.R.S. § 36-2501, readily retrievable, as required by state and federal rules.

“Refill” means other than the original dispensing of the prescription order, dispensing a prescription order in the same quantity originally ordered or in multiples of the originally ordered quantity when specifically authorized by the prescriber, if the refill is authorized by the prescriber:

In the original prescription order;

By an electronically transmitted refill order that the pharmacist promptly documents and files; or

By an oral refill order that the pharmacist promptly documents and files.

“Regulated chemical” means the same as in A.R.S. § 13-3401(30).

“Remodel” means to alter structurally the pharmacy area or location.

“Remote drug storage area” means an area that is outside the premises of the pharmacy, used for the storage of drugs, locked to deny access by unauthorized persons, and secured against the use of force.

“Resident” means:

An individual admitted to and living in a long-term care facility or an assisted living facility,

An individual who has a place of habitation in Arizona and lives in Arizona as other than a tourist, or

A person that owns or operates a place of business in Arizona.

“Responsible person” means the owner, manager, or other employee who is responsible to the Board for a permitted establishment’s compliance with the laws and administrative rules of this state and of the federal government pertaining to distribution of drugs, devices, precursor chemicals, and regulated chemicals. Nothing in this definition relieves other individuals from the responsibility to comply with state and federal laws and administrative rules.

“Score transfer” means the process that enables an applicant to take the NAPLEX in a jurisdiction and be eligible for licensure by examination in other jurisdictions.

“Security features” means attributes incorporated into the paper of a prescription order, referenced in A.R.S. § 32-1968(A)(4), that are approved by the Board or its staff and include one or more of the following designed to prevent duplication or aid the authentication of a paper document: laid lines, enhanced laid lines, thermochromic ink, artificial watermark, fluorescent ink, chemical void, persistent void, penetrating numbers, high-resolution border, high-resolution

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latent images, micro-printing, prismatic printing, embossed images, abrasion ink, holograms, and foil stamping.

“Shared order filling” means the following:

Preparing, packaging, compounding, or labeling an order, or any combination of these functions, that are performed by:

A person with a current Arizona Board license, located at an Arizona pharmacy, on behalf of and at the request of another resident or nonresident pharmacy; or

A person, located at a nonresident pharmacy, on behalf of and at the request of an Arizona pharmacy; and

Returning the filled order to the requesting pharmacy for delivery to the patient or patient’s care-giver or, at the request of this pharmacy, directly delivering the filled order to the patient.

“Shared order processing” means the following:

Interpreting the order, performing order entry verification, drug utilization review, drug compatibility and drug allergy review, final order verification, and when necessary, therapeutic intervention, or any combination of these order processing functions, that are performed by:

A pharmacist or intern, under pharmacist supervision, with a current Arizona Board license, located at an Arizona pharmacy, on behalf of and at the request of another resident or nonresident pharmacy; or

A pharmacist or intern, under pharmacist supervision, located at a nonresident pharmacy, on behalf of and at the request of an Arizona pharmacy; and

After order processing is completed, returning the processed order to the requesting pharmacy for order filling and delivery to the patient or patient’s care-giver or, at the request of this pharmacy, returning the processed order to another pharmacy for order filling and delivery to the patient or patient’s care-giver.

“Shared services” means shared order filling or shared order processing, or both.

“Sight-readable” means that an authorized individual is able to examine a record and read its information from a CRT, microfiche, microfilm, printout, or other method acceptable to the Board or its designee.

“Single-drug audit” means an accounting method that determines the numerical and percentage difference between a drug’s beginning inventory plus purchases and ending inventory plus sales.

“Single-drug usage report” means a computer system printout of original and refill prescription order usage information for a single drug.

“Standard-risk sterile pharmaceutical product” means a sterile pharmaceutical product compounded from sterile commercial

drugs using sterile commercial devices or a sterile pharmaceutical optic or ophthalmic product compounded from non-sterile ingredients.

“State of emergency” means a governmental declaration issued under A.R.S. § 32-1910 as a result of a natural disaster or terrorist attack that results in individuals being unable to refill existing prescriptions.

“Sterile pharmaceutical product” means a medicinal drug free from living biological organisms.

“Strength” means:

The concentration of the drug substance (for example, weight/weight, weight/volume, or unit dose/volume basis); or

The potency, that is, the therapeutic activity of a drug substance as indicated by bioavailability tests or by controlled clinical data (expressed, for example, in terms of unity by reference to a standard).

“Substantial-risk sterile pharmaceutical product” means a sterile pharmaceutical product compounded as a parenteral or injectable dosage form from non-sterile ingredients.

“Supervision” means a pharmacist is present, assumes legal responsibility, and has direct oversight of activities relating to acquiring, preparing, distributing, administering, and selling prescription medications by interns, pharmacy technicians, or pharmacy technician trainees and when used in connection with the intern training requirements means that, in a pharmacy where intern training occurs, an intern preceptor assumes the primary responsibility of teaching the intern during the entire period of the training.

“Supplying” means selling, transferring, or delivering to a patient or a patient’s agent one or more doses of:

A nonprescription drug in the manufacturer’s original container for subsequent use by the patient, or

A compressed medical gas in the manufacturer’s or compressed medical gas distributor’s original container for subsequent use by the patient.

“Support personnel” means an individual, working under the supervision of a pharmacist, trained to perform clerical duties associated with the practice of pharmacy, including cashiering, bookkeeping, pricing, stocking, delivering, answering non-professional telephone inquiries, and documenting third-party reimbursement. Support personnel shall not perform the tasks of a pharmacist, intern, pharmacy technician, or pharmacy technician trainee.

“Temporary pharmacy facility” means a facility established as a result of a declared state of emergency to temporarily provide pharmacy services within or adjacent to declared disaster areas.

“Tourist” means an individual who is living in Arizona but maintains a place of habitation outside of Arizona and lives outside of Arizona for more than six months during a calendar year.

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“Transfill” means a manufacturing process by which one or more compressed medical gases are transferred from a bulk container to a properly labeled container for subsequent distribution or supply.

“Unearned income” means monetary payment received by an individual that is not compensation for work performed or rental of property owned or leased by the individual, including:

- Unemployment insurance,
- Workers’ compensation,
- Disability payments,
- Payments from the Social Security Administration,
- Payments from public assistance,
- Periodic insurance or annuity payments,
- Retirement or pension payments,
- Strike benefits from union funds,
- Training stipends,
- Child support payments,
- Alimony payments,
- Military family allotments,
- Regular support payments from a relative or other individual not residing in the household,
- Investment income,
- Royalty payments,
- Periodic payments from estates or trusts, and
- Any other monetary payments received by an individual that are not:
 - As a result of work performed or rental of property owned by the individual,
 - Gifts,
 - Lump-sum capital gains payments,
 - Lump-sum inheritance payments,
 - Lump-sum insurance payments, or
 - Payments made to compensate for personal injury.

“Verified signature” or “signature verifying” means in relation to a Board license or permit application or report, form, or agreement, the hand-written or electronic signature of an individual who, by placing a hand-written or electronic signature on a hard-copy or electronic license or permit application or report, form, or agreement agrees with and verifies that the statements and information within or attached to the license or permit application or report, form, or agreement are true in every respect and that inaccurate reporting can result in denial or loss of a license or permit or report, form, or agreement.

“Veteran” means an individual who has served in the United States Armed Forces.

“Virtual manufacturer” means an entity that contracts for the manufacture of a drug or device for which the entity:

Owns the New Drug Application or Abbreviated New Drug Application number, as defined by the FDA, for a drug;

Owns the Unique Device Identification number, as defined by the FDA, for a prescription device;

Is not involved in the physical manufacture of the drug or device; and

Contracts with an Arizona-permitted manufacturing entity for the physical manufacture of the drug or device; or

If the contracted manufacturing entity is in a location not included in the definition at A.R.S. 32-1901 of other jurisdiction, the virtual manufacturer ensures the facility is inspected every time the virtual manufacturer submits an initial or renewal application and determined to comply with current good manufacturing practices as defined by the federal act and the official compendium.

Virtual manufacturer includes an entity that may be identified as an own-label distributor, which contracts with a manufacturer to produce a drug or device and with another entity to package and label the drug or device, which is then sold under the distributor’s name or another name.

“Virtual wholesaler” means an entity that engages in the wholesale distribution of a drug or device in, into, or out of Arizona but does not take physical possession of the drug or device. A virtual wholesaler distributes a drug or device only from a Board-permitted facility to:

A Board-permitted pharmacy, drug manufacturer, full-service drug wholesaler, or non-prescription drug wholesaler; or

A medical practitioner licensed under A.R.S. Title 32; and

Virtual wholesaler includes an entity that may be identified as a broker that buys and sells goods for others or a person that facilitates distribution of a drug, chemical, or device regulated by the Board.

“Wholesale distribution” means distribution of a drug to a person other than a consumer or patient, but does not include:

Selling, purchasing, or trading a drug or offering to sell, purchase, or trade a drug for emergency medical reasons. For purposes of this Section, “emergency medical reasons” includes transferring a prescription drug by a community or hospital pharmacy to another community or hospital pharmacy to alleviate a temporary shortage;

Selling, purchasing, or trading a drug, offering to sell, purchase, or trade a drug, or dispensing a drug as specified in a prescription;

Distributing a drug sample by a manufacturers’ or distributors’ representative; or

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Selling, purchasing, or trading blood or blood components intended for transfusion.

“Wholesale distributor” means any person engaged in wholesale distribution of drugs, including: manufacturers; repackers; own-label distributors; private-label distributors; jobbers; brokers; warehouses, including manufacturers’ and distributors’ warehouses, chain drug warehouses, and wholesale drug warehouses; independent wholesale drug traders; and retail pharmacies that conduct wholesale distributions in the amount of at least 5% of gross sales.

Historical Note

Adopted effective August 24, 1992 (Supp. 92-2).
Amended effective December 18, 1992 (Supp. 92-4).
Amended effective November 1, 1993 (Supp. 93-4).
Amended effective April 1, 1995; filed with the Secretary of State January 31, 1995 (Supp. 95-1). Amended effective April 5, 1996 (Supp. 96-2). Amended effective July 8, 1997; amended effective August 5, 1997 (Supp. 97-3). Amended effective January 12, 1998 (Supp. 98-1). Amended effective July 7, 1998 (Supp. 98-3). Amended by final rulemaking at 5 A.A.R. 862, effective March 3, 1999 (Supp. 99-1). Amended by final rulemaking at 5 A.A.R. 4441, effective November 2, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 4589, effective November 14, 2000 (Supp. 00-4). Amended by final rulemaking at 7 A.A.R. 646, effective January 11, 2001 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 409 and 8 A.A.R. 646, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 416, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 1256, effective March 7, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 8 A.A.R. 4898 and 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4). Amended by final rulemaking at 9 A.A.R. 1064, effective May 4, 2003 (Supp. 03-1). Amended by final rulemaking at 9 A.A.R. 5030, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 10 A.A.R. 3391, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 10 A.A.R. 3967, effective November 13, 2004 (Supp. 04-3). Amended by final rulemaking at 10 A.A.R. 4356, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 11 A.A.R. 2258, effective August 6, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 12 A.A.R. 3981, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 520, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 13 A.A.R. 440, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 13 A.A.R. 616, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 13 A.A.R. 3477, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 14 A.A.R. 3405, effective October 4, 2008; amended by final rulemaking

at 14 A.A.R. 3410, effective October 4, 2008 (Supp. 08-3). Amended by final rulemaking at 14 A.A.R. 4400, effective January 3, 2009; amended by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4). Amended by final rulemaking at 18 A.A.R. 2603, effective December 2, 2012 (Supp. 12-4). Amended by final rulemaking at 18 A.A.R. 2609, effective December 2, 2012 (Supp. 12-4). Amended by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3).

Amended by final rulemaking at 20 A.A.R. 1364, effective August 2, 2014 (Supp. 14-2). Amended by exempt rulemaking under Laws 2016, Ch. 284, § 3 at 22 A.A.R. 2606, effective August 31, 2016 (Supp. 16-3).

Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2). Amended by final rulemaking at 26 A.A.R. 223, effective March 14, 2020 (Supp. 20-1).

R4-23-111. Notice of Hearing

- A.** Except as provided in A.R.S. § 32-1928(B), the Board shall revoke, suspend, place on probation, or fine a licensee or permittee only after:
1. Notice is served under this Section, and
 2. A hearing is conducted under R4-23-122.
- B.** The Board shall give notice of hearing to a party at least 30 days before the date set for the hearing in the manner described in R4-23-115(E) and (F). The notice shall include:
1. A statement of the date, time, place, and nature of the hearing;
 2. A statement of the legal authority and jurisdiction for the hearing;
 3. A reference to the particular section or sections of statute and rule involved; and
 4. A statement of the violation or issue asserted by the Board.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-112. Ex Parte Communications

A party shall not communicate, either directly or indirectly, with a Board member about any substantive issue in a pending matter unless:

1. All parties are present;
2. It is during a scheduled proceeding, where an absent party fails to appear after proper notice; or
3. It is by written motion with copies to all parties.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-113. Motions

A. Purpose. A party requesting a ruling from the Board shall file a motion. Motions may be made for rulings such as:

1. Continuing or expediting a hearing under R4-23-116;
2. Vacating a hearing under R4-23-117;
3. Scheduling a prehearing conference under R4-23-118;
4. Quashing a subpoena under R4-23-119;
5. Requesting telephonic testimony under R4-23-120; and

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6. Reconsidering a previous order under R4-23-121.
- B.** Form. Unless made during a prehearing conference or hearing, motions shall be made in writing and shall conform to the requirements of R4-23-115. All motions, whether written or oral, shall state the factual and legal grounds supporting the motion, and the requested action.
- C.** Time limits. Absent good cause, or unless otherwise provided by law or these rules, written motions shall be filed with the Board office at least 15 days before the hearing. A party demonstrates good cause by showing that the grounds for the motion could not have been known in time, using reasonable diligence and:
1. A ruling on the motion will further administrative convenience, expedition or economy; or
 2. A ruling on the motion will avoid undue prejudice to any party.
- D.** Response to motion. A party shall file a written response stating any objection to the motion within five days of service, or as directed by the Board.
- E.** Oral argument. A party may request oral argument when filing a motion or response. If necessary to develop a complete record, the Board shall grant oral argument.
- F.** Rulings. Rulings on motions, other than those made during a prehearing conference or the hearing, shall be in writing and served on all parties.

Historical Note

New Section made by final rulemaking at 10 A.A.R.
1132, effective May 1, 2004 (Supp. 04-1).

R4-23-114. Computing Time

In computing any time period, the Board shall exclude the day from which the designated time period begins to run. The Board shall include the last day of the period unless it falls on a Saturday, Sunday, or legal holiday. When the time period is 10 days or less, the Board shall exclude Saturdays, Sundays, and legal holidays.

Historical Note

New Section made by final rulemaking at 10 A.A.R.
1132, effective May 1, 2004 (Supp. 04-1).

R4-23-115. Filing Documents

- A.** Docket. The Board shall open a docket for each hearing. All documents filed in a matter with the Board shall be date stamped on the day received by the Board office and entered in the docket.
- B.** Definition. "Documents" include papers such as complaints, answers, motions, responses, notices, and briefs.
- C.** Form. A party shall state on the document the name and address of each party served and how service was made under subsection (E). A document shall contain the Board caption and the Board's docket number.
- D.** Signature. A document filed with the Board shall be signed by the party or the party's attorney. A signature constitutes a certification that the signer has read the document, has a good faith basis for submission of the document, and that it is not filed for the purpose of delay or harassment.
- E.** Filing and service. A copy of a document filed with the Board shall be served on all parties. Filing with the Board office and service shall be completed by personal delivery; first-class, certified, or express mail; or facsimile.

- F.** Date of filing and service. A document is filed with the Board on the date it is received by the Board office, as established by the Board office's date stamp on the face of the document. A copy of a document is served on a party as follows:
1. On the date it is personally served,
 2. Five days after it is mailed by first-class or express mail,
 3. On the date of the return receipt if it is mailed by certified mail, or
 4. On the date indicated on the facsimile transmission.

Historical Note

New Section made by final rulemaking at 10 A.A.R.
1132, effective May 1, 2004 (Supp. 04-1).

R4-23-116. Continuing or Expediting a Hearing; Reconvening a Hearing

- A.** Continuing or expediting a hearing. When ruling on a motion to continue or expedite, the Board shall consider such factors as:
1. The time remaining between the filing of the motion and the hearing date;
 2. The position of other parties;
 3. The reasons for expediting the hearing or for the unavailability of the party, representative, or counsel on the date of the scheduled hearing;
 4. Whether testimony of an unavailable witness can be taken telephonically or by deposition; and
 5. The status of settlement negotiations.
- B.** Reconvening a hearing. The Board may recess a hearing and reconvene at a future date by a verbal ruling.

Historical Note

New Section made by final rulemaking at 10 A.A.R.
1132, effective May 1, 2004 (Supp. 04-1).

R4-23-117. Vacating a Hearing

The Board shall vacate a calendared hearing and return the matter to the Board office for further action, if:

1. The parties agree to vacate the hearing;
2. The Board dismisses the matter;
3. The non-Board party withdraws the appeal; or
4. Facts demonstrate to the Board that it is appropriate to vacate the hearing for the purpose of informal disposition, or if the action will further administrative convenience, expedition, and economy and does not conflict with law or cause undue prejudice to any party.

Historical Note

New Section made by final rulemaking at 10 A.A.R.
1132, effective May 1, 2004 (Supp. 04-1).

R4-23-118. Prehearing Conference

- A.** Procedure. The Board may hold a prehearing conference. The conference may be held telephonically. The Board may issue a prehearing order outlining the issues to be discussed.
- B.** Record. The Board may record any agreements reached during a prehearing conference by electronic or mechanical means, or memorialize them in an order.

Historical Note

New Section made by final rulemaking at 10 A.A.R.
1132, effective May 1, 2004 (Supp. 04-1).

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R4-23-119. Subpoenas

- A.** Form. A party shall request a subpoena in writing from the Board and shall include:
1. The caption and docket number of the matter;
 2. A list or description of any documents sought;
 3. The full name and home or business address of the custodian of the documents sought or all persons to be subpoenaed;
 4. The date, time, and place to appear or to produce documents pursuant to the subpoena; and
 5. The name, address, and telephone number of the party, or the party's attorney, requesting the subpoena.
- B.** The Board may require a brief statement of the relevance of testimony or documents.
- C.** Service of subpoena. Any person who is not a party and is at least 18 years of age may serve a subpoena. The person shall serve the subpoena by delivering a copy to the person to be served. The person serving the subpoena shall provide proof of service by filing with the Board office a certified statement of the date and manner of service and the names of the persons served.
- D.** Objection to subpoena. A party, or the person served with a subpoena who objects to the subpoena, or any portion of it, may file an objection with the Board. The objection shall be filed within five days after service of the subpoena, or at the outset of the hearing if the subpoena is served fewer than five days before the hearing.
- E.** Quashing, modifying subpoenas. The Board shall quash or modify a subpoena if:
1. It is unreasonable or oppressive, or
 2. The desired testimony or evidence may be obtained by an alternative method.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-120. Telephonic Testimony

The Board may grant a motion for telephonic testimony if:

1. Personal attendance by a party or witness at the hearing will present an undue hardship for the party or witness;
2. Telephonic testimony will not cause undue prejudice to any party; and
3. The proponent of the telephonic testimony pays for any cost of obtaining the testimony telephonically.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-121. Rights and Responsibilities of Parties

- A.** Generally. A party may present testimony and documentary evidence and argument with respect to the contested issue and may examine and cross-examine witnesses.
- B.** Preparation. A party shall have all witnesses, documents, and exhibits available on the date of the hearing.
- C.** Exhibits. A party shall provide a copy of each exhibit to all other parties at the time the exhibit is offered to the Board, unless the exhibit was previously provided to all other parties.

- D.** Responding to orders. A party shall comply with an order issued by the Board concerning the conduct of a hearing. Unless an objection is made orally during a pre-hearing conference or hearing, a party shall file a motion requesting the Board to reconsider the order.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-122. Conduct of Hearing

- A.** Public access. Unless otherwise provided by law, all hearings are open to the public and may be conducted in an informal manner as prescribed in A.R.S. § 41-1092 et seq.
- B.** Opening. The Board shall begin the hearing by reading the caption, stating the nature and scope of the hearing, and identifying the parties, counsel, and witnesses for the record.
- C.** Stipulations. The Board shall enter into the record any stipulation, settlement agreement, or consent order entered into by any of the parties before or during the hearing.
- D.** Opening statements. The party with the burden of proof may make an opening statement at the beginning of a hearing. All other parties may make statements in a sequence determined by the Board.
- E.** Order of presentation. After opening statements, the party with the burden of proof shall begin the presentation of evidence, unless the parties agree otherwise or the Board determines that requiring another party to proceed first would be more expeditious or appropriate, and would not prejudice any other party. Copies of documentary evidence may be received in the discretion of the Board. Upon request, parties shall be given an opportunity to compare the copy with the original.
- F.** Examination. A party shall conduct direct and cross examination of witnesses in the order and manner determined by the Board to expedite and ensure a fair hearing. The Board shall make rulings necessary to prevent argumentative, repetitive, or irrelevant questioning and to expedite the examination to the extent consistent with the disclosure of all relevant testimony and information. The Board may take notice of judicially cognizable facts. In addition, the Board may take notice of generally recognized technical or scientific facts within the Board's or its staff's specialized knowledge. A party shall be notified either before or during the hearing or by reference in preliminary reports of the material the Board notices. The Board may use the Board's or its staff's experience, technical competence, and specialized knowledge in the evaluation of the evidence.
- G.** Closing argument. When all evidence has been received, parties shall have the opportunity to present closing oral argument, in a sequence determined by the Board. The Board may permit or require closing oral argument to be supplemented by written memoranda. The Board may permit or require written memoranda to be submitted simultaneously or sequentially, within time periods the Board may prescribe.
- H.** Conclusion of hearing. Unless otherwise provided by the Board, the hearing is concluded upon the submission of all evidence, the making of final argument, and the issuing of a final decision or order of the Board.
- I.** Decisions and orders. Unless otherwise provided by law, any final decisions or order adverse to a party in a hearing shall be

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in writing or stated in the record. Any final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Unless otherwise provided by law, each party shall be notified either personally or by mail to the party's last known address of record of any decision or order. Upon request, a copy of the decision or order shall be delivered or mailed to each party and to each party's attorney of record.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-123. Failure of Party to Appear for Hearing

If a party fails to appear at a hearing, the Board may proceed with the presentation of the evidence of the appearing party, or vacate the hearing and return the matter to the Board office for any further action.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-124. Witnesses; Exclusion from Hearing

◆ All witnesses at the hearing shall testify under oath or affirmation. At the request of a party, or at the discretion of the Board, the Board may exclude witnesses who are not parties from the hearing room so that they cannot hear the testimony of other witnesses.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-125. Proof

- A. Standard of proof. Unless otherwise provided by law, the standard of proof is a preponderance of the evidence.
- B. Burden of proof. Unless otherwise provided by law:
 - 1. The party asserting a claim, right, or entitlement has the burden of proof;
 - 2. A party asserting an affirmative defense has the burden of establishing the affirmative defense; and
 - 3. The proponent of a motion shall establish the grounds to support the motion.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-126. Disruptions

A person shall not interfere with access to or from the hearing room, or interfere, or threaten interference with the hearing. If a person interferes, threatens interference, or disrupts the hearing, the Board may order the disruptive person to leave or be removed.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-127. Hearing Record

- A. Maintenance. The Board shall maintain the official administrative record of a matter.

- B. Transfer of record. Any party requesting a copy of the administrative record or any portion of the administrative record shall make a request to the Board office and shall pay the reasonable costs of duplication.
- C. Release of exhibits. Exhibits shall be released:
 - 1. Upon the order of a court of competent jurisdiction; or
 - 2. Upon motion of the party who submitted the exhibits if the time for judicial appeal has expired and no appeal is pending.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-128. Rehearing or Review and Appeal of Decision

- A. The Board shall provide for a rehearing and review of its decisions under A.R.S. Title 41, Chapter 6, Article 10, and this Section. For purposes of these rules, the terms "contested case" and "party" are defined in A.R.S. § 41-1001.
- B. A party to a contested case shall exhaust the party's administrative remedies by filing a motion for rehearing or review within 30 days after the service of the Board decision that is subject to rehearing or review in order to be eligible for judicial review under A.R.S. Title 12, Chapter 7, Article 6. The Board shall notify a party in its decision, that is subject to rehearing or review, that the party may file a motion for rehearing or review, and that failure to file a motion for rehearing or review within 30 days after service of the decision has the effect of prohibiting the party from seeking judicial review of the Board's decision.
- C. A party may amend a motion for rehearing or review at any time before the Board rules on the motion.
- D. The Board may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
 - 1. Irregularity in the proceedings of the Board, or any order or abuse of discretion, that deprived the moving party of a fair hearing;
 - 2. Misconduct of the Board, its staff, its hearing officer, or the prevailing party;
 - 3. Accident or surprise that could not have been prevented by ordinary prudence;
 - 4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
 - 5. Excessive or insufficient penalty;
 - 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings;
 - 7. That the Board's decision is a result of passion or prejudice; or
 - 8. That the findings of fact or decision is not justified by the evidence or is contrary to law.
- E. The Board may affirm or modify a decision or grant a rehearing to all or any of the parties on all or part of the issues for any of the reasons in subsection (D). An order modifying a decision or granting a rehearing shall specify with particularity the grounds for the order.
- ◆ F. If a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. The

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Board may extend this period for a maximum of 20 days, for good cause as described in subsection (I).

- G. Not later than 10 days after the date of a decision, after giving parties notice and an opportunity to be heard, the Board may grant a rehearing or review on its own initiative for any reason for which it might have granted relief on the motion of a party. The Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion.
- H. If a rehearing is granted, the Board shall hold the rehearing within 60 days after the order granting the rehearing is issued.
- I. The Board may extend all time limits listed in this Section upon a showing of good cause. A party demonstrates good cause by showing that the grounds for the party's motion or other action could not have been known in time, using reasonable diligence, and a ruling on the motion will:
 1. Further administrative convenience, expedition, or economy; or
 2. Avoid undue prejudice to any party.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-129. Notice of Judicial Appeal; Transmitting the Transcript

- A. Notification to the Board office. Within 10 days of filing a complaint for judicial review of a final administrative decision of the Board, the party shall file a copy of the complaint with the Board office. The Board office shall then transmit the administrative record to the Superior Court.
- B. Transcript. A party requesting a transcript shall arrange for transcription at the party's expense. The Board office shall make a copy of the audio taped record available to the transcriber. The party arranging for transcription shall deliver the transcript, certified by the transcriber under oath to be a true and accurate transcription of the audio taped record, to the Board office, together with one unbound copy.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

ARTICLE 2. PHARMACIST LICENSURE**R4-23-201. General**

- A. License required. Before practicing as a pharmacist in Arizona, a person shall possess a valid pharmacist license issued by the Board. There is no temporary licensure.
- B. Methods of licensure. Licensure as a pharmacist shall be either:
 1. By practical examination, using paper and pencil written testing, computer adaptive testing, or other Board-approved testing method; or
 2. By reciprocity.
- C. Practicing pharmacist holding a delinquent license. Before the Board reinstates an Arizona pharmacist license, a pharmacist, whose Arizona pharmacist license is delinquent for five or more years and who is practicing pharmacy outside the Board's jurisdiction with a pharmacist license issued by another jurisdiction, shall:
 1. Pass the MPJE or other Board-approved jurisprudence examination,
 2. Pay all delinquent annual renewal fees, and
 3. Pay penalty fees.

- D. Non-practicing pharmacist holding a delinquent license. Before the Board reinstates an Arizona pharmacist license, a pharmacist, whose Arizona pharmacist license is delinquent for five or more years and who did not practice pharmacy within the last 12 months before seeking reinstatement, shall:
 1. Complete the requirements in subsection (C), and
 2. Appear before the Board to furnish satisfactory proof of fitness to be licensed as a pharmacist.
- E. Verification of license. A pharmacy permittee or pharmacist-in-charge shall not permit a person to practice as a pharmacist until the pharmacy permittee or pharmacist-in-charge verifies that the person is currently licensed by the Board as a pharmacist.

Historical Note

Former Rules 2.1100, 2.1310, 2.1320, and 2.1400. Amended effective August 23, 1978 (Supp. 78-4). Amended by deleting subsection (E) effective April 20, 1982 (Supp. 82-2). Amended subsections (C) and (D) effective August 12, 1988 (Supp. 88-3). Amended effective February 8, 1991 (Supp. 91-1). Amended effective January 12, 1998 (Supp. 98-1). Amended by final rulemaking at 10 A.A.R. 4356, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 19 A.A.R. 2911, effective November 10, 2013 (Supp. 13-3).

R4-23-202. Licensure by Examination

- A. Eligibility. To be eligible for licensure as a pharmacist by examination, a person shall:
 1. Have a degree in pharmacy from a school or college of pharmacy approved by the Board as specified in A.R.S. § 32-1935, and whose professional degree program, at the time the person graduates, is accredited by the Accreditation Council for Pharmacy Education; or
 2. Qualify under the requirements of A.R.S. § 32-1922(D); and
 3. Complete no fewer than 1500 hours of intern training as specified in R4-23-303.
- B. Application.
 1. An applicant for licensure by examination shall:
 - a. Submit a completed application for licensure by examination electronically or manually on a form furnished by the Board, and
 - b. Submit with the application form:
 - i. The documents specified in the application form, and
 - ii. The application fee specified in R4-23-205.
 2. The Board office shall deem an application form received on the date the Board office electronically or manually date-stamps the form.

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3. An applicant for licensure by examination shall register for NAPLEX and MPJE through NABP's registration process.
 4. The Board shall deem an application for licensure by examination invalid after 12 months from the date the application is received.
An applicant whose application form is invalid and who wishes to continue licensure procedures, shall submit a new application form and fee as specified under subsection (B)(1).
- C. Passing grade; notification; re-examination.**
1. To pass the required examinations, an applicant shall obtain a score of at least 75 on both the NAPLEX and MPJE.
 2. The Board office shall:
 - a. Retrieve an applicant's NAPLEX and MPJE score from the NABP database no later than two weeks after the applicant's examination date, and
 - b. Provide written notice by mail to an applicant who fails the NAPLEX or MPJE no later than seven days after the Board office retrieves the applicant's score from NABP.
 3. An applicant who fails the NAPLEX or MPJE may register with the NABP to retake the examination within the 12-month period defined in subsection (B)(4).

An applicant who fails the NAPLEX or MPJE three times shall petition the Board as specified in R4-23-401 for Board approval before retaking the examination.
 4. For the purpose of licensure by examination, the Board office shall deem a passing score on the NAPLEX or MPJE invalid after 24 months from the applicant's examination date. An applicant who fails to complete the licensure process within the 24-month period, and who wishes to continue licensure procedures, shall retake the examination(s).
- D. NAPLEX score transfer.**
1. The Board office shall deem a score transfer received on the date the NABP transmits the applicant's official score transfer report to the Board office.
 2. An applicant who receives a passing score on the NAPLEX taken in another jurisdiction shall, within 12 months from the date the Board office receives the applicant's official NABP score transfer report from the NABP, make application for licensure according to subsection (B). After 12 months, an applicant may reapply for licensure in this state under the provisions of subsection (B) or R4-23-203(B).
3. An applicant who takes the NAPLEX in another jurisdiction and fails the examination may apply for licensure in this state under the provisions of subsection (B).
- E. Licensure.**
1. The Board office shall issue a certificate of licensure and a wall license to a successful applicant upon receipt of:
 - a. The initial licensure fee specified in R4-23-205, and
 - b. The wall license fee specified in R4-23-205.
 2. A licensee shall maintain the certificate of licensure in the practice site for inspection by the Board or its designee or review by the public.
- F. Time frames for licensure by examination.**
1. The Board office shall complete an administrative completeness review within 60 days from the date the application form is received.
 - a. The Board office shall issue a written notice of administrative completeness to the applicant if no deficiencies are found in the application form.
 - b. If the application form is incomplete, the Board office shall provide the applicant with a written notice that includes a comprehensive list of the missing information. The 60-day time frame for the Board office to finish the administrative completeness review is suspended from the date the notice of incompleteness is served until the applicant provides the Board office with all missing information.
 - c. If the Board office does not provide the applicant with written notice regarding administrative completeness, the application form shall be deemed complete 60 days after receipt by the Board office.
 2. An applicant with an incomplete application form shall submit all of the missing information within 90 days of service of the notice of incompleteness.
 - a. If an applicant cannot submit all missing information within 90 days of service of the notice of incompleteness, the applicant may send a written request for an extension to the Board office postmarked or delivered no later than 90 days from service of the notice of incompleteness.
 - b. The written request for an extension shall document the reasons the applicant is unable to meet the 90-day deadline.
 - c. The Board office shall review the request for an extension of the 90-day deadline and grant the request if the Board office determines that an extension of the deadline will enable the applicant to assemble and submit the missing information. An extension shall be for no more than 30 days. The Board office

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shall notify the applicant in writing of its decision to grant or deny the request for an extension.

3. If an applicant fails to submit a complete application form within the

time allowed, the Board office shall close the applicant's file. An applicant whose file is closed and who later wishes to obtain a license shall apply again according to subsection (B).

4. The Board office shall complete a substantive review of the applicant's qualifications in no more than 120 days from the date on which the administrative completeness review of an application form is complete.

- a. If an applicant is found to be ineligible for licensure by examination, the Board office shall issue a written notice of denial to the applicant.

- b. If an applicant is found to be eligible to take the NAPLEX, the Board office shall notify the NABP that the applicant is eligible to test. The NABP shall issue the applicant an authorization to test letter.

- c. If an applicant is found to be eligible to take the MPJE, the Board office shall notify the

NABP that the applicant is eligible to test. The NABP shall issue the applicant an authorization to test letter.

- d. The Board office shall deem an applicant's eligibility to test invalid after 12 months from the date the application for licensure by examination is received.

- e. If the Board office finds deficiencies during the substantive review of an application form, the Board office shall issue a written request to the applicant for additional documentation.

- f. The 120-day time frame for a substantive review of eligibility to take the NAPLEX or MPJE is suspended from the date of a written request for additional documentation until the date that all documentation is received. The applicant shall submit the additional documentation according to subsection

(F)(2).

- g. If the applicant and the Board office mutually agree in writing, the 120-day substantive review time frame may be extended once for no more than 45 days.

5. For the purpose of A.R.S. § 41-1072 et seq., the Board establishes the following time frames for licensure by examination.

- a. Administrative completeness review time frame: 60 days.
- b. Substantive review time frame: 120 days.
- c. Overall time frame: 180 days.

G. License renewal.

1. To renew a license, a pharmacist shall submit a completed license renewal application electronically or

manually on a form furnished by the Board with the biennial renewal

fee specified in R4-23-205.

2. If the biennial renewal fee is not paid by November 1 of the renewal year specified in

A.R.S. § 32-1925, the pharmacist license is suspended and the licensee shall not practice as a pharmacist. The licensee shall pay a penalty as provided in A.R.S. § 32-1925 and R4-23-205 to vacate the suspension.

3. A licensee shall maintain the renewal certificate of licensure in the practice site for inspection by the Board or its designee or review by the public.

4. Time frames for license renewals. The Board office shall follow the time frames established in subsection (F).

Historical Note

Former Rules 2.2100, 2.2200, 2.2300, 2.2400, 2.2500, 2.2600, 2.2700, 2.2800, 2.2910, 2.2920, 2.2930, 2.3000, 2.3010, 2.3100; Amended effective August 23, 1978 (Supp. 78-5). Amended effective June 10, 1981 (Supp. 81-3). Former Section R4-23-202 repealed, new Section R4-23-202 adopted effective July 24, 1985 (Supp. 85-4).

Amended effective March 13, 1991 (Supp. 91-1).

Amended effective January 12, 1998 (Supp. 98-1).

Amended by final rulemaking at 8 A.A.R. 409 and 8 A.A.R. 646, effective January 10, 2002 (Supp. 02-1).

Amended by final rulemaking at 10 A.A.R. 4356, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 12 A.A.R. 4689, effective February 3, 2007 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 3605, effective November 8, 2008 (Supp. 08-3).

Amended by final rulemaking at 19 A.A.R. 2911, effective November 10, 2013 (Supp. 13-3). Amended by final rulemaking at 25 A.A.R. 1012 and 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).

R4-23-203. Licensure by Reciprocity

- A. Eligibility.** A person is eligible for licensure by reciprocity who:

1. Is licensed as a pharmacist in a jurisdiction that provides reciprocity to Arizona

licensees,

2. Has passed the NAPLEX or NAPLEX with a score of 75 or better or was licensed by examination in another jurisdiction having essentially the same standards for licensure as this state at the time the pharmacist was licensed, and

3. Provides evidence to the Board of having completed the required secondary and professional education and training specified in R4-23-202(A).

B. Application.

1. An applicant for licensure by reciprocity shall:

- a. Submit a completed application for licensure by reciprocity electronically or manually on a form furnished by the Board, and
- b. Submit with the application form:

- i. The documents specified in the application form, and
- ii. The reciprocity fee specified in R4-23-205(B).

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2. The Board office shall deem an application form received on the date the Board office electronically or manually date-stamps the form.
 3. An applicant for licensure by reciprocity shall register for MPJE through NABP's registration process.
 4. The Board office shall deem an application for licensure by reciprocity invalid after 12 months from the date the application is received. An applicant whose application form is invalid and who wishes to continue licensure procedures shall submit a new application form and fee specified in subsection (B)(1).
- C. Passing grade; notification; re-examination.**
1. To pass the required examination, an applicant shall obtain a score of at least 75 on the MPJE.
 2. The Board office shall:
 - a. Retrieve an applicant's MPJE score from the NABP database no later than two weeks after the applicant's examination date, and
 - b. Provide written notice by mail to an applicant who fails the MPJE no later than seven days after the Board office retrieves the applicant's score from NABP.
 3. An applicant who fails the MPJE may register with the NABP to retake the examination within the 12-month period specified in subsection (B)(4). An applicant who fails the MPJE three times shall petition the Board as specified in R4-23-401 for Board approval before retaking the examination.
 4. For the purpose of licensure by reciprocity, the Board office shall deem a passing score on the MPJE invalid after 24 months from the applicant's examination date. An applicant who fails to complete the licensure process within the 24-month period, and who wishes to continue licensure procedures, shall retake the examination.
- D. Licensure.**
1. The Board office shall issue a certificate of licensure and a wall license to a successful applicant upon receipt of:
 - a. The initial licensure fee specified in R4-23-205, and
 - b. The wall license fee specified in R4-23-205.
 2. A licensee shall maintain the certificate of licensure in the practice site for inspection by the Board or its designee or review by the public.
- E. Time frames for licensure by reciprocity.** The Board office shall follow the time frames established for licensure by examination in R4-23-202(F).
- F. License renewal.** License renewal shall be the same as specified in R4-23-202(G).

Historical Note

Former Rules 2.4100, 2.4200, 2.4310, 2.4320, 2.4330, 2.4340, 2.4350, 2.4360, 2.4400, 2.4510, 2.4520, 2.4522,

2.4523, 2.4530, 2.4540, 2.4550, 2.4560, 2.4610, 2.4620, and 2.4700; Amended effective August 23, 1978 (Supp. 78-4). Amended subsections (H), (L), (O) through (Q) effective June 10, 1981 (Supp. 81-3). Former Section R4-23-203 repealed, new Section R4-23-203 adopted effective July 24, 1985 (Supp. 85-4). Amended effective March 13, 1991 (Supp. 91-1). Amended effective January 12, 1998 (Supp. 98-1). Amended effective January 12, 1998 (Supp. 98-1). Amended by final rulemaking at 8 A.A.R. 409 and 8 A.A.R. 646, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 10 A.A.R. 4356, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 14 A.A.R. 3605, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 19 A.A.R. 2911, effective November 10, 2013 (Supp. 13-3). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).

R4-23-204. Continuing Education Requirements

- A. Under A.R.S. § 32-1936, continuing professional pharmacy education is mandatory for all licensees.**
1. General continuing education requirement. In accordance with A.R.S. § 32-1925(F), the Board shall not renew a license unless the licensee has, during the two years preceding the application for renewal, participated in 30 contact hours (3.0 CEUs) of continuing education activity sponsored by an Approved Provider as defined in R4-23-110.
 2. Special continuing education requirement. The Board shall not renew a license unless:
 - a. A licensee certified under R4-23-411 to administer immunizations, vaccines, and emergency medications has participated in at least two contact hours of continuing education activity related to administering immunizations, vaccines, and emergency medications; and
 - b. A licensee authorized to dispense controlled substances has participated in at least three contact hours of opioid-related, substance use disorder-related, or addiction-related continuing education activity.
 3. A pharmacist is exempt from the continuing education requirement in subsections (A)(1) and (2) between the time of initial licensure and first renewal.
- B. Acceptance of continuing education units CEUs.** The Board shall:
1. Accept CEUs for continuing education activities sponsored only by an Approved Provider;
 2. Accept CEUs accrued only during the two-year period immediately before licensure renewal;
 3. Not allow CEUs accrued in a biennial renewal period to be carried forward to the succeeding biennial renewal period;
 4. Allow a pharmacist who leads, instructs, or lectures to a group of health professionals on pharmacy-related topics in a continuing education activity sponsored by an Approved Provider to receive CEUs for a presentation by following the same attendance procedures as any other attendee of the continuing education activity; and

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5. Not accept as CEUs the performance of normal teaching duties within a learning institution by a pharmacist whose primary responsibility is the education of health professionals.
- C.** Continuing education records and reporting CEUs. A pharmacist shall:
1. Maintain continuing education records that:
 - a. Verify the continuing education activities the pharmacist participated in during the preceding five years; and
 - b. Consist of a statement of credit or a certificate issued by an Approved Provider at the conclusion of a continuing education activity;
 2. At the time of licensure renewal, attest to the number of CEUs the pharmacist participated in during the renewal period on the biennial renewal form; and
 3. When requested by the Board office, submit proof of continuing education participation within 20 days of the request.
- D.** The Board may revoke, suspend, or place on probation the license of a pharmacist who fails to comply with continuing education participation, recording, or reporting requirements of this Section.
- E.** A pharmacist who is aggrieved by any decision of the Board or its administrative staff concerning continuing education units may request a hearing before the Board.
- Historical Note**
- Adopted effective September 1, 1981 (Supp. 81-5).
 Amended effective March 13, 1991 (Supp. 91-1).
 Amended by final rulemaking at 8 A.A.R. 409 and 8 A.A.R. 646, effective January 10, 2002 (Supp. 02-1).
 Amended by final rulemaking at 26 A.A.R. 223, effective March 14, 2020 (Supp. 20-1).
- R4-23-205. Fees**
- A.** The Board shall collect the full biennial fee for all initial and renewal license and permit applications listed in subsections (B) and (C).
1. If a license or permit is issued from November of an odd-numbered year through October of an even-numbered year, the licensee or permittee shall renew on or before November 1 of the next odd-numbered year.
 2. If a license or permit is issued from November of an even-numbered year through October of an odd-numbered year, the licensee or permittee shall renew on or before November 1 of the next even-numbered year.
- B.** Licensure fees:
1. Pharmacist:
 - a. Initial licensure: \$180.
 - b. Licensure renewal: \$180.
 2. Intern. Initial licensure: \$50.
 3. Pharmacy technician:
 - a. Initial licensure: \$72.
 - b. Licensure renewal: \$72.
 4. Temporary license valid for 30 days:
 - a. Pharmacist: \$120.
 - b. Intern: \$50.
 - c. Pharmacy technician: \$50.
- C.** Vendor permit fees (Resident and nonresident):
1. Pharmacy: \$480 biennially (Including hospital, and limited service).
 2. Drug wholesaler or manufacturer:
 - a. Manufacturer: \$1000 biennially.
 - b. Full-service drug wholesaler: \$1000 biennially.
 - c. Nonprescription drug wholesaler: \$500 biennially.
 3. Drug packager or repackager: \$1000 biennially.
 4. Compressed medical gas distributor: \$200 biennially.
 5. Durable medical equipment and compressed medical gas supplier: \$100 biennially.
 6. Third-party logistics provider: \$1000 biennially.
 7. Automated prescription-dispensing kiosk: \$480 biennially.
- D.** Pharmacy technician trainee 36-month, non-renewable, license: \$50.
1. If an individual obtained an initial pharmacy technician trainee license before August 9, 2017, the Board shall allow the individual to reapply once for a pharmacy technician trainee license if the individual reapplies before the initial license expires and pays a reapplication fee of \$36; and
 2. If a pharmacy technician trainee's initial license expires before August 9, 2017, and the pharmacy technician trainee does not reapply before August 9, 2017, the Board shall not allow the former pharmacy technician trainee to reapply.
- E.** Reciprocity fee: \$300.
- F.** Application fee: \$50.
- G.** Certificate fees:
1. Certificate of free sale: \$200 per certificate.
 2. Certificate of good manufacturing practice: \$200 per certificate.
 3. Annual inspection fee calculated at the average hourly rate of a pharmacy inspector multiplied by the duration of the inspection measured in 10-minute increments or portion of a 10-minute increment.
- H.** Other fees:
1. Wall license.
 - a. Pharmacist: \$20.
 - b. Pharmacy or graduate intern: \$10.
 - c. Pharmacy technician: \$10.
 - d. Pharmacy technician trainee: \$10.
 2. Duplicate of any Board-issued license, registration, certificate, or permit: \$10.
 3. Duplicate current renewal license: \$10.
 4. License, permit, or certificate verification: \$15.
- I.** Fees are not refunded under any circumstances except for the Board's failure to comply with its established licensure or permit time frames under R4-23-202 or R4-23-602.
- J.** Penalty. Renewal applications submitted after the expiration date are subject to a penalty as provided in A.R.S. §§ 32-1925 and 32-1931.
1. Licensees: A penalty equal to half the licensee's biennial licensure renewal fee under subsection (B) and not to exceed \$350.
 2. Permittees: A penalty equal to half the permittee's biennial permit fee under subsection (C) and not to exceed \$350.

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Historical Note

Adopted effective July 24, 1985 (Supp. 84-5). Amended subsection (A) paragraph (1) effective May 20, 1988 (Supp. 88-2). Amended effective August 12, 1988 (Supp. 88-3). Amended effective February 8, 1991 (Supp. 91-1). Amended effective April 1, 1995; filed with the Secretary of State January 31, 1995 (Supp. 95-1). Amended effective January 12, 1998 (Supp. 98-1). Amended by final rulemaking at 6 A.A.R. 4589, effective November 14, 2000 (Supp. 00-4). Amended by final rulemaking at 8 A.A.R. 409 and 8 A.A.R. 646, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 416, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 15 A.A.R. 173, effective March 7, 2009 (Supp. 09-1). Amended by final rulemaking at 20 A.A.R. 1364, effective August 2, 2014 (Supp. 14-2). Amended by exempt rulemaking under Laws 2016, Ch. 284, § 3 at 22 A.A.R. 2606, effective August 31, 2016 (Supp. 16-3). Amended by final exempt rulemaking at 23 A.A.R. 2058, effective August 9, 2017; amended by final exempt rulemaking with amendments to subsection (D), at 23 A.A.R. 2383 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2). Amended by final rulemaking at 25 A.A.R. 1012, and 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2). Amended by final rulemaking at 26 A.A.R. 223, effective March 14, 2020 (Supp. 20-1).

ARTICLE 3. INTERN TRAINING AND PHARMACY INTERN PRECEPTORS

R4-23-301. Intern Licensure

A. Licensure as a pharmacy intern or graduate intern is for the purpose of complementing the individual's academic or experiential education in preparation for licensure as a pharmacist.

An applicant may request a waiver of intern licensure requirements by submitting a written request as specified in R4-23-401 and appearing in person at a Board meeting.

- B.** The prerequisites for licensure as a pharmacy intern are:
1. Current enrollment, in good standing, in a Board-approved college or school of pharmacy; or
 2. Graduation from a college or school of pharmacy that is not approved by the Board; and
 3. Proof that the applicant is certified by the Foreign Pharmacy Graduate Examination Committee (FPGEC); or
 4. By order of the Board if the Board determines the applicant needs intern training.

C. If a pharmacy intern licensee stops attending pharmacy school classes before completing the pharmacy school's requirements for graduation, the licensee shall immediately stop

practicing as a pharmacy intern and surrender the pharmacy intern license to the Board or the Board's designee no later than 30 days after the date of the last attended class, unless

the licensee petitions the Board as

specified in R4-23-401 and receives Board approval to continue working as a pharmacy

intern. A student re-entering a pharmacy program who wishes to continue internship

training shall reapply for pharmacy intern licensure.

D. The prerequisites for licensure as a graduate intern are:

1. Graduation from a Board-approved college or school of pharmacy, and
2. Application for licensure as a pharmacist by examination or reciprocity, or
3. By order of the Board if the Board determines that the applicant needs intern training.

E. Experiential training. Intern training shall include the activities and services encompassed

by the term "practice of pharmacy" as defined in A.R.S. § 32-1901.

F. Out-of-state experiential training. An intern shall receive credit for intern training received

outside this state if the Board determines that the intern training requirements of the

jurisdiction in which the training was received are equal to the minimum requirements for intern training in this state. An

applicant seeking credit for intern training received outside this state shall furnish a certified copy of the records of intern

training from:

1. The Board of Pharmacy or the intern licensing agency of the other jurisdiction where the training was received; or
2. In a jurisdiction without an intern licensing agency, the director of the applicant's Board-approved college or school of pharmacy's experiential training program.

G. Verification of license. A pharmacy permittee or pharmacist-in-charge shall not permit a person to

practice as a pharmacy or graduate intern until the pharmacy permittee or

pharmacist-in-charge verifies that the person is currently licensed by the Board as a

pharmacy or graduate intern.

H. Intern application.

1. An applicant for licensure as a pharmacy intern or graduate intern shall:
 - a. Submit a completed application electronically or manually on a form furnished by the Board, and
 - b. Submit with the application form:
 - i. The documents specified in the application form,
 - ii. The initial licensure fee specified in R4-23-205, and
 - iii. The wall license fee specified in R4-23-205.
2. The Board office

shall deem an application form received on the date the Board office electronically

or manually date-stamps the form.

I. Licensure.

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1. If an applicant is found to be ineligible for intern licensure under statute and rule, the

Board office shall issue a written notice of denial to the applicant.

2. If an applicant is found to be eligible for intern licensure under statute and rule, the Board office shall issue a certificate of licensure and a wall license. An applicant who is assigned a license number and who has been granted "open" status on the Board's license verification site may begin practice as a pharmacy intern or graduate intern before receiving the certificate of licensure.

3. An applicant who is assigned a license number and who has a "pending" status on the

Board's license verification site shall not practice as a pharmacy intern or graduate intern until the Board office issues a certificate of licensure as specified in subsection

(2).

4. A licensee shall maintain the certificate of licensure in the practice site for inspection by the Board or its designee or review by the public.

J. Time frames for intern licensure. The Board office shall follow the time frames established in R4-23-202(F).

K. License renewal.

1. A pharmacy intern whose license expires before the intern completes the education or training required for licensure as a pharmacist but fewer than six years after the issuance of the initial pharmacy intern license may renew the intern license for a period equal to the difference between the expiration date of the initial intern license and six years from the issue date of the initial intern license by payment of a prorated renewal fee based on the initial license fee specified in R4-23-205.

2. If a pharmacy intern fails to graduate from a Board-approved college or school of pharmacy within six years from the date the Board issues the initial intern license, the intern is not eligible for relicensure as an intern unless the intern obtains Board approval as specified in A.R.S. § 32-1923(E) and R4-23-401. To remain in good standing, an intern who receives Board approval for relicensure shall pay a prorated renewal fee for the number of months of licensure approved by the Board based on the initial license fee specified in R4-23-205 before the license expiration date.

3. If an intern receives Board approval for relicensure and does not pay the renewal fee specified in subsection (K)(2) before the license expiration date, the intern license is suspended and the licensee shall not practice as an intern. The licensee shall pay a penalty as provided in A.R.S. § 32-1925 and R4-23-205 to vacate the suspension.

L. Notification of training.

1. A pharmacy intern who is employed as an intern outside the experiential training program of a Board-approved college or school of pharmacy or a graduate intern shall notify the Board within 10 days of starting or terminating training, or changing

training site.

2. The director of a Board-approved college or school of pharmacy's experiential training program shall provide the Board an intern training report as specified in R4-23-304(B)(3).

Historical Note

Former Rules 3.1000, 3.1100, 3.1200, 3.2000, 3.2100, and 3.2200; Amended effective August 23, 1978 (Supp. 78-4). Amended effective April 20, 1982 (Supp. 82-2). Amended subsections (A), (F) and (G) effective August 12, 1988 (Supp. 88-3). Amended effective November 1, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 416, effective January 10, 2002 (Supp. 02-1).

Amended by final rulemaking at 10 A.A.R. 4356, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 11 A.A.R. 3565, effective November 12, 2005 (Supp. 05-3). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3).

Amended by final rulemaking at 14 A.A.R. 3670, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 19 A.A.R. 2911, effective November 10, 2013 (Supp. 13-3). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).

R4-23-302. Training Site and Pharmacy Intern Preceptors

A. To receive credit for intern training hours, a pharmacy or graduate intern shall train in a site that:

1. Holds a valid Arizona pharmacy permit; or
2. Is an alternative training site. For purposes of this Section, the term alternative training site is a non-pharmacy training site established and monitored by a Board-approved college or school of pharmacy or other non-pharmacy site where pharmacy related activities are performed and where an intern gains experience as specified in R4-23-301(E).

B. Pharmacy intern preceptor. To be a pharmacy intern preceptor, a pharmacist shall:

1. Hold a current unrestricted pharmacist license;
2. Have a minimum of one year of experience as an actively practicing pharmacist before acting as a pharmacy intern preceptor; and
3. If found guilty of violating any federal or state law relating to the practice of pharmacy, drug or device distribution, or recordkeeping or unprofessional conduct, enter into an agreement satisfactory to the Board that places restrictions on the pharmacist's license.

C. Preceptor responsibilities. A pharmacy intern preceptor assumes the responsibilities of a teacher and mentor in addition to those of a pharmacist. A preceptor shall thoroughly review pharmacy policy and procedure with each intern. A preceptor is responsible for the pharmacy-related actions of an intern during the specific training period. A preceptor shall give an intern the opportunity for skill development and provide an intern with timely and realistic feedback regarding their progress.

D. If an intern completes more than the number of training hours specified under R4-23-202(A)(3), the pharmacist acting as the

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pharmacy intern preceptor shall report the total number of training hours to the other jurisdiction.

Historical Note

Former Rules 3.3000, 3.3100, 3.3200, 3.3300, 3.3310, 3.3320, 3.3330, 3.3340, 3.3400, 3.4000, 3.4100, 3.4200, 3.4300, and 3.4400; Amended effective August 9, 1983 (Supp. 83-4). Amended by final rulemaking at 8 A.A.R. 416, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 14 A.A.R. 3605, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).

R4-23-303. Training Time

A. Training. The minimum hours of internship training required for licensure by examination shall be 1,500.

1. After enrolling in a Board-approved college or school of pharmacy as prescribed in R4-23-301(B) and receiving a Board-issued pharmacy intern license, a pharmacy intern shall complete all required internship training as part of the pharmacy intern's Board-approved college or school of pharmacy experiential training program.
2. After receiving a Board-issued pharmacy intern license, an individual who is a graduate of a college or school of pharmacy that is not approved by the Board shall complete a minimum of 1,500 hours of internship training in a training site or sites as defined in R4-23-302(A).
3. After receiving a Board-issued graduate intern license, a graduate intern shall complete the number of internship training hours required by the Board in a training site or sites as defined in R4-23-302(A).

B. Start of training and limitation of credit. To receive credit as internship training, the practical experience shall take place in a pharmacy or an alternative training site as specified in R4-23-302(A) and under the supervision of a pharmacy intern preceptor, except for a non-pharmacy site either as part of a Board-approved college or school of pharmacy experiential training program or as approved by the Board or its designee. The Board shall credit no more than 500 hours internship training as a pharmacy or graduate intern in an alternative training site specified in R4-23-302(A)(2).

Historical Note

Former Rules 3.5000 and 3.5200; Amended effective August 23, 1978 (Supp. 78-4). Amended effective August 9, 1983 (Supp. 83-4). Amended by final rulemaking at 8 A.A.R. 416, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 18 A.A.R. 2619, effective December 2, 2012 (Supp. 12-4).

R4-23-304. Reports

A. Change of employment or mailing address. A pharmacy intern or graduate intern shall notify the Board within ten days of change of employment or mailing address.

B. Annual reports.

1. A pharmacy intern who is a graduate of a college or school of pharmacy that is not approved by the Board or is a graduate intern shall provide the Board annual intern

training reports for the duration of training. The pharmacy intern shall file an annual

intern training report on a report form provided by the Board by calendar year (January 1st through December 31st).

An

annual intern training report shall be received at the Board's office no later than 30

days after the end of the calendar year.

Any intern training hours reported to the Board

office more than 30 days after the end of the calendar year in which the training hours

were performed shall not be credited toward the total intern training hours required

for licensure.

2. After graduation and before sitting for the NAPLEX or MPJE, a pharmacy intern who

is a graduate of a Board-approved college or school of pharmacy shall ensure that the

director of the Board-approved college or school of pharmacy's experiential training

program provides the Board an intern training report that includes:

a. The dates and number of training hours experienced, by training site and total;

and

b. The date signed and experiential training program director's signature verifying

that the pharmacy intern successfully completed the experiential training

program.

Historical Note

Former Rules 3.6100, 3.6200, 3.6300, and 3.6400; Amended effective August 23, 1978 (Supp. 78-4). Amended by final rulemaking at 8 A.A.R. 416, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 10 A.A.R. 4356, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 18 A.A.R. 2619, effective December 2, 2012 (Supp. 12-4). Amended by final rulemaking at 19 A.A.R. 2911, effective November 10, 2013 (Supp. 13-3).

R4-23-305. Miscellaneous Intern Training Provisions

To prevent a loss of intern hour credit and before beginning training, an intern may ask the Board if a training site meets the requirements specified in R4-23-301(E) and R4-23-302(A).

Historical Note

Former Rule 3.7000; Amended effective August 23, 1978 (Supp. 78-4). Amended by final rulemaking at 8 A.A.R. 416, effective January 10, 2002 (Supp. 02-1).

ARTICLE 4. PROFESSIONAL PRACTICES**R4-23-401. Time-frames for Board Approvals and Special Requests**

A. To request a Board approval required by this Chapter or a special request to deviate from or waive compliance with a requirement of this Chapter, a person shall send a letter by regular mail, e-mail, or facsimile to the Board office, detailing the nature of the approval or special request, including the

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applicable Arizona Revised Statute or administrative code citation. This Section does not apply to a request from a person regarding the probation, suspension, or revocation of a license or permit.

B. The Board office shall complete an administrative completeness review within 15 days from the date of receipt of a written request and immediately open a request file for the applicant.

1. The Board office shall issue a written notice of administrative completeness to the applicant if no deficiencies are found in the request.
2. If the request is incomplete, the Board office shall provide the applicant with a written notice that includes a comprehensive list of the missing information. The 15-day time-frame for the Board office to finish the administrative completeness review is suspended from the date the notice of incompleteness is served until the applicant provides the Board office with all missing information.
3. If the Board office does not provide the applicant with notice regarding administrative completeness, the request is deemed complete 15 days after receipt by the Board office.

C. An applicant with an incomplete request shall submit all of the missing information within 30 days of service of the notice of incompleteness.

1. If an applicant cannot submit all missing information within 30 days of service of the notice of incompleteness, the applicant may send a written request for an extension to the Board office post-marked or delivered no later than 30 days from service of the notice of incompleteness.
2. The written request for an extension shall document the reasons the applicant cannot meet the 30-day deadline.
3. The Board office shall review the request for an extension of the 30-day deadline and grant the request if the Board office determines that an extension of the deadline will enable the applicant to assemble and submit the missing information. An extension shall be for no more than 30 days. The Board office shall notify the applicant in writing of its decision to grant or deny the request for an extension. An applicant who requires an additional extension shall submit an additional written request according to subsections (C)(1) and (C)(2).

D. If an applicant fails to submit a complete request within the time allowed, the Board office shall close the applicant's request file. An applicant whose request file is closed and who later wishes to obtain an approval or special request shall apply again according to subsection (A).

E. From the date on which the administrative completeness review of a request is finished, the Board shall complete a substantive review of the applicant's request in no more than 120 days.

1. The Board shall:
 - a. Approve the request,
 - b. Deny the request, or
 - c. If the Board determines deficiencies exist, request that the applicant produce additional documentation.
2. If the Board approves or denies, the Board office shall issue a written approval or denial.

3. If the Board finds deficiencies during the substantive review of a request, the Board office shall issue a written request to the applicant for additional documentation.

4. The 120-day time-frame for a substantive review of a request for approval or special request is suspended from the date of a written request for additional documentation until the date of the next Board meeting after all documentation is received. The applicant shall submit the additional documentation according to subsection (C).

5. If the applicant and the Board office mutually agree in writing, the 120-day substantive review time-frame may be extended once for no more than 30 days.

F. If the applicant fails to submit the additional information requested within the time allowed, the Board office shall close the applicant's request file. An applicant whose request file is closed and who later wishes to obtain an approval or special request shall apply again according to subsection (A).

G. For the purpose of A.R.S. § 41-1072 et seq., the Board establishes the following time-frames for a Board approval required by this Chapter or a special request to deviate from or waive compliance with a requirement of this Chapter:

1. Administrative completeness review time-frame: 15 days;
2. Substantive review time-frame: 120 days; and
3. Overall time-frame: 135 days.

Historical Note

Former Rule 4.1000; Former Section R4-23-401 repealed, new Section R4-23-401 adopted effective August 9, 1983 (Supp. 83-4). Amended effective May 16, 1990 (Supp. 90-2). Repealed effective August 24, 1992 (Supp. 92-3). New Section made by final rulemaking at 9 A.A.R. 3184, effective August 30, 2003 (Supp. 03-3).

R4-23-402. Pharmacist, Graduate Intern, and Pharmacy Intern

A. A pharmacist or a graduate intern or pharmacy intern under the supervision of a pharmacist shall perform the following professional practices in dispensing a prescription medication from a prescription order:

1. Receive, reduce to written form, and manually initial oral prescription orders;
2. Obtain and record the name of the individual who communicates an oral prescription order;
3. Obtain, or assume responsibility to obtain, from the patient, patient's agent, or medical practitioner and record, or assume responsibility to record, in the patient's profile, the following information:
 - a. Name, address, telephone number, date of birth (or age), and gender;
 - b. Individual history including known diseases and medical conditions, known drug allergies or drug reactions, and if available a comprehensive list of medications currently taken and medical devices currently used;
4. Record, or assume responsibility to record, in the patient's profile, a pharmacist's, graduate intern's, or pharmacy intern's comments relevant to the patient's drug therapy, including other information specific to the patient or drug;

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5. Verify the legality and pharmaceutical feasibility of dispensing a drug based upon:
 - a. The patient's allergies,
 - b. Incompatibilities with medications the patient currently takes,
 - c. The patient's use of unusual quantities of dangerous drugs or narcotics,
 - d. A medical practitioner's signature, and
 - e. The frequency of refills;
 6. Verify that a dosage is within proper limits;
 7. Interpret the prescription order, which includes exercising professional judgment in determining whether to dispense a particular prescription;
 8. Compound, mix, combine, or otherwise prepare and package the prescription medication needed to dispense individual prescription orders;
 9. Prepackage or supervise the prepackaging of drugs by a pharmacy technician or pharmacy technician trainee under R4-23-1104. For drugs prepackaged by a pharmacy technician or pharmacy technician trainee, a pharmacist shall:
 - a. Verify the drug to be prepackaged;
 - b. Verify that the label meets the official compendium's standards;
 - c. Check the completed prepackaging procedure and product; and
 - d. Manually initial the completed label; or
 - e. For automated packaging systems, manually initial the completed label or a written log or initial a computer-stored log;
 10. Check prescription order data entry to ensure that the data input:
 - a. Is for the correct patient by verifying the patient's name, address, telephone number, gender, and date of birth or age;
 - b. Is for the correct drug by verifying the drug name, strength, and dosage form;
 - c. Communicates the prescriber's directions precisely by verifying dose, dosage form, route of administration, dosing frequency, and quantity; and
 - d. Is for the correct medical practitioner by verifying the medical practitioner's name, address, and telephone number;
 11. Except as provided in subsection (A)(12), make a final accuracy check of the completed prescription label including verification of medication, accuracy of patient's name, consistency with prescription order, and drug utilization review and initial in handwriting or by another method approved by the Board or its designee the finished label;
 12. If a technology-assisted verification of product program is used, make a final accuracy check of the completed prescription label including accuracy of patient's name, consistency with prescription order, and drug utilization review and initial in handwriting or by another method approved by the Board or its designee the finished label. If a technology-assisted verification of product program is used, verification of product is not required.
 13. Record, or assume responsibility to record, a prescription serial number and date dispensed on the original prescription order;
 14. Obtain, or assume responsibility to obtain, permission to refill a prescription order and record, or assume responsibility to record on the original prescription order:
 - a. Date dispensed,
 - b. Quantity dispensed, and
 - c. Name of medical practitioner or medical practitioner's agent who communicates permission to refill the prescription order;
 15. Reduce to written or printed form, or assume responsibility to reduce to written or printed form, a new prescription order received by:
 - a. Fax,
 - b. E-mail, or
 - c. Other means of communication;
 16. Verify, or assume responsibility to verify, that a completed prescription medication is sold only to the correct patient, patient's care-giver, or authorized agent;
 17. Record on the original prescription order the name or initials of the pharmacist, graduate intern, or pharmacy intern who originally dispenses the prescription order; and
 18. Record on the original prescription order the name or initials of the pharmacist, graduate intern, or pharmacy intern who dispenses each refill.
- B.** Only a pharmacist, graduate intern, or pharmacy intern shall provide oral consultation about a prescription medication to a patient or patient's care-giver in an outpatient setting, including a patient discharged from a hospital. The oral consultation is required whenever the following occurs:
1. The prescription medication has not been previously dispensed to the patient in the same strength or dosage form or with the same directions;
 2. The pharmacist, through the exercise of professional judgment, determines that oral consultation is warranted; or
 3. The patient or patient's care-giver requests oral consultation.
- C.** Oral consultation shall include:
1. Reviewing the name and strength of a prescription medication or name of a prescription-only device and the labeled indication of use for the prescription medication or prescription-only device;
 2. Reviewing the prescription's directions for use;
 3. Reviewing the route of administration; and
 4. Providing oral information regarding special instructions and written information regarding side effects, procedure for missed doses, or storage requirements.
- D.** When, in the professional judgment of the pharmacist or graduate intern or pharmacy intern under the supervision of a pharmacist, or when circumstance precludes it, oral consultation may be omitted if the pharmacist, graduate intern, or pharmacy intern:
1. Personally provides written information to the patient or patient's care-giver that summarizes the information that would normally be orally communicated;

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2. Documents, or assumes responsibility to document, both the circumstance and reason for not providing oral consultation by a method approved by the Board or its designee; and
 3. Offers the patient or patient's care-giver the opportunity to communicate with a pharmacist, graduate intern, or pharmacy intern at a later time and provides a method for the patient or patient's care-giver to contact a pharmacist, graduate intern, or pharmacy intern at the pharmacy.
- E.** The pharmacist or graduate intern or pharmacy intern under the supervision of a pharmacist, through the exercise of professional judgment, may provide oral consultation that includes:
1. Common severe adverse effects, interactions, or therapeutic contraindications, and the action required if they occur;
 2. Techniques of self-monitoring drug therapy;
 3. The duration of the drug therapy; and
 4. Prescription refill information.
- F.** Nothing in subsection (B) requires a pharmacist, graduate intern, or pharmacy intern to provide oral consultation if a patient or patient's care-giver refuses the consultation.
- G.** Using a method approved by the Board or its designee, a pharmacist, graduate intern, or pharmacy intern shall document, or assume responsibility to document, that oral consultation is or is not provided.
- H.** Oral consultation documentation. When oral consultation is required as specified in subsection (B), a pharmacist, graduate intern, or pharmacy intern shall:
1. Document, or assume responsibility to document, that oral consultation is provided; or
 2. When a patient refuses oral consultation or a person other than the patient or patient's care-giver picks up a prescription and oral consultation is not provided, document, or assume responsibility to document, that oral consultation is not provided; or
 3. When a pharmacist, graduate intern, or pharmacy intern determines to omit oral consultation under subsection (D) and oral consultation is not provided, document, or assume responsibility to document, both the circumstance and reason that oral consultation is not provided; and
 4. Document, or assume responsibility to document, the name, initials, or identification code of the pharmacist, graduate intern, or pharmacy intern who did or did not provide oral consultation.
- I.** When a prescription is delivered to the patient or patient's care-giver outside the immediate area of a pharmacy and a pharmacist is not present, the prescription shall be accompanied by written or printed patient medication information that, in addition to the requirements in subsection (C), includes:
1. Approved use for the prescription medication;
 2. Possible adverse reactions;
 3. Drug-drug, food-drug, or disease-drug interactions;
 4. Missed dose information; and
 5. Telephone number of the dispensing pharmacy or another method approved by the Board or its designee that allows a patient or patient's care-giver to consult with a pharmacist.
- J.** A prescription medication or prescription-only device, delivered to a patient at a location where a licensed health care professional is responsible for administering the prescription medication to the patient, is exempt from the requirement of subsection (C).
- K.** A pharmacist, graduate intern, or pharmacy intern shall wear a badge indicating name and title while on duty.
- L.** Nothing in this Section prevents a hospital pharmacist from accepting a prescription order according to rules pertaining specifically to hospital pharmacies.

Historical Note

Former Rule 4.1100; Amended effective August 10, 1978 (Supp. 78-4). Amended effective August 9, 1983 (Supp. 83-4). Amended effective May 16, 1990 (Supp. 90-2). Amended effective July 7, 1998 (Supp. 98-3). Amended by final rulemaking at 6 A.A.R. 4656, effective November 14, 2000 (Supp. 00-4). Amended by final rulemaking at 9 A.A.R. 5030, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 11 A.A.R. 2258, effective August 6, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 274, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 12 A.A.R. 4691, effective February 3, 2007 (Supp. 06-4). Amended by final rulemaking at 23 A.A.R. 3257, effective January 8, 2018 (Supp. 17-4).

R4-23-403. Repealed**Historical Note**

Former Rule 4.1200; Amended effective August 10, 1978 (Supp. 78-4). Amended effective March 28, 1980 (Supp. 80-2). Amended effective August 9, 1983 (Supp. 83-4). Section repealed, new Section adopted effective May 16, 1990 (Supp. 90-2). Amended effective November 1, 1993 (Supp. 93-4). Amended by final rulemaking at 5 A.A.R. 4441, effective November 2, 1999 (Supp. 99-4). Section repealed by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1).

R4-23-404. Unethical Practices

- A.** Rebates prohibited. A pharmacist or pharmacy permittee shall not offer, deliver, receive, or accept any unearned rebate, refund, commission, preference, patronage dividend, discount, or other unearned consideration, whether in the form of money or otherwise, as compensation or inducement to refer a patient, client, or customer to any person, except for a rebate or premium paid completely and directly to a patient. A pharmacist or pharmacy permittee shall not:
1. Make payment to a medical practitioner in money or other consideration for a prescription order prescribed by the medical practitioner; or
 2. Make payment to a long-term care or assisted living facility or other health care institution in money, discount, rental, or other consideration in an amount above the prevailing rate for:
 - a. Prescription medication or devices dispensed or sold for a patient or resident of the facility or institution; or

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- b. Drug selection or drug utilization review services, drug therapy management services, or other pharmacy consultation services provided for a patient or resident of the facility or institution.

B. Prescription order-blank advertising prohibited. A pharmacist or pharmacy permittee shall not:

1. Directly or indirectly furnish to a medical practitioner a prescription order-blank that refers to a specific pharmacist or pharmacy in any manner; or
2. Actively or passively participate in any arrangement or agreement where a prescription order-blank is prepared, written, or issued in a manner that refers to a specific pharmacist or pharmacy.

C. Fraudulent claim for service. A pharmacist or pharmacy permittee shall not claim the performance of a service that the pharmacist or pharmacy permittee knows or should know was not performed, such as, claiming to dispense a prescription medication that is not dispensed.

D. Fraudulent claim for a fee. A pharmacist or pharmacy permittee:

1. Shall not claim a fee for a service that is not performed or earned;
2. May divide a prescription order into two or more portions of prescription medication at the request of a patient, or for some other ethical reason, and charge a dispensing fee for the additional service; and
3. Shall not divide a prescription order merely to obtain an additional fee.

E. Prohibiting a prescription-only drug or device from being dispensed over the counter. A pharmacist shall ensure that:

1. A prescription-only drug or device is dispensed only after receipt of a valid prescription order from a licensed medical practitioner;
2. The dispensed prescription-only drug or device is properly prepared, packaged, and labeled according to this Chapter; and
3. The prescription order is filed according to this Chapter.

F. Drugs dispensed in the course of the conduct of a business of dispensing drugs through diagnosis by mail or the internet.

1. A pharmacist shall not dispense a drug from a prescription order if the pharmacist has knowledge, or reasonably should know under the circumstances, that the prescription order was issued on the basis of an internet-based questionnaire or an internet-based consultation without a medical practitioner-patient relationship as defined in R4-23-110.
2. A pharmacist who dispenses a prescription-only drug, prescription-only device, or controlled substance in violation of this Section is engaging in unethical conduct in violation of A.R.S. § 32-1901.01.

Historical Note

Former Rules 4.2110, 4.2120, 4.2130, 4.2210, 4.2230, 4.2400, 4.2500, 4.2600, 4.4100, 4.4200, 4.4310, 4.4320, 4.4400, and 4.4500; Amended effective August 10, 1978 (Supp. 78-4); Amended subsection (I) effective August 9, 1983 (Supp. 83-4). Amended by deleting subsections (H) through (M) effective November 18, 1983 (Supp. 83-6). Amended by final rulemaking at 8 A.A.R. 1256, effective

March 7, 2002 (Supp. 02-1). Amended by final rulemaking at 14 A.A.R. 3405, effective October 4, 2008 (Supp. 08-3).

R4-23-405. Change of Responsibility

A pharmacist designated as the pharmacist-in-charge for a pharmacy, manufacturer, or other establishment shall give immediate notice, as defined in R4-23-110, when:

1. The pharmacist's responsibility as a pharmacist-in-charge is terminated; or
2. The pharmacist knows of a pending termination of the pharmacist's responsibility as the pharmacist-in-charge.

Historical Note

Former Rules 4.5100 and 4.5200; Amended effective August 9, 1983 (Supp. 83-4). Amended effective February 8, 1991 (Supp. 91-1). Amended effective November 1, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 1256, effective March 7, 2002 (Supp. 02-1).

R4-23-406. Repealed

Historical Note

Adopted as an emergency effective January 10, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Amended as an emergency effective April 2, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days. Adopted effective April 10, 1979 (Supp. 79-1). Former Section R4-23-406 repealed, new Section R4-23-406 adopted effective August 9, 1983 (Supp. 83-4). Amended effective April 1, 1995; filed with the Secretary of State January 31, 1995 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 1256, effective March 7, 2002 (Supp. 02-1). Section repealed by final rulemaking at 10 A.A.R. 230, effective March 6, 2004 (Supp. 04-1).

R4-23-407. Prescription Requirements

A. Prescription orders. A pharmacist shall ensure that:

1. A prescription order the pharmacist uses to dispense a drug or device includes the following information:
 - a. Date of issuance;
 - b. Name and address of the patient for whom or the owner of the animal for which the drug or device is dispensed;
 - c. Drug name, strength, and dosage form or device name;
 - d. Name of the manufacturer or distributor of the drug or device if the prescription order is written generically or a substitution is made;
 - e. Prescribing medical practitioner's directions for use;
 - f. Date of dispensing;
 - g. Quantity prescribed and if different, quantity dispensed;
 - h. For a prescription order for a controlled substance, the medical practitioner's address and DEA number;
 - i. For a written prescription order, the medical practitioner's signature;
 - j. For an electronically transmitted prescription order, the medical practitioner's digital or electronic signature;

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- k. For an oral prescription order, the medical practitioner's name and telephone number; and
 - l. Name or initials of the dispensing pharmacist;
 2. A prescription order is kept by the pharmacist or pharmacy permittee as a record of the dispensing of a drug or device for seven years from the date the drug or device is dispensed;
 3. The dispensing of a drug or device complies with the packaging requirements of the official compendium and state and federal law; and
 4. If the drug dispensed is a schedule II controlled substance that is an opioid, the drug is placed in a container that has a red cap and a warning label stating "CAUTION: OPIOID, Risk of Overdose and Addiction" or other similarly clear language indicating the possibility of overdose and addiction. Under delegation from the Board, the Executive Director may waive the red-cap requirement if implementing the requirement is not feasible because of the specific dosage form or packaging type.
- B.** Prescription refills. A pharmacist shall ensure that the following information is recorded on the back of a prescription order when it is refilled:
 1. Date refilled,
 2. Quantity dispensed,
 3. Name or approved abbreviation of the manufacturer or distributor if the prescription order is written generically or a substitution is made, and
 4. The name or initials of the dispensing pharmacist.
- C.** Prescription order adaptation. Except for a prescription order for a controlled substance, a pharmacist, using professional judgment, may make the following adaptations to a prescription order if the pharmacist documents the adaptation in the patient's record:
 1. Change the prescribed quantity if the prescribed quantity is not a package size commercially available from the manufacturer;
 2. Change the prescribed dosage form or directions for use if the change achieves the intent of the prescribing medical practitioner;
 3. Complete missing information on the prescription order if there is sufficient evidence to support the change; and
 4. Extend the quantity of a maintenance drug for the limited quantity necessary to achieve medication refill synchronization for the patient.
- D.** A pharmacist may furnish a copy of a prescription order to the patient for whom it is prescribed or to the authorized representative of the patient if the copy is clearly marked "COPY FOR REFERENCE PURPOSES ONLY" or other similar statement. A copy of a prescription order is not a valid prescription order and a pharmacist shall not dispense a drug or device from the information on a copy.
- E.** Transfer of prescription order information. For a transfer of prescription order information to be valid, a pharmacy permittee or pharmacist-in-charge shall ensure that:
 1. Both the original and the transferred prescription order are maintained for seven years after the last dispensing date;
 2. The original prescription order information for a Schedule III, IV, or V controlled substance is transferred only as specified in 21 CFR 1306.25;
 3. The original prescription order information for a non-controlled substance drug is transferred without limitation only up to the number of originally authorized refills;
 4. For a transfer within Arizona:
 - a. The transfer of original prescription order information for a non-controlled substance drug meets the following conditions:
 - i. The transfer of information is communicated electronically, verbally, or by fax directly between:
 - (1) Two licensed pharmacists,
 - (2) A licensed pharmacist and a licensed intern, or
 - (3) Two licensed interns;
 - ii. The following information is recorded by the transferring pharmacist or intern:
 - (1) The word "void" is written on the face of the invalidated original prescription unless it is an electronic or oral transfer and the transferred prescription order information is invalidated in the transferring pharmacy's computer system; and
 - (2) The name and identification code, number, or address and telephone number of the pharmacy to which the prescription is transferred, the name of the receiving pharmacist or intern, the date of transfer, and the name of the transferring pharmacist or intern is written on the back of the prescription or entered into the transferring pharmacy's computer system; and
 - iii. The following information is recorded by the receiving pharmacist or intern on the transferred prescription order:
 - (1) The word "transfer;"
 - (2) Date of issuance of the original prescription order;
 - (3) Original number of refills authorized on the original prescription order;
 - (4) Date of original dispensing;
 - (5) Number of valid refills remaining and the date of the last refill;
 - (6) Name and identification code, number, or address, telephone number, and original prescription number of the pharmacy from which the prescription is transferred;
 - (7) Name of the transferring pharmacist or intern; and
 - (8) Name of the receiving pharmacist or intern;
 - b. The transfer of original prescription order information for a Schedule III, IV, or V controlled substance meets the following conditions:

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- i. The transfer of information is communicated directly between two licensed pharmacists or interns electronically or verbally;
 - ii. The following information is recorded by the transferring pharmacist or intern:
 - (1) The word "void" is written on the face of the invalidated original prescription order unless it is an electronic or oral transfer and the transferred prescription order information is invalidated in the transferring pharmacy's computer system; and
 - (2) The name, address, and DEA number of the pharmacy to which the prescription is transferred, the name of the receiving pharmacist, the date of transfer, and the name of the transferring pharmacist is written on the back of the prescription order or entered into the transferring pharmacy's computer system; and
 - iii. The following information is recorded by the receiving pharmacist on the transferred prescription order:
 - (1) The word "transfer;"
 - (2) Date of issuance of original prescription order;
 - (3) Original number of refills authorized on the original prescription order;
 - (4) Date of original dispensing;
 - (5) Number of valid refills remaining and the date of the last refill;
 - (6) Name, address, DEA number, and original prescription number of the pharmacy from which the prescription is transferred;
 - (7) Name of the transferring pharmacist; and
 - (8) Name of the receiving pharmacist;
5. For a transfer from out-of-state:
- a. The transfer of original prescription order information for a non-controlled substance drug meets the conditions in subsections (E)(4)(a)(i) and (E)(4)(a)(iii); and
 - b. The transfer of original prescription order information for a Schedule III, IV, or V controlled substance meets the conditions in subsections (E)(4)(b)(i) and (E)(4)(b)(iii); and
6. For an electronic transfer, the electronic transfer of original prescription order information meets the following conditions:
- a. The electronic transfer is between pharmacies owned by the same company using a common or shared database;
 - b. The electronic transfer of original prescription order information for a non-controlled substance drug is performed by a pharmacist or intern, pharmacy technician trainee, or pharmacy technician under the supervision of a pharmacist;
 - c. The electronic transfer of original prescription order information for a controlled substance is performed between two licensed pharmacists;
- d. The electronic transfer of original prescription order information for a non-controlled substance drug meets the following conditions:
- i. The transferring pharmacy's computer system:
 - (1) Invalidates the transferred original prescription order information;
 - (2) Records the identification code, number, or address of the pharmacy to which the prescription order information is transferred;
 - (3) Records the name or identification code of the receiving pharmacist, intern, pharmacy technician trainee, or pharmacy technician; and
 - (4) Records the date of transfer; and
 - ii. The receiving pharmacy's computer system;
 - (1) Records that a prescription transfer occurred;
 - (2) Records the date of issuance of the original prescription order;
 - (3) Records the original number of refills authorized on the original prescription order;
 - (4) Records the date of original dispensing;
 - (5) Records the number of valid refills remaining and the date of the last refill;
 - (6) Records the identification code, number, or address and original prescription number of the pharmacy from which the prescription is transferred;
 - (7) Records the name or identification code of the receiving pharmacist or intern, pharmacy technician trainee, or pharmacy technician; and
 - (8) Records the date of transfer;
- e. The electronic transfer of original prescription order information for a controlled substance meets the following conditions:
- i. The transferring pharmacy's computer system:
 - (1) Invalidates the transferred original prescription order information;
 - (2) Records the identification code, number, or address, and DEA number of the pharmacy to which the prescription order information is transferred;
 - (3) Records the name or identification code of the receiving pharmacist;
 - (4) Records the date of transfer; and
 - (5) Records the name or identification code of the transferring pharmacist; and
 - ii. The electronic prescription order information received by the computer system of the receiving pharmacy includes the information required in subsection (E)(4)(b)(iii); and
- f. In addition to electronic documentation of a transferred prescription order in the computer system, an original prescription order containing the requirements of this Section is filed in compliance with A.R.S. § 32-1964.

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- F.** Transmission of a prescription order from a medical practitioner to a pharmacy by fax.
1. A medical practitioner or medical practitioner's agent may transmit a prescription order for a Schedule III, IV, or V controlled substance, prescription-only drug, or nonprescription drug to a pharmacy by fax under the following conditions:
 - a. The prescription order is faxed only to the pharmacy of the patient's choice;
 - b. The faxed prescription order:
 - i. Contains all the information required for a prescription order in A.R.S. §§ 32-1968 and 36-2525; and
 - ii. Is only faxed from the medical practitioner's practice location, except that a nurse in a hospital, long-term care facility, or inpatient hospice may send a fax of a prescription order for a patient of the facility; and
 - c. The faxed prescription order shall contain the following additional information:
 - i. The date the prescription order is faxed;
 - ii. The fax number of the prescribing medical practitioner or the facility from which the prescription order is faxed, and the telephone number of the facility; and
 - iii. The name of the person who transmits the fax, if other than the medical practitioner.
 2. A medical practitioner or medical practitioner's agent may fax a prescription order for a Schedule II controlled substance for information purposes only, unless the faxed prescription order meets the requirements of A.R.S. § 36-2525(F) and (G).
 3. A pharmacy may receive a faxed prescription order for a Schedule II controlled substance for information purposes only, except a faxed prescription order for a Schedule II controlled substance that meets the requirements of A.R.S. § 36-2525(F) and (G) may serve as the original written prescription order.
 4. To meet the seven-year record retention requirement of A.R.S. § 32-1964, a pharmacy shall receive a faxed prescription order on plain paper or may make a photocopy of the faxed prescription order.
 5. A medical practitioner or the medical practitioner's agent may fax refill authorizations to a pharmacy if the faxed authorization includes the medical practitioner's telephone and fax numbers, the medical practitioner's signature or medical practitioner's agent's name, and date of authorization.
- G.** Electronic transmission of a prescription order from a medical practitioner to a pharmacy.
1. Unless otherwise prohibited by law, a medical practitioner or medical practitioner's agent may transmit a prescription order by electronic means, directly or through an intermediary, including an E-prescribing network, to the dispensing pharmacy as specified in A.R.S. § 32-1968.
 2. For electronic transmission of a Schedule II, III, IV, or V controlled substance prescription order, the medical practitioner and pharmacy shall ensure the transmission complies with any security or other requirements of federal law.
3. The medical practitioner and pharmacy shall ensure all electronic transmissions comply with all the security requirements of state or federal law related to the privacy of protected health information.
 4. In addition to the information required to be included on a prescription order as specified in A.R.S. § 32-1968, a medical practitioner shall ensure an electronically transmitted prescription order includes:
 - a. The date of transmission; and
 - b. If the individual transmitting the prescription is not the medical practitioner, the name of the medical practitioner's authorized agent who transmits the prescription order.
 5. A pharmacy receiving an electronically transmitted prescription order shall maintain the prescription order as specified in A.R.S. § 32-1964 or R4-23-408(H)(2).
 6. A medical practitioner or medical practitioner's agent shall transmit an electronic prescription order only to the pharmacy of the patient's choice.
- H.** Exceptions under A.R.S. § 36-2525 regarding electronic prescribing requirements:
1. Medical practitioner exceptions. A medical practitioner who is authorized to prescribe a controlled substance may furnish a written prescription order in accordance with R4-23-407 rather than an electronically transmitted prescription order if the prescription order is written:
 - a. In this state to be filled in a jurisdiction outside this state;
 - b. For a medication that requires compounding two or more ingredients;
 - c. For a medication that is not in the E-prescribing database;
 - d. For an individual who is detained by or in custody of an Arizona or federal law enforcement agency; or
 - e. Under A.R.S. § 36-2525(N) or (O); and
 2. Pharmacist exceptions. A pharmacist may dispense a controlled substance from a written rather than electronically transmitted prescription order if the prescription order:
 - a. Is written by a medical practitioner who is not licensed in this state but rather, is licensed in a jurisdiction outside this state. The pharmacist is not required to verify whether the medical practitioner is licensed;
 - b. Is written for a medication that requires compounding two or more ingredients;
 - c. Is written for a medication that is not in the E-prescribing database;
 - d. Is written for an individual who is detained by or in custody of an Arizona or federal law enforcement agency; or
 - e. Is received under A.R.S. § 36-2525(D).

Historical Note

Adopted effective November 18, 1983 (Supp. 83-6).
 Amended by final rulemaking at 8 A.A.R. 1256, effective
 March 7, 2002 (Supp. 02-1). Amended by final

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rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 13 A.A.R. 440, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 14 A.A.R. 3605, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2). Amended by final rulemaking at 26 A.A.R. 223, effective March 14, 2020; and amended by final rulemaking at 26 A.A.R. 544, with an immediate effective date of March 3, 2020 (Supp. 20-1).

R4-23-407.1. Dispensing an Opioid Antagonist**A.** As used in this Section:

1. "Community member" means any person in position to assist an individual at risk of experiencing an opioid-related overdose. This includes emergency first responders, peace officers or other law enforcement personnel, fire department personnel, school district employees, and personnel of a facility or center that provides services to individuals at risk of experiencing an opioid-related overdose.
2. "Opioid antagonist" means any drug approved by the U.S. Food and Drug Administration that binds to opioid receptors, effectively blocking or inhibiting the receptor and preventing the body from responding to the opioid. Naloxone hydrochloride is an opioid antagonist.
3. "Opioid-related overdose" means an acute condition caused by excessive opioids. An opioid-related overdose can be identified by a triad of symptoms: decreased level of consciousness, pinpoint pupils, and respiratory depression. Other symptoms may include seizures, muscle spasms, and coma or death. An opioid-related overdose requires medical assistance.

B. When dispensing an opioid antagonist under A.R.S. § 32-1979, a pharmacist or pharmacy intern shall provide the following education

to the individual to whom the opioid antagonist is dispensed:

1. How to prevent an opioid-related overdose;
2. How to recognize an opioid-related overdose;
3. How to administer an opioid antagonist safely to an individual experiencing an opioid-related overdose;
4. Precautions regarding:
 - a. Potential side effects, and
 - b. Possible adverse events associated with administration of the opioid antagonist; and
5. Importance of seeking emergency medical assistance for the individual experiencing an opioid-related overdose before or after administering the opioid antagonist.

C. Before dispensing an opioid antagonist under A.R.S. § 32-1979(A), a licensed pharmacist shall

complete an opioid prevention and treatment training program that includes the following information:

1. How to recognize the symptoms of an opioid-related overdose,
2. How to respond to a suspected opioid-related overdose,
3. How to administer all preparations of an opioid antagonist, and
4. The information needed by an individual to whom an opioid antagonist is dispensed

D. A pharmacist who has completed an opioid prevention and treatment training program described in subsection (C):

1. May administer an opioid antagonist to an individual the pharmacist believes is experiencing an opioid-related overdose, and
2. Is exempt from civil liability under the terms of A.R.S. § 36-2267(B).

E. Dispensing an opioid antagonist under A.R.S. § 32-1979 by invoice to a community member is not wholesale distribution as defined at A.R.S. § 32-1981.**F.** When dispensing an opioid antagonist on a standing order, as defined under A.R.S. § 32-1968, a pharmacist or pharmacy intern shall comply with R4-23-407 except subsection (A)(1)(b), R4-23-408, and R4-23-409.**Historical Note**

New Section made by emergency rulemaking at 23 A.A.R. 31, effective December 15, 2016 for 180 days (Supp. 16-4). New Section made by final rulemaking before emergency expired at 23 A.A.R. 967, effective June 3, 2017 (Supp. 17-2). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).

R4-23-408. Computer Records**A.** Systems manual. A pharmacy permittee or pharmacist-in-charge shall:

1. Develop, implement, and comply with policies and procedures for the following operational aspects of a computer system:
 - a. Examples of all output documentation provided by the computer system that contains original or refill prescription order or patient profile information;
 - b. Steps a pharmacy employee follows when the computer system is not operational due to scheduled or unscheduled system interruption;
 - c. Regular and routine backup file procedure and file maintenance, including secure storage of backup files;
 - d. Audit procedures, personnel code assignments, and personnel responsibilities; and
 - e. Quality assurance mechanism for data entry validation;
2. Review biennially and, if necessary, revise the policies and procedures required under this Section;
3. Document the review required under subsection (A)(2);
4. Assemble the policies and procedures as a written manual or by another method approved by the Board or its designee; and
5. Make the policies and procedures available within the pharmacy for reference by pharmacy personnel and inspection by the Board or its designee.

B. Computer system data storage and retrieval. A pharmacy permittee or pharmacist-in-charge shall ensure the computer system is capable of:

1. Producing sight-readable information on all original and refill prescription orders and patient profiles;
2. Providing online retrieval (via CRT display or hard-copy printout) of original prescription order information

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- required in A.R.S. § 32-1968(C), R4-23-402(A), and R4-23-407(A);
3. Providing online retrieval (via CRT display or hard-copy printout) of patient profile information required in R4-23-402(A);
 4. Providing documentation identifying the pharmacist responsible for dispensing each original or refill prescription order, except a pharmacy permittee with a computer system that is in use before the effective date of this Section that cannot provide documentation identifying the dispensing pharmacist may continue to use the computer system by providing manual documentation identifying the dispensing pharmacist;
 5. Producing a printout of all prescription order information, including a single-drug usage report that contains:
 - a. The name of the prescribing medical practitioner;
 - b. The name and address of the patient;
 - c. The quantity dispensed on each original or refill prescription order;
 - d. The date of dispensing for each original or refill prescription order;
 - e. The name or identification code of the dispensing pharmacist; and
 - f. The serial number of each prescription order; and
 6. Providing a printout of requested prescription order information to an individual pharmacy within 72 hours of the request if prescription order information is maintained in a centralized computer record system.
- C.** A pharmacy permittee or pharmacist-in-charge of a pharmacy that uses a pharmacy computer system:
1. Shall notify the D.E.A. and the Board in writing that original and refill prescription order information and patient profiles are stored in a pharmacy computer system;
 2. Shall comply with this Section if the pharmacy computer system's refill records are used as an alternative to the manual refill records required in R4-23-407(B);
 3. Is exempt from the manual refill recordkeeping requirements of R4-23-407(B), if the pharmacy computer system complies with the requirements of this Section; and
 4. Shall ensure that documentation of the accuracy of original and refill prescription order information entered into a computer system is provided by each pharmacist using the computer system and kept on file in the pharmacy for seven years from the date of the last refill. Documentation includes one of the following:
 - a. A hard-copy printout of each day's original and refill prescription order data that:
 - i. States original and refill data for prescriptions dispensed by each pharmacist is reviewed for accuracy;
 - ii. Includes the printed name of each dispensing pharmacist; and
 - iii. Is signed and initialed by each dispensing pharmacist; or
 - b. A log book or separate file of daily statements that:
 - i. States original and refill data for prescriptions dispensed by each pharmacist is reviewed for accuracy;
 - ii. Includes the printed name of each dispensing pharmacist; and
 - iii. Is signed and initialed by each dispensing pharmacist.
- D.** If a pharmacy computer system does not comply with the requirements of subsections (A), (B), and (F), the pharmacy permittee or pharmacist-in-charge shall bring the computer system into compliance within three months of a notice of noncompliance or violation letter. If the computer system is still noncompliant with subsection (A), (B), or (F) after three months, the pharmacy permittee or pharmacist-in-charge shall immediately comply with the manual recordkeeping requirements of R4-23-402 and R4-23-407.
- E.** If a pharmacy's personnel perform manual recordkeeping under subsection (D), the pharmacy's personnel shall continue manual recordkeeping until the pharmacist-in-charge sends proof, verified by a Board compliance officer, that the computer system complies with subsections (A), (B), and (F).
- F.** Security. To maintain the confidentiality of patient records, a pharmacy permittee or pharmacist-in-charge shall ensure:
1. The computer system has security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of prescription order information and patient profiles; and
 2. After a prescription order is dispensed, any alteration of prescription order information is documented, including the identification of the pharmacist responsible for the alteration.
- G.** A computer system that does not comply with all the requirements of subsections (A), (B), and (F) may be used in a pharmacy if:
1. The computer system was in use in the pharmacy before July 11, 2001, and
 2. The pharmacy complies with the manual recordkeeping requirements of R4-23-402 and R4-23-407.
- H.** Prescription records and retention.
1. Instead of filing the original hard-copy prescription order as required in A.R.S. § 32-1964, a pharmacy permittee or pharmacist-in-charge may use an electronic imaging recordkeeping system, if:
 - a. The system is capable of capturing, storing, and reproducing the exact image of a prescription order, including the reverse side of the prescription order if necessary;
 - b. Any notes of clarification of or alterations to a prescription order are directly associated with the electronic image of the prescription order;
 - c. A prescription order image and any associated notes of clarification of or alterations to the prescription order are retained for no fewer than seven years from the date the prescription order is last dispensed;
 - d. Policies and procedures for the use of an electronic imaging recordkeeping system are developed, implemented, reviewed, and revised in the same manner described in subsection (A) and complied with; and

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- e. The prescription is not for a controlled substance.
2. If a pharmacy's computer system fields are automatically populated by an electronically transmitted prescription order, the automated record constitutes the original prescription order and a hard-copy or electronic image is not required if the computer system is capable of maintaining, printing, and providing all the prescription order information required in A.R.S. §§ 32-1968 and 36-2525 and R4-23-407(A) within 72 hours of a request by the Board, the Board's compliance officers, other authorized regulatory board agents, or authorized officers of the law.

- I. A pharmacy permittee or pharmacist-in-charge shall make all prescription records available within 72 hours after a Board request.

Historical Note

Adopted effective November 18, 1983 (Supp. 83-6).
Amended by final rulemaking at 7 A.A.R. 646, effective January 11, 2001 (Supp. 01-1). Amended by final rulemaking at 9 A.A.R. 5030, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 11 A.A.R. 4270, effective December 6, 2005 (Supp. 05-4).
Amended by final rulemaking at 12 A.A.R. 274, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 13 A.A.R. 440, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 26 A.A.R. 223, effective March 14, 2020 (Supp. 20-1).

R4-23-409. Returning Drugs and Devices

- A. After a person for whom a drug is prescribed or the person's agent takes the drug from the premises where sold, distributed, or dispensed, a pharmacist or pharmacy permittee shall not accept the drug for return or exchange for the purpose of resale unless the pharmacist determines that:
1. The drug is in its original, manufacturer's, unopened container; and
 2. The drug or its container has not been subjected to contamination or deterioration.
- B. The provisions of subsection (A) of this Section do not apply to a drug dispensed to:
1. A hospital inpatient as defined in R4-23-651; or
 2. A resident of a long-term care facility where a licensed health care professional administers the drug, and the pharmacist ensures and documents that the drug:
 - a. Has been stored in compliance with the requirements of the official compendium; and
 - b. Is not obviously contaminated or deteriorated.
- C. After a person for whom a device is prescribed or the person's agent takes the device from the premises where sold, distributed, or dispensed, a pharmacist or pharmacy permittee shall not accept the device for return or exchange for the purpose of resale or reuse unless the pharmacist determines that:
1. The device is inspected and is free of defects;
 2. The device is rendered incapable of transferring disease; and

3. The device, if resold or reused, is not claimed to be new or unused.

Historical Note

Adopted effective November 18, 1983 (Supp. 83-6).
Amended by final rulemaking at 8 A.A.R. 1256, effective March 7, 2002 (Supp. 02-1).

R4-23-410. Current Good Compounding Practices

- A. This Section establishes the current good compounding practices to be used by a pharmacist licensed by the Board, in a pharmacy permitted by the Board, and in compliance with applicable federal and state law governing the practice of pharmacy.
- B. A pharmacy permittee shall ensure compliance with the provisions in this subsection.
1. All substances for compounding that are received, stored, or used by the pharmacy permittee:
 - a. Meet official compendium requirements;
 - b. Are of high quality, such as Chemically Pure (CP), Analytical Reagent (AR), certified American Chemical Society (ACS), or Food Chemical Codex (FCC) grade; or
 - c. Are obtained from a source that, in the professional judgment of the pharmacist, is acceptable and reliable.
 2. Before compounding a pharmaceutical product in excess of the quantity dispensed in anticipation of receiving valid prescriptions for the pharmaceutical product, a pharmacist, employed by the pharmacy permittee, shall establish a history of compounding valid prescriptions for the pharmaceutical product.
 3. Neither the pharmacy permittee nor a pharmacist employed by the pharmacy permittee provides a compounded pharmaceutical product to a pharmacy, medical practitioner, or other person for dispensing or distributing except that a compounded pharmaceutical product may be provided to a medical practitioner to administer to a patient of the medical practitioner if each container is accompanied by the written list required in subsection (I)(5) and has a label that includes the following:
 - a. The pharmacy's name, address, and telephone number;
 - b. The pharmaceutical product's name and the information required in subsection (I)(4);
 - c. A lot or control number;
 - d. A beyond-use-date based upon the pharmacist's professional judgment, but not more than the maximum guidelines recommended in the Pharmacy Compounding Practices chapter of the official compendium unless there is published or unpublished stability test data that shows a longer period is appropriate;
 - e. The statement "Not For Dispensing;" and
 - f. The statement "For Office or Hospital Administration Only."
 4. A pharmacy or pharmacist may advertise or otherwise promote the fact that the pharmacy or pharmacist provides prescription compounding services.

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- C. A pharmacy permittee shall ensure compliance with the organization, training, and personnel issues in this subsection.
1. Before dispensing a compounded pharmaceutical product, a pharmacist:
 - a. Inspects and approves or rejects, or assumes responsibility for inspecting and approving or rejecting, components, pharmaceutical product containers and closures, in-process materials, and labeling;
 - b. Prepares or assumes responsibility for preparing all compounding records;
 - c. Reviews all compounding records to ensure that no errors occur in the compounding process;
 - d. Ensures the proper use, cleanliness, and maintenance of all compounding equipment; and
 - e. Documents by hand-written initials or signature in the compounding record the completion of the requirements of subsections (C)(1)(a), (b), (c), and (d).
 2. A pharmacist engaged in compounding:
 - a. Complies with the current good compounding practices and applicable state pharmacy laws;
 - b. Maintains compounding proficiency through current awareness, training, and continuing education; and
 - c. Ensures that personnel engaged in compounding wear:
 - i. Clean clothing appropriate to the work performed; and
 - ii. Protective apparel, such as coats, aprons, gowns, gloves or masks to protect the personnel from chemical exposure and prevent pharmaceutical product contamination.
- D. A pharmacy permittee shall ensure the security, safety, and quality of a compounded pharmaceutical product by conforming with the following standards:
1. Implement procedures to exclude from direct contact with components, pharmaceutical product containers and closures, in-process materials, labeling, and pharmaceutical products, any person with an apparent illness or open lesion that may adversely affect the safety or quality of a compounded pharmaceutical product, until the illness or lesion, as determined by competent medical personnel, does not jeopardize the safety or quality of a compounded pharmaceutical product; and
 2. Require all personnel to inform a pharmacist of any health condition that may adversely affect a compounded pharmaceutical product.
- E. A pharmacy permittee shall provide compounding facilities that conform with the standards in this subsection.
1. In addition to the minimum area requirements of R4-23-609, R4-23-655, or R4-23-673, the compounding area:
 - a. Complies with the requirements in R4-23-611; and
 - b. Has sufficient space to permit efficient pharmacy practice, free movement of personnel, and visual surveillance by a pharmacist.
 2. If sterile pharmaceutical product or radiopharmaceutical product compounding is performed, the compounding area complies with the requirements of R4-23-670, R4-23-681, and R4-23-682.
3. A clean, dry, and temperature-controlled area and, if required, a refrigerated area, in which to store properly labeled containers of bulk drugs, chemicals, and materials used in compounding, that complies with state statutes and rules.
- F. To protect pharmaceutical product safety, identity, strength, quality, and purity, a pharmacy permittee shall ensure that equipment and utensils used in pharmaceutical product compounding are:
1. Of appropriate design, adequate size, and suitably located for proper operation, cleaning, and maintenance;
 2. Made of material that is not reactive, additive, or absorptive when exposed to components, in-process materials, or pharmaceutical products;
 3. Cleaned and protected from contamination before use;
 4. Inspected and determined suitable for use before initiation of compounding operations; and
 5. Routinely inspected, calibrated, or checked to make proper performance certain.
- G. A pharmacy permittee shall ensure that the pharmacist-in-charge establishes, implements, and complies with procedures to prevent cross-contamination when pharmaceutical products that require special precautions to prevent cross-contamination, such as penicillin, are used in a compounding procedure. The procedures shall include either the dedication of equipment or the meticulous cleaning of contaminated equipment before its use in compounding other pharmaceutical products.
- H. A pharmacy permittee shall ensure that the pharmacist-in-charge establishes, implements, and complies with control procedures for components and pharmaceutical product containers and closures, either written or electronically stored with printable documentation, that conform with the standards in this subsection.
1. Components and pharmaceutical product containers and closures are:
 - a. Stored off the floor,
 - b. Handled and stored to prevent contamination, and
 - c. Rotated so the oldest approved stock is used first.
 2. Container closure systems comply with official compendium standards.
 3. Pharmaceutical product containers and closures are clean and made of material that is not reactive, additive, or absorptive.
- I. A pharmacy permittee shall ensure that the pharmacist-in-charge establishes, implements, and complies with pharmaceutical product compounding controls that conform with the standards in this subsection.
1. Pharmaceutical product compounding procedures are available in either written form or electronically stored with printable documentation:
 - a. To ensure that a finished pharmaceutical product has the identity, strength, quality, and purity it is purported or represented to possess, the procedures include, for each pharmaceutical product compounded, a description of:
 - i. The components, their manufacturer, lot number, expiration date, and amounts, the

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- order of component addition, if applicable, and the compounding process;
- ii. The equipment and utensils used; and
 - iii. The pharmaceutical product container and closure system proper for the sterility and stability of the pharmaceutical product as it is intended to be used.
- b. To test the pharmaceutical product being compounded, the procedures monitor the output and validate the performance of compounding processes that may cause variability in the final pharmaceutical product, including assessing:
 - i. Dosage form weight variation;
 - ii. Adequacy of mixing to ensure uniformity and homogeneity; and
 - iii. Clarity, completeness, and pH of solutions, if applicable.
2. Components for pharmaceutical product compounding are accurately weighed, measured, or subdivided. To ensure that each weight, measure, or subdivision is correct as stated in the compounding procedures, a pharmacist:
 - a. Checks and rechecks, or assumes responsibility for checking and re-checking, the operations at each stage of the compounding process; and
 - b. Documents by hand-written initials or signature the completion and accuracy of the compounding process.
 3. Compounding equipment and utensils are properly cleaned and maintained.
 4. In addition to the labeling requirements of A.R.S. § 32-1968(D), the label contains:
 - a. A statement, symbol, designation, or abbreviation that the pharmaceutical product is a compounded pharmaceutical product, and
 - b. A beyond-use-date as specified in subsection (B)(3)(d).
 5. A written list of the compounded pharmaceutical product's active ingredients is given to the patient at the time of dispensing.
 6. When a component is removed from its original container and transferred to another container, the new container label contains, in full text or an abbreviated code system, the following:
 - a. The component name,
 - b. The manufacturer's or supplier's name,
 - c. The lot or control number,
 - d. The weight or measure,
 - e. The beyond-use-date as specified in subsection (B)(3)(d), and
 - f. The transfer date.
- J.** A pharmacy permittee shall ensure that the pharmacist-in-charge stores any quantity of compounded pharmaceutical product produced in excess of the quantity dispensed in accordance with subsection (B):
1. In an appropriate container with a label that contains:
 - a. A complete list of components or the pharmaceutical product's name;
 - b. The preparation date;
 - c. The assigned lot or control number; and
 - d. A beyond-use-date as specified in subsection (B)(3)(d); and
 2. Under conditions, dictated by the pharmaceutical product's composition and stability characteristics, that ensure its strength, quality, and purity.
- K.** A pharmacy permittee shall ensure that the pharmacist-in-charge establishes, implements, and complies with recordkeeping procedures that comply with this subsection:
1. Pharmaceutical product compounding procedures and other records required by this Section are maintained by the pharmacy for not less than seven years, and
 2. Pharmaceutical product compounding procedures and other records required by this Section are readily available for inspection by the Board or its designee.

Historical Note

Adopted effective August 5, 1997 (Supp. 97-3).

Amended by final rulemaking at 10 A.A.R. 3391, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 12 A.A.R. 3981, effective December 4, 2006 (Supp. 06-4).

R4-23-411. Pharmacist-administered or Intern-administered Immunizations

- A.** Authorization to administer immunizations, vaccines, and emergency medications, as defined at A.R.S. § 32-1974(N), to an eligible adult patient or eligible minor patient. As used in this Section, "eligible adult patient" means an eligible patient 13 years of age or older and "eligible minor patient" means an eligible patient at least three years of age but less than 13 years of age. A pharmacist or an intern in the presence of and under the immediate personal supervision of a pharmacist may administer, without a prescription, immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient, if:
1. Both the pharmacist and intern meet the qualifications and standards specified by A.R.S. § 32-1974 and this Section;
 2. The Board authorizes both the pharmacist and intern as specified in subsection (D);
 3. For an eligible adult patient, the immunization or vaccine is:
 - a. Recommended for adults by the United States Centers for Disease Control and Prevention; or
 - b. Recommended by the United States Centers for Disease Control and Prevention's Health Information for International Travel;
 4. For an eligible adult patient, the immunization or vaccine is not on the Arizona Department of Health Services list specified in A.A.C. R9-6-1301 as required under A.R.S. § 32-1974(I);
 5. For an eligible minor patient, the immunization or vaccine is for influenza or a booster dose as described under A.R.S. § 32-1974(B)(2); and
 6. For an eligible minor patient, any immunizations or vaccines other than influenza or a booster dose as described under A.R.S. § 32-1974(B)(2) are administered in response to a public health emergency declared by the Governor under A.R.S. § 36-787.

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- B.** A pharmacist or an intern in the presence of and under the immediate personal supervision of a pharmacist, may administer, with a prescription, any immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient, if:
- Both the pharmacist and intern meet the qualifications and standards specified by A.R.S. § 32-1974 and this Section; and
 - The Board authorizes both the pharmacist and intern as specified in subsection (D).
- C.** A pharmacist or intern who is authorized to administer immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient shall:
- Not delegate the authority to any other pharmacist, intern, or employee not specifically authorized by rule; and
 - Maintain their current certificate for inspection by the Board or its designee or review by the public.
- D.** Qualifications to administer immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient. After receipt of a completed application form, the Board shall authorize the administration of immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient by a pharmacist or intern who meets the following qualifications:
- Has a current license to practice pharmacy in this state,
 - Successfully completes a training program specified in subsection (E), and
 - Has a current certificate in basic cardiopulmonary resuscitation.
- E.** Immunizations training program requirements. A training program for pharmacists or interns to administer immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient shall include the following courses of study:
- Basic immunology and the human immune response;
 - Mechanisms of immunity, adverse effects, dose, and administration schedule of available vaccines;
 - Response to an emergency situation as a result of the administration of an immunization, vaccine, or medication including administering an emergency medication to counteract the adverse effects of the immunization, vaccine, or medication given;
 - Administration of intramuscular injections;
 - Other immunization administration methods; and
 - Recordkeeping and reporting requirements specified in subsection (F).
- F.** Recordkeeping and reporting requirements.
- A pharmacist or intern authorized under this Section to administer immunizations, vaccines, and emergency medications to an eligible patient shall provide to the pharmacy the following information and documentation regarding each immunization, vaccine, or emergency medication administered:
 - The name, address, and date of birth of the patient;
 - The date of administration and site of injection;
 - The name, dose, manufacturer's lot number, and expiration date of the vaccine, immunization, or emergency medication;
 - The name and address of the patient's identified primary-care provider or physician;
 - The name of the pharmacist or intern administering the immunization, vaccine, or emergency medication;
 - A record of the pharmacist's or intern's consultation with the patient determining that the patient is an eligible patient as defined in R4-23-110;
 - Consultation or other professional information provided to the patient by the pharmacist or intern;
 - The name and date of the immunization or vaccine information sheet provided to the patient; and
 - For an immunization or vaccine given to an eligible minor patient, a consent form signed by the minor's parent or guardian.
 - As required under A.R.S. § 32-1974(F)(1), the pharmacist or intern shall provide a written or electronic report to the patient's primary-care provider or physician containing the documentation required in subsection (F)(1)(a) through (d). The pharmacy shall document the time and date the report is sent and make the record of compliance with this subsection available in the pharmacy or on request, within 72 hours, for inspection by the Board or its designee.
 - A pharmacy's pharmacist-in-charge or permittee shall maintain the records required in subsection (F)(1) in the pharmacy or database for a minimum of seven years from the administration date.
- G.** Confidentiality of records. A pharmacist, intern, pharmacy permittee, or pharmacist-in-charge shall comply with applicable state and federal privacy statutes and rules when releasing patient health information.
- H.** Pharmacist-administered or intern-administered adult immunizations that require a prescription order. A pharmacist or intern authorized by the Board to administer adult immunizations or vaccines shall not administer any immunization or vaccine listed in A.A.C. R9-6-1301 without a prescription order. In addition to filing a prescription order as required in A.R.S. § 32-1964, a pharmacist or pharmacy intern who administers an immunization or vaccine listed in A.A.C. R9-6-1301 shall comply with the recordkeeping requirements of subsection (F)(1).

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3967, effective November 13, 2004 (Supp. 04-3).
 Amended by final rulemaking at 12 A.A.R. 279, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 14 A.A.R. 3674, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 15 A.A.R. 1930, effective November 3, 2009 (Supp. 09-4).
 Amended by final rulemaking at 17 A.A.R. 2596, effective February 4, 2012 (Supp. 11-4). Amended by final rulemaking at 23 A.A.R. 211, effective March 5, 2017 (Supp. 17-1). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).
 Amended by final rulemaking at 26 A.A.R. 223, effective March 14, 2020 (Supp. 20-1). Amended by final

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rulemaking at 28 A.A.R. 994 (May 13, 2022), effective July 2, 2022 (Supp. 22-2).

R4-23-412. Emergency Refill Prescription Dispensing

- A.** When a state of emergency is declared under A.R.S. § 32-1910(A) or (B) and the state of emergency results in individuals being unable to refill existing prescriptions, a pharmacist may work in the affected county, city, or town and may dispense a one-time emergency refill prescription of up to a 30-day supply of a prescribed medication to an affected individual if both of the following apply:
1. In the pharmacist's professional opinion the medication is essential to the maintenance of life or to the continuation of therapy, and
 2. The pharmacist makes a good faith effort to reduce the information to a written prescription marked "emergency prescription" and files and maintains the prescription as required by law.
- B.** If the state of emergency declared under A.R.S. § 32-1910(A) or (B) continues for at least 21-days after the pharmacist dispenses an emergency prescription under subsection (A), the pharmacist may dispense one additional emergency refill prescription of up to a 30-day supply of the prescribed medication if the pharmacist complies with subsection (A)(2).
- C.** A pharmacist's authority to dispense emergency prescriptions under this Section ends when the declared state of emergency is terminated.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 4400, effective January 3, 2009 (Supp. 08-4).

R4-23-413. Temporary Recognition of Nonresident Licensure

- A.** When a state of emergency is declared under A.R.S. § 32-1910(A) or (B):
1. A pharmacist who is not licensed in this state, but who is currently licensed in another state, may dispense prescription medications in those affected counties, cities, or towns in this state during the time that a declared state of emergency exists under A.R.S. § 32-1910(A) or (B) if both of the following apply:
 - a. The pharmacist provides proof of current licensure in another state, and
 - b. The pharmacist is engaged in a relief effort during a state of emergency.
 2. Acting under the direct supervision of a pharmacist, a pharmacy technician or pharmacy intern not licensed in this state, but currently licensed or registered in another state, may assist a pharmacist in dispensing prescription medications in affected counties, cities, or towns in this state during the time that a declared state of emergency exists under A.R.S. § 32-1910(A) or (B) if both of the following apply:
 - a. The pharmacy technician or pharmacy intern provides proof of current licensure or registration in another state, and
 - b. The pharmacy technician or pharmacy intern is engaged in a relief effort during a state of emergency.

- B.** The recognition of nonresident licensure or registration shall end with the termination of the declared state of emergency.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 4400, effective January 3, 2009 (Supp. 08-4).

R4-23-414. Reserved**R4-23-415. Impaired Licensees – Treatment and Rehabilitation**

- A.** The Board may contract with qualified organizations to operate a program for the treatment and rehabilitation of licensees impaired as the result of alcohol or other drug abuse, pursuant to A.R.S. § 32-1932.01.
- B.** Participants in the program are either "confidential" or "known." Confidential participants are self-referred and may remain unidentified to the Board, subject to maintaining compliance with their program contract. Known participants are under Board order to complete a minimum tenure in the program. After a known participant completes the minimum tenure, the Board may terminate the Board order and reinstate the participant's license to practice pharmacy.
- C.** The program contract with a qualified organization shall include as a minimum the following:
1. Duties and responsibilities of each party.
 2. Duration, not to exceed two years, of contract and terms of compensation.
 3. Quarterly reports from the program administrator to the Board indicating:
 - a. Identity of participants;
 - i. By name, if a known participant; or
 - ii. By case number, if a confidential participant;
 - b. Status of each participant, including;
 - i. Clinical findings;
 - ii. Diagnosis and treatment recommendations;
 - iii. Program activities; and
 - iv. General recovery and rehabilitation program information.
 4. The program administrator shall report immediately to the Board the name of any impaired licensee who poses a danger to self or others.
 5. The program administrator shall report to the Board, as soon as possible, the name of any impaired licensee:
 - a. Who refuses to submit to treatment,
 - b. Whose impairment is not substantially alleviated through treatment, or
 - c. Who violates the terms of their contract.
 6. The program administrator shall periodically provide informational programs to the profession, including approved continuing education programs on the topic of drug and chemical impairment, treatment, and rehabilitation.
- D.** Under A.R.S. § 32-1903(F), the Board may publish the names of participants under current Board orders.
- E.** The Board or its executive director may request the treatment records for any participant. The program administrator shall provide treatment records within 10 working days of receiving a written request from the Board or its executive director for

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such records. Upon request of the program administrator or the Board or its executive director, a program participant shall authorize a drug and alcohol treatment facility or program or a private practitioner or treatment program to release the participant's records to the program administrator or the Board or its executive director.

- F. On the recommendation of the program administrator or a Board member and by mutual consent, the program administrator, Board member, Board staff, and program participant may meet informally to discuss program compliance.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 467, effective January 4, 2000 (Supp. 00-1). Amended by final rulemaking at 14 A.A.R. 3611, effective November 8, 2008 (Supp. 08-3).

R4-23-416. Reserved**R4-23-417. Reserved****R4-23-418. Reserved****R4-23-419. Reserved****R4-23-420. Reserved****R4-23-421. Repealed****Historical Note**

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

R4-23-422. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

R4-23-423. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

R4-23-424. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

R4-23-425. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

R4-23-426. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

R4-23-427. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

R4-23-428. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

R4-23-429. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

ARTICLE 5. CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROGRAM

New Article 5, consisting of Sections R4-23-501 through R4-23-505, made effective August 2, 2014 (Supp. 14-2).

Article 5, consisting of Sections R4-23-501 through R4-23-505, expired effective August 30, 2013 (Supp. 14-1).

Article 5, consisting of Sections R4-23-501 and R4-23-502, recodified to Article 8 at 9 A.A.R. 4011, effective August 18, 2003 (Supp. 03-3).

New Article 5, consisting of Sections R4-23-501 through R4-23-505, made by final rulemaking at 14 A.A.R. 3410, effective October 4, 2008 (Supp. 08-3).

R4-23-501. Controlled Substances Prescription Monitoring (CSPMP) Program Registration and Database Access

- A. Under A.R.S. § 36-2606, a medical practitioner who is issued a license under A.R.S. Title 32, Chapter 7, 11, 13, 14, 15, 16, 17, 21, 25, or 29 and possesses a current DEA registration under the Federal Controlled Substances Act shall have a current CSPMP registration issued by the Board.
- B. Application.
 1. An applicant for CSPMP registration shall:
 - a. Submit a completed application for CSPMP registration electronically or manually on a form furnished by the Board, and
 - b. Submit with the application form the documents specified in the application form.
 2. The Board office shall deem an application form received on the date the Board office electronically or manually date-stamps the form.

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- C. Registration. Within seven business days of receipt of a completed application specified in subsection (B), the Board office shall determine whether an application is complete. If the application is complete, the Board office shall issue a registration number and provide a current registration certificate to the applicant by mail or electronic transmission. If the application is incomplete, the Board office shall issue a written notice of incompleteness. An applicant with an incomplete application shall comply with the requirements of R4-23-202(F).
- D. Registration renewal. As specified in A.R.S. § 36-2606(C), the Board shall automatically suspend the registration of any registrant that fails to renew the registration on or before May 1 of the year in which the renewal is due. The Board shall vacate a suspension if the registrant submits a renewal application. A suspended registrant with CSPMP database access credentials is prohibited from accessing information in the prescription monitoring program database.
- E. CSPMP database access.
1. A medical practitioner that chooses to use the CSPMP database shall request access from the CSPMP Director by completing an access user registration form electronically. Upon receipt of the access user registration form, the CSPMP Director or designee shall issue access credentials provided the medical practitioner is in compliance with the registration requirements of this Section.
 2. A pharmacist that chooses to use the CSPMP database shall request access from the CSPMP Director by completing an access user registration form electronically. Upon receipt of the access user registration form, the CSPMP Director or designee shall issue access credentials provided the pharmacist has a current active pharmacist license.
 3. A medical practitioner or pharmacist who is not licensed in Arizona may request access from the CSPMP Director by:
 - a. Completing an access user registration form electronically;
 - b. Printing the access user registration form;
 - c. Having the access user registration form signed and notarized; and
 - d. Mailing the notarized access user form along with a current copy of the applicant's nonresident state license and driver's license. Upon receipt of the notarized access user registration form and other required documents, the CSPMP Director or designee shall issue access credentials provided the nonresident licensed medical practitioner or pharmacist credentials show an current active license in another state.

Historical Note

Former Rule 5.2110; Amended effective August 9, 1983 (Supp. 83-4). Amended by final rulemaking at 8 A.A.R. 4898, effective January 5, 2003 (Supp. 02-4). Recodified to R4-23-801 at 9 A.A.R. 4011, effective August 18, 2003 (Supp. 03-3). New Section made by final rulemaking at 14 A.A.R. 3410, effective October 4, 2008

(Supp. 08-3). Amended by final rulemaking at 19 A.A.R. 94, effective March 10, 2013 (Supp. 13-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 133, effective August 30, 2013 (Supp. 14-1). New Section made by final rulemaking at 20 A.A.R. 1359, effective August 2, 2014 (Supp. 14-2).

R4-23-502. Requirements for Data Format and Transmission

- A. Each dispenser shall submit to the Board or its designee by electronic means information regarding each prescription dispensed for a controlled substance listed in Schedules II, III, and IV of A.R.S. Title 36, Chapter 27, the Arizona Uniform Controlled Substances Act. The information reported shall conform to the August 31, 2005 Version 003, Release 000 ASAP Rules-based Standard Implementation Guide for Prescription Monitoring Programs published by the American Society for Automation in Pharmacy as specified in A.R.S. § 36-2608(B). The information submitted for each prescription shall include:
1. The name, address, telephone number, prescription number, and DEA registration number of the dispenser;
 2. The name, address, gender, date of birth, and telephone number of the person or, if for an animal, the owner of the animal for whom the prescription is written;
 3. The name, address, telephone number, and DEA registration number of the prescribing medical practitioner;
 4. The quantity and National Drug Code (NDC) number of the Schedule II, III, or IV controlled substance dispensed;
 5. The date the prescription was dispensed;
 6. The number of refills, if any, authorized by the medical practitioner;
 7. The date the prescription was issued;
 8. The method of payment identified as cash or third party; and
 9. Whether the prescription is new or a refill.
- B. A dispenser shall submit the required information electronically unless the Board or its designee approves a waiver as specified in subsection (D).
- C. A dispenser's electronic data transfer equipment including hardware, software, and internet connections shall meet the privacy and security standards of the Health Insurance Portability and Accountability Act (HIPAA) of 1996, as amended, and A.R.S. § 12-2292, in addition to common internet industry standards for privacy and security. A dispenser shall ensure that each electronic transmission meets the following data protection requirements:
1. Data shall be at least 128-bit encryption in transmission and at rest; and
 2. Data shall be transmitted via secure e-mail, telephone modem, diskette, CD-ROM, tape, secure File Transfer Protocol (FTP), Virtual Private Network (VPN), or other Board-approved media.
- D. A dispenser who does not have an automated recordkeeping system capable of producing an electronic report in the Board established format may request a waiver from electronic reporting by submitting a written request to the Board or its designee. The Board or its designee shall grant the request if

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the dispenser agrees in writing to report the data by submitting a completed universal claim form supplied by the Board or its designee.

- E. Unless otherwise approved by the Board, a dispenser shall report by the close of business on each Friday the required information for the previous week, Sunday through Saturday. If a Friday falls on a state holiday, the dispenser shall report the information on the following business day. The Board or its designee may approve a less frequent reporting period if a dispenser makes a showing that a less frequent reporting period will not reduce the effectiveness of the system or jeopardize the public health.

Historical Note

Former Rule 5.2510. Amended by final rulemaking at 8 A.A.R. 4898, effective January 5, 2003 (Supp. 02-4). Recodified to R4-23-802 at 9 A.A.R. 4011, effective August 18, 2003 (Supp. 03-3). New Section made by final rulemaking at 14 A.A.R. 3410, effective October 4, 2008 (Supp. 08-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 133, effective August 30, 2013 (Supp. 14-1). New Section made by final rulemaking at 20 A.A.R. 1359, effective August 2, 2014 (Supp. 14-2).

R4-23-503. Access to Controlled Substances Prescription Monitoring Program Data

- A. Except as provided in A.R.S. § 36-2604(B) and (C) and this Section, prescription information submitted to the Board or its designee is confidential and is not subject to public inspection.
- B. The Board or its designee shall review the prescription information collected under A.R.S. Title 36, Chapter 28 and R4-23-502. If the Board or its designee has reason to believe an act of unprofessional or illegal conduct has occurred, the Board or its designee shall notify the appropriate professional licensing board or law enforcement or criminal justice agency and provide the prescription information required for an investigation.
- C. The Board or its designee is authorized to release data collected by the program to the following:
1. A person who is authorized to prescribe or dispense a controlled substance to assist that person to provide medical or pharmaceutical care to a patient or to evaluate a patient;
 2. An individual who requests the individual's own controlled substance prescription information under A.R.S. § 12-2293;
 3. A professional licensing board established under A.R.S. Title 32, Chapter 7, 11, 13, 14, 15, 16, 17, 18, 21, 25, or 29. Except as required under subsection (B), the Board or its designee shall provide this information only if the requesting board states in writing that the information is necessary for an open investigation or complaint;
 4. A local, state, or federal law enforcement or criminal justice agency. Except as required under subsection (B), the Board or its designee shall provide this information only if the requesting agency states in writing that the information is necessary for an open investigation or complaint;
 5. The Arizona Health Care Cost Containment System Administration regarding individuals who are receiving

services under A.R.S. Title 36, Chapter 29. Except as required under subsection (B), the Board or its designee shall provide this information only if the Administration states in writing that the information is necessary for an open investigation or complaint;

6. A person serving a lawful order of a court of competent jurisdiction;
 7. A person who is authorized to prescribe or dispense a controlled substance and who performs an evaluation on an individual under A.R.S. § 23-1026; and
 8. The Board staff for purposes of administration and enforcement of A.R.S. Title 36, Chapter 28 and this Article.
- D. The Board or its designee may provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used to identify individual patients or persons who received prescriptions from dispensers.

Historical Note

Former Rules 5.3500, 5.3520, 5.3540, 5.3550, 5.3560, 5.3570, 5.3580, 5.3590, 5.4110, and 5.6110; Repealed effective August 2, 1982 (Supp. 82-4). New Section made by final rulemaking at 14 A.A.R. 3410, effective October 4, 2008 (Supp. 08-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 133, effective August 30, 2013 (Supp. 14-1). New Section made by final rulemaking at 20 A.A.R. 1359, effective August 2, 2014 (Supp. 14-2).

R4-23-504. Computerized Central Database Tracking System Task Force

- A. The Board shall appoint a task force to help it administer the computerized central database tracking system as specified in A.R.S. § 36-2603.
- B. The Task Force shall meet at least once each year and at the call of the chairperson to establish the procedures and conditions relating to the release of prescription information specified in A.R.S. § 36-2604 and R4-23-503.
- C. The Task Force shall determine:
1. The information to be screened;
 2. The frequency and thresholds for screening; and
 3. The parameters for using the information to notify medical practitioners, patients, and pharmacies to educate and provide for patient management and treatment options.
- D. The Board shall review and approve the procedures and conditions established by the Task Force as needed but at least once every calendar year.

Historical Note

Former Rule 5.7010; Amended effective August 10, 1978 (Supp. 78-4). Repealed effective August 2, 1982 (Supp. 82-4). New Section made by final rulemaking at 14 A.A.R. 3410, effective October 4, 2008 (Supp. 08-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 133, effective August 30, 2013 (Supp. 14-1). New Section made by final rulemaking at 20 A.A.R. 1359, effective August 2, 2014 (Supp. 14-2).

R4-23-505. Reports

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- A. Before releasing prescription monitoring program data, the Board or its designee shall receive a written or electronic request for controlled substance prescription information.
- B. A person authorized to access CSPMP data under R4-23-503(C)(1) through (7) shall submit a written or electronic request that:
1. Specifies the information requested for the report;
 2. For a medical practitioner, provides a statement that the report's purpose is to provide medical or pharmaceutical care to a patient or to evaluate a patient;
 3. For an individual obtaining the individual's own controlled substance prescription information, provides a form of non-expired government-issued photo identification;
 4. For a professional licensing board, states that the information is necessary for an open investigation or complaint;
 5. For a local, state, or federal law enforcement or criminal justice agency, states that the information is necessary for an open investigation or complaint;
 6. For the AHCCCS Administration, states that the information is necessary for an open investigation or complaint; and
 7. For a person serving a lawful order of a court of competent jurisdiction, provides a copy of the court order.
- C. The Board or its designee may provide reports through U.S. mail, other common carrier, facsimile, or secured electronic media or may allow reports to be picked up in-person at the Board office.
- D. A medical practitioner is exempt from subsection (A) to administer a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical for the emergency needs of a patient.
- E. Permit fee. Permits are issued biennially on an odd- and even-year expiration based on the assigned permit number. The fee, specified in R4-23-205, is not refundable unless the Board fails to comply with the permit time frames established in R4-23-602.
- F. Record of receipt and disposal of narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals.
1. Every person manufacturing a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical, including repackaging or relabeling, shall prepare and retain for no fewer than three years the manufacturing, repackaging, or relabeling date for each narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical.
 2. Every person receiving, selling, delivering, or disposing of a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical shall record and retain for no fewer than three years the following information:
 - a. The name, strength, dosage form, and quantity of each narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical received, sold, delivered, or disposed;
 - b. The name, address, and license or permit number, if applicable, of the person from whom each narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is received;
 - c. The name, address, and license or permit number, if applicable, of the person to whom each narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is sold or delivered, or of the person who disposes of each narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
 - d. The receipt, sale, deliver, or disposal date of each narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical.
 3. The record required in this subsection shall be available for inspection by the Board or its compliance officer during regular business hours.
 4. If the record required in this subsection is stored in a centralized recordkeeping system and not immediately

Historical Note

Former Rules 5.7100, 5.8100, 5.8500, 5.9100, and 5.9500; Amended effective August 10, 1978 (Supp. 78-4). Repealed effective August 2, 1982 (Supp. 82-4). New Section made by final rulemaking at 14 A.A.R. 3410, effective October 4, 2008 (Supp. 08-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 133, effective August 30, 2013 (Supp. 14-1). New Section made by final rulemaking at 20 A.A.R. 1359, effective August 2, 2014 (Supp. 14-2).

R4-23-506. Repealed**Historical Note**

Adopted effective December 3, 1974 (Supp. 75-1).
Repealed effective August 24, 1992 (Supp. 92-3).

ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS**R4-23-601. General Provisions**

- A. Permit required to sell a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical. A person shall have a current Board permit to:
1. Sell a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical in Arizona; or
 2. Sell a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical from outside Arizona

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available for inspection, a permittee, manager, or pharmacist-in-charge shall provide the record within four working days of the Board's or its compliance officer's request.

- E. Narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals damaged by water, fire, or from human or animal consumption or use. A person shall not sell or offer to sell any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical damaged by water, fire, or from human or animal consumption or use.
- F. At least 14 days before there is a change in ownership, as defined at R4-23-110, of a license or permit issued under this Chapter, the new licensee or permittee shall apply to the Board for a new license or permit.

Historical Note

Former Rules 6.1100, 6.1200, 6.1300, 6.1400, and 6.1500. Amended effective August 10, 1978 (Supp. 78-4). Amended subsection (C) effective August 9, 1983 (Supp. 83-4). Amended subsection (C) effective August 12, 1988 (Supp. 88-3). Amended by final rulemaking at 6 A.A.R. 4656, effective November 14, 2000 (Supp. 00-4).

Amended by final rulemaking at 12 A.A.R. 1912, effective July 1, 2006 (Supp. 06-2). Amended by final rulemaking at 14 A.A.R. 3670, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).

R4-23-602. Permit Application Process and Time frames

- A. A person applying for a permit shall:
 - 1. Submit a completed application for the desired permit electronically or manually on a form furnished by the Board, and
 - 2. Submit with the application form:
 - a. The documents specified in the application form, and
 - b. The permit fee specified in R4-23-205.
- B. The Board office shall deem an application form received on the date the Board office electronically or manually date-stamps the form.
- C. Time frames for permits.
 - 1. The Board office shall finish an administrative completeness review within 60 days from the date the application form is received.
 - a. The Board office shall issue a written notice of administrative completeness to the applicant if no deficiencies are found in the application form.
 - b. If the application form is incomplete, the Board office shall provide the applicant with a written notice that includes a comprehensive list of

the missing information. The 60-day time frame for the Board office to finish the administrative completeness review is suspended from the date the notice of incompleteness is served until the applicant provides the Board

office with all missing information.

- c. If the Board office does not provide the applicant with written notice

regarding administrative completeness, the application form shall be

deemed complete 60 days after receipt by the Board office.

- 2. An applicant with an incomplete application form shall submit to the Board

office all of the missing information within 90 days of service of the notice of incompleteness.

- a. If an applicant cannot submit all missing information within 90 days of service of the notice of incompleteness, the applicant may send a written request for an extension to the Board office postmarked or delivered no later than 90 days from service of the notice of incompleteness;
- b. The written request for an extension shall document the reasons the applicant is

unable to meet the 90-day deadline; and

- c. The Board office shall review the request for an extension of the 90-day deadline and grant the request if the Board office determines an extension of the 90-day deadline will enable the applicant to assemble and submit the missing information. An extension shall be for no more than 30 days.

The Board office shall notify the applicant in writing of its decision to grant or deny the request for an extension.

- 3. If an applicant fails to submit a complete application form within the time allowed, the Board office shall close the applicant's file. An applicant whose file is closed and who later wishes to obtain a permit shall submit a new application and fee as specified in subsection (A).
- 4. For a nonprescription drug permit applicant, a compressed medical gas distributor

permit applicant, and a durable medical equipment and compressed medical gas

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supplier permit applicant, the Board office shall issue a permit on the day the Board office determines an administratively complete application form is received.

5. Except as described in subsection (C)(4), from the date on which the administrative completeness review of an application form is finished, the Board office shall complete a substantive review of the applicant's

qualifications in no more than 120 days.

- a. If an applicant is found to be ineligible, the Board office shall issue a written notice of denial to the applicant.
- b. If an applicant is found to be eligible, the Board office shall recommend

to the Board that the applicant be issued a permit. Upon receipt of the Board office's recommendation, the Board shall either issue a permit to the applicant or if the Board determines the applicant does not meet eligibility requirements, return the matter to the Board office.

c. If the Board office finds deficiencies during the substantive review of the application form, the Board office shall issue a written request to the applicant for additional documentation.

d. The 120-day time frame for a substantive review for the issuance or denial of a permit is suspended from the date of the written request for additional documentation until the date all documentation is received. The applicant shall submit the additional documentation according to subsection (C)(2).

e. If the applicant and the Board office mutually agree in writing, the 120-day substantive review time frame may be extended once for no more than 45 days.

6. For the purpose of A.R.S. § 41-1072 et seq., the Board establishes the following time frames for permits:

- a. Administrative completeness review time frame: 60 days.
- b. Substantive review time frame:
 - i. Nonprescription drug permit, compressed medical gas distributor permit, and durable medical equipment and compressed medical gas supplier permit: none.

ii. Except as described in subsection (C)(6)(b)(i): 120 days.

c. Overall time frame:

- i. Nonprescription drug permit,

compressed medical gas distributor permit, and durable medical equipment and compressed medical gas supplier permit: 60 days.

ii. Except as described in subsection (C)(6)(c)(i): 180 days.

D. Permit renewal.

1. To renew a permit, a permittee shall submit a completed application for permit renewal electronically or manually on a form furnished by the Board with the biennial renewal fee specified in R4-23-205.
2. If the biennial renewal fee is not paid by November 1 of the renewal year specified in A.R.S. § 32-1931, the permit is suspended. The permittee shall pay a penalty as provided in A.R.S. § 32-1931 and R4-23-205 to vacate the suspension.
3. Time frames for permit renewals. The Board office shall follow the time frames established in subsection (C).

E. Display of permit. A permittee shall conspicuously display the permit in the location to which it applies.

Historical Note

Former Rules 6.2100, 6.2200, 6.2300, 6.2400, 6.2500, 6.2600, 6.2610, 6.2620, 6.2630, 6.2640, and 6.2650. Amended effective August 10, 1978 (Supp. 78-4). Amended effective August 9, 1983 (Supp. 83-4). Repealed effective August 12, 1988 (Supp. 88-3). New Section adopted effective August 5, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 4589, effective November 14, 2000 (Supp. 00-4). Amended by final rulemaking at 20 A.A.R. 1364, effective August 2, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).

R4-23-603. Resident-Nonprescription Drugs, Retail

A. Permit. A person, including the following, shall not sell or distribute a nonprescription drug without a current Board-issued permit:

1. A grocer;
2. Other non-pharmacy retail outlet; or
3. Mobile or non-fixed location retailer, such as a swap-meet vendor.

B. A medical practitioner licensed under A.R.S. Title 32 is exempt from the requirements of subsection (A).

C. Application. To obtain a permit to sell a nonprescription drug, a person shall submit

1. A completed application form

and fee as specified in R4-23-602; and

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2. Documentation of compliance with local zoning laws, if required
- by the Board.
- D.** Drug sales. A nonprescription drug permittee:
1. Shall sell a drug only in the original container packaged and labeled by the manufacturer; and
 2. Shall not package, repack, label, or relabel any drug.
- E.** Inspection. A nonprescription drug permittee shall consent to inspection during business hours by a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901.
- F.** Quality control. A nonprescription drug permittee shall:
1. Ensure that all drugs stocked, sold, or offered for sale are:
 - a. Kept clean;
 - b. Protected from contamination, excessive heat, cold, sunlight, and other deteriorating factors;
 - c. In compliance with federal law; and
 - d. Received from a supplier with a current Board-issued permit as specified in R4-23-601(A).
 2. Develop and implement a program to ensure that:
 - a. Any expiration-dated drug is reviewed regularly;
 - b. Any drug, that exceeds its expiration date, is deteriorated or damaged, or does not comply with federal law, is moved to a quarantine area and not sold or distributed; and
 - c. Any quarantined drug is destroyed or returned to its source of supply.
- G.** Notification. A nonprescription drug permittee shall submit using the permittee's online profile or provide written notice by mail, fax, or e-mail to the Board office within 10 days of changes involving the telephone or fax number, e-mail or mailing address, or business name.
- H.** Change of ownership. A nonprescription drug permittee shall comply with R4-23-601(F).
- I.** Relocation. No less than 30 days before an existing nonprescription drug permittee relocates, the permittee shall submit a completed application for relocation electronically or manually on a form furnished by the Board, and the documentation required in subsection (C).
- J.** Records. A nonprescription drug permittee shall:
1. Retain records of the receipt and disposal of nonprescription drugs as required in R4-23-601(D), and
 2. Comply with the requirements of A.R.S. § 32-1977 and federal law for the retail sale of methamphetamine precursors.
- K.** Permit renewal. To renew a nonprescription drug permit, the permittee shall comply with R4-23-602(D).
- L.** Nonprescription drug vending machine outlet. In addition to the requirements of R4-23-601, R4-23-602, and subsections (A) through (K), a person selling or distributing a nonprescription drug in a vending machine shall comply with the following requirements:
1. Each individual vending machine is considered an outlet and shall have a Board-issued nonprescription drug permit;
 2. Each nonprescription-drug-permitted vending machine shall display in public view an identification seal, furnished by the Board, containing the permit number, vending machine's serial number, owner's name, and telephone contact number;
 3. Each nonprescription-drug-permitted vending machine is assigned a specific location that is within a weather-tight structure, protected from direct sunlight, and maintained at a temperature not less than 59° F and not greater than 86° F;
 4. Each nonprescription drug sold in a vending machine is packaged and labeled in the manufacturer's original FDA-approved container;
 5. A nonprescription-drug-permitted vending machine is subject to inspection by a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901 as follows:
 - a. The owner, manager, or other staff of the nonprescription drug permittee shall

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provide access to the contents of the vending machine within 24 hours of a

request from a Board compliance officer or other authorized officer of the law; or

b. The Board compliance staff shall have independent access to the vending machine;

6. Before relocating or retiring a nonprescription-drug-permitted vending machine, the owner or manager shall notify the Board in writing. The notice shall include:

a. Permit number;

b. Vending machine's serial number;

c. Action planned (relocate or retire); and

d. If retiring a vending machine, the disposition of the nonprescription drug contents of the vending machine;

7. The sale or distribution of a precursor chemical or regulated chemical in a vending

machine is prohibited; and

8. Under no circumstance may expired drugs be sold or distributed.

Historical Note

Adopted effective August 10, 1978 (Supp. 78-4).

Amended subsection (D) paragraph (1) and added subsection (G) effective April 20, 1982 (Supp. 82-2).

Amended effective August 12, 1988 (Supp. 88-3).

Amended effective February 8, 1991 (Supp. 91-1).

Amended effective August 5, 1997 (Supp. 97-3).

Amended by final rulemaking at 6 A.A.R. 4589, effective

November 14, 2000 (Supp. 00-4). Amended by final

rulemaking at 20 A.A.R. 1364, effective August 2, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R.

1015, effective June 1, 2019 (Supp. 19-2).

R4-23-604. Resident Drug Manufacturer

A. Permit. A person shall not manufacture, package, repack, label, or relabel any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical without a current Board-issued drug manufacturer permit.

B. Application. To obtain a permit to operate a drug manufacturing firm in Arizona, a person shall submit a completed application, on a form furnished by the Board, and the fee specified in R4-23-205.

C. Before issuing a drug manufacturer permit, the Board shall:

1. Receive and approve a completed permit application;
2. Interview the applicant and manager, if different from the applicant, at a Board meeting; and
3. Receive a satisfactory compliance inspection report on the facility from a Board compliance officer.

D. Notification. A resident drug manufacturer permittee shall notify the Board of changes involving the drug list, address,

telephone number, business name, or manager, including manager's telephone number. The resident drug manufacturer permittee shall submit using the permittee's online profile or a written notice by mail, fax, or e-mail to the Board office within 24 hours of the change.

E. Change of ownership. A resident drug manufacturer permittee shall comply with R4-23-601(F).

F. Before an existing resident drug manufacturer permittee relocates, the drug manufacturer permittee shall submit the application packet described in subsection R4-23-604(B), excluding the fee. The facility at the new location shall pass a final inspection by a Board compliance officer before operations begin.

G. No later than 14 days after the change occurs, a resident drug manufacturer permittee shall submit the application described under subsection R4-23-604(B), excluding the fee, for any change of officers in a corporation.

H. Manufacturing and distribution.

1. A drug manufacturer permittee shall manufacture and distribute a drug only:

a. To a pharmacy, drug manufacturer, or full-service or nonprescription drug wholesaler currently permitted by the Board;

b. To a medical practitioner currently licensed as a medical practitioner as defined in A.R.S. § 32-1901; or

c. To a properly permitted, registered, licensed, or certified person or firm of another jurisdiction.

2. Before manufacturing and distributing a drug that is not listed on a drug manufacturer's permit application, the drug manufacturer permittee shall send to the Board office a written request to amend the permit application, including documentation of FDA approval to manufacture the drug not listed on the original permit application. If a request to amend a permit application includes the documentation required in this subsection, the Board or its designee shall approve the request to amend within 30 days of receipt.

I. A drug manufacturer permit is subject to denial, suspension, probation, or revocation under A.R.S. § 32-1927.02.

J. Current Good Manufacturing Practice. A drug manufacturer permittee is required under federal law to follow the good manufacturing practice requirements of 21 CFR 210 through 211.

K. Records. A drug manufacturer permittee shall:

1. Establish and implement written procedures for maintaining records pertaining to production, process control, labeling, packaging, quality control, distribution, complaints, and any information required by federal or state law;

2. Retain the records required by this Article and 21 CFR 210 through 211 for at least two years after distribution of a drug or one year after the expiration date of a drug, whichever is longer; and

3. Make the records required by this Article and 21 CFR 210 through 211 available within 48 hours for review by a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901.

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- L. Inspections. A drug manufacturer permittee shall make the drug manufacturer's facility available for inspection by the Board or its compliance officer under A.R.S. § 32-1904.
- M. Nonresident drug manufacturer. A nonresident drug manufacturer shall comply with the requirements of R4-23-607.
- N. Manufacturing radiopharmaceuticals. Before manufacturing a radiopharmaceutical, a drug manufacturer permittee shall:
 1. Comply with the regulatory requirements of the Arizona Radiation Regulatory Agency, the U.S. Nuclear Regulatory Commission, the FDA, and this Section; and
 2. Hold a current Arizona Radiation Regulatory Agency Radioactive Materials License. If a drug manufacturer permittee who manufactures radiopharmaceuticals fails to maintain a current Arizona Radiation Regulatory Agency Radioactive Materials License, the permittee's drug manufacturer permit shall be immediately suspended pending a hearing by the Board
- c. Receive a satisfactory compliance inspection report on the facility from a Board compliance officer; and
- d. For a full-service drug wholesale permit, issue a fingerprint clearance to a qualified designated representative, as specified in subsection (L). If the fingerprint clearance of a designated representative for a full-service drug wholesale permit applicant is denied, the full-service drug wholesale permit applicant shall appoint another designated representative and submit the documentation, fingerprints, and fee specified in the application required in subsection (B).

Historical Note

Former Rules 6.4001, 6.4002, 6.4003, 6.4004, 6.4005, 6.4006, 6.4007, 6.4008, 6.4009, 6.4100, 6.4110, 6.4111, 6.4115, 6.4116, 6.4120, 6.4122, 6.4190, 6.4191, 6.4200, 6.4250, 6.4300, 6.4350, 6.4355, 6.4360, 6.4400, 6.4401, 6.4403, 6.4410, 6.4430, 6.4450, 6.4500, 6.4510, 6.4530, 6.4533, 6.4600, 6.4610, 6.4640, 6.4660, 6.4700, 6.4710, and 6.4750. Adopted effective December 3, 1974 (Supp. 75-1). Amended effective August 10, 1978 (Supp. 78-4). Amended subsection (B) paragraph (2) effective April 20, 1982 (Supp. 82-2). Amended subsections (B), (G), (K) and (L) effective August 12, 1988 (Supp. 88-3). Amended effective August 24, 1992 (Supp. 92-3). Amended effective November 1, 1993 (Supp. 93-4). Amended by final rulemaking at 7 A.A.R. 3815, effective August 9, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 1105, effective April 30, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 702, effective June 1, 2013 (Supp. 13-2). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).

R4-23-605. Resident Drug Wholesaler Permit

- A. Permit. A person shall not operate a business or firm for the wholesale distribution of any drug, device, precursor chemical, or regulated chemical without a current Board-issued full-service or nonprescription drug wholesale permit.
- B. Application.
 1. To obtain a permit to operate a full-service or nonprescription drug wholesale firm in Arizona, a person shall submit a completed application, on a form furnished by the Board, and the fee specified in R4-23-205.
 2. Before issuing a full-service or nonprescription drug wholesale permit, the Board shall:
 - a. Receive and approve a completed permit application;
 - b. Interview the applicant and the designated representative, if different from the applicant, at a Board meeting;
- C. Notification. A resident full-service or nonprescription drug wholesale permittee shall notify the Board of changes involving the type of drugs sold or distributed, address, telephone number, business name, or manager or designated representative, including the manager's or designated representative's telephone number.
 1. The resident full-service or nonprescription drug wholesale permittee shall submit using the permittee's online profile or a written notice by mail, fax, or e-mail to the Board office within 10 days of the change.
 2. For a change of designated representative, a resident full-service drug wholesale permittee shall submit the documentation, fingerprints, and fee specified in the application required in subsection (B).
- D. Change of ownership. A resident full-service or nonprescription drug wholesale permittee shall comply with R4-23-601(F).
- E. Before an existing resident full-service or nonprescription drug wholesaler permittee relocates, the resident full-service or nonprescription drug wholesale permittee shall submit the application required under subsection (B), excluding the fee. The facility at the new location shall pass a final inspection by a Board compliance officer before operations begin.
- F. No later than 14 days after the change occurs, a resident full-service or nonprescription drug wholesale permittee shall submit the application described under subsection (B), excluding the fee, for any change of officers in a corporation.
- G. Distribution restrictions. In addition to the requirements of this subsection, a resident full-service wholesale permittee shall comply with the distribution restrictions specified in A.R.S. § 32-1983.
 1. Records.
 - a. A full-service drug wholesale permittee shall:
 - i. Maintain records to ensure full accountability of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical including dates of receipt and sales, names, addresses, and DEA registration numbers, if required, of suppliers or sources of merchandise, and customer names, addresses, and DEA registration numbers, if required;
 - ii. File the records required in subsection (G)(1)(a)(i) in a readily retrievable manner for a minimum of three years;

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- iii. Make the records required in subsection (G)(1)(a)(i) available upon request during regular business hours for inspection by a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5). Records kept at a central location apart from the business location and not electronically retrievable shall be made available within two business days; and
- iv. In addition to the records requirements of subsection (G)(1)(a)(i), comply with the retention of track and trace documents required under the Drug Supply Chain and Security Act for all prescription-only drugs that leave the normal distribution channel as defined in A.R.S. § 32-1981.
- b. A nonprescription drug wholesale permittee shall:
 - i. Maintain records to ensure full accountability of any nonprescription drug, precursor chemical, or regulated chemical including dates of receipt and sales, names, addresses, and DEA registration numbers, if required, of suppliers or sources of merchandise, and customer names, addresses, and DEA registration numbers, if required;
 - ii. File the records required in subsection (G)(1)(b)(i) in a readily retrievable manner for a minimum of three years; and
 - iii. Make the records required in subsection (G)(1)(b)(i) available upon request during regular business hours for inspection by a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5). Records kept at a central location apart from the business location and not electronically retrievable shall be made available within two business days.
- 2. Drug sales.
 - a. A full-service drug wholesale permittee shall:
 - i. Not sell, distribute, give away, or dispose of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical, except in the original container packaged and labeled by the manufacturer or repackager;
 - ii. Not package, repackage, label, or relabel any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical;
 - iii. Not sell, distribute, give away, or dispose of any narcotic or other controlled substance, or prescription-only drug or device, to anyone except a pharmacy, drug manufacturer, or full-service drug wholesaler currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - b. A nonprescription drug wholesale permittee shall:
 - i. Not sell, distribute, give away, or dispose of any nonprescription drug, precursor chemical, or regulated chemical except in the original container packaged and labeled by the manufacturer or repackager;
 - ii. Not package, repackage, label, or relabel any nonprescription drug, precursor chemical, or regulated chemical;
 - iii. Not sell or distribute any nonprescription drug, precursor chemical, or regulated chemical to anyone except a pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - iv. Maintain a record of the current permit or license of each person that buys, receives, or disposes of any nonprescription drug, precursor chemical, or regulated chemical; and
 - v. Provide permit and license records upon request, if immediately available, or within two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5).
 - c. Nothing in this subsection shall be construed to prevent the return of a narcotic or other controlled substance, prescription-only drug or device,
- iv. Not sell, distribute, give away, or dispose of any nonprescription drug, precursor chemical, or regulated chemical, to anyone except a pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
- v. Provide track and trace documents required under the Drug Supply Chain and Security Act upon request, if immediately available, or within two business days from the date of a request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901;
- vi. Maintain a copy of the current permit or license of each person that buys, receives, or disposes of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
- vii. Provide permit and license records upon request, if immediately available, or within two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5).

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- nonprescription drug, precursor chemical, or regulated chemical to the original source of supply.
3. Out-of-state drug sales.
 - a. A full-service drug wholesale permittee shall:
 - i. Not sell, distribute, give away, or dispose of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical except in the original container packaged and labeled by the manufacturer or repackager;
 - ii. Not package, repack, label, or relabel any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical;
 - iii. Not sell, distribute, give away, or dispose of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical to anyone except a person that is properly permitted, registered, licensed, or certified in another jurisdiction;
 - iv. Provide track and trace documents required under the Drug Supply Chain and Security Act upon request, if immediately available, or within two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901;
 - v. Maintain a copy of the current permit, registration, license, or certificate of each person that buys, receives, or disposes of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
 - vi. Provide permit, registration, license, and certificate records upon request, if immediately available, or within two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5); and
 - b. A nonprescription drug wholesale permittee shall:
 - i. Not sell, distribute, give away, or dispose of any nonprescription drug, precursor chemical, or regulated chemical except in the original container packaged and labeled by the manufacturer or repackager;
 - ii. Not package, repack, label, or relabel any nonprescription drug, precursor chemical, or regulated chemical;
 - iii. Not sell or distribute any nonprescription drug, precursor chemical, or regulated chemical to anyone except a person that is properly permitted, registered, licensed, or certified in another jurisdiction;
 - iv. Maintain a record of the current permit, registration, license, or certificate of each person that buys, receives, or disposes of any nonprescription drug, precursor chemical, or regulated chemical; and
 - v. Provide permit, registration, license, or certificate records upon request, if immediately available, or within two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5).
 4. Cash-and-carry sales.
 - a. A full-service drug wholesale permittee shall complete a cash-and-carry sale or distribution of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical only after:
 - i. Verifying the validity of the order;
 - ii. Verifying the identity of the pick-up person for each transaction by confirming that the person represented placed the cash-and-carry order; and
 - iii. For a prescription-only drug order, verifying that the cash-and-carry sale or distribution is used only to meet the immediate needs of a particular patient of the person that placed the cash-and-carry order; and
 - b. A nonprescription drug wholesale permittee shall complete a cash-and-carry sale or distribution of any nonprescription drug, precursor chemical, or regulated chemical only after:
 - i. Verifying the validity of the order; and
 - ii. Verifying the identity of the pick-up person for each transaction by confirming that the person represented placed the cash-and-carry order.
 - H. Prescription-only drug returns or exchanges. A full-service drug wholesale permittee shall ensure that any prescription-only drug returned or exchanged by a pharmacy or chain pharmacy warehouse under A.R.S. § 32-1983(A) meets the following criteria:
 1. The prescription-only drug is not adulterated or counterfeited, except an adulterated or counterfeited prescription-only drug that is the subject of an FDA or manufacturer recall may be returned for destruction or subsequent return to the manufacturer;
 2. The quantity of prescription-only drug returned or exchanged does not exceed the quantity of prescription-only drug that the full-service drug wholesale permittee or a full-service drug wholesale permittee under common ownership sold to the pharmacy or chain pharmacy warehouse; and
 3. The pharmacy or chain pharmacy warehouse provides documentation that:
 - a. Lists the name, strength, and manufacturer of the prescription-only drug being returned or exchanged; and
 - b. States that the prescription-only drug was maintained in compliance with storage conditions prescribed on the drug label or manufacturer's package insert.

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- I. Returned, outdated, damaged, deteriorated, adulterated, misbranded, counterfeited, and contraband drugs.
1. Except as specified in subsection (H)(1) for a prescription-only drug, a full-service drug wholesale permittee shall ensure that the return of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical meets the following criteria.
 - a. Any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical that is outdated, damaged, deteriorated, adulterated, misbranded, counterfeited, or contraband or suspected of being adulterated, misbranded, counterfeited, or contraband, or otherwise deemed unfit for human or animal consumption shall be quarantined and physically separated from other narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals until the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA.
 - b. Any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical whose immediate or sealed outer or secondary containers or product labeling are misbranded, counterfeited, or contraband or suspected of being misbranded, counterfeited, or contraband shall be quarantined and physically separated from other narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals until the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA. When the immediate or sealed outer or secondary containers or product labeling are determined to be misbranded, counterfeited, or contraband or suspected of being misbranded, counterfeited, or contraband, the full-service drug wholesale permittee shall provide notice of the misbranding, counterfeiting, or contrabanding or suspected misbranding, counterfeiting, or contrabanding within three business days of the determination to the Board, FDA, and manufacturer or wholesale distributor from which the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical was acquired.
 - c. Any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical that has been opened or used, but is not adulterated, misbranded, counterfeited, or contraband or suspected of being misbranded, counterfeited, or contraband shall be identified as opened or used, or both, and quarantined and physically separated from other narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals until the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA.
 - d. If the conditions under which a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical has been returned cast doubt on the safety, identity, strength, quality, or purity of the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical, the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical shall be quarantined and physically separated from other narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals until the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA, except as provided in subsection (I)(1)(d)(i).
 - i. If examination, testing, or other investigation proves that the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical meets appropriate standards of safety, identity, strength, quality, and purity, it does not have to be destroyed or returned to the manufacturer or wholesale distributor.
 - ii. In determining whether the conditions under which a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical has been returned cast doubt on the safety, identity, strength, quality, or purity of the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical, the full-service drug wholesale permittee shall consider, among other things, the conditions under which the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical was acquired.

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- regulated chemical has been held, stored, or shipped before or during its return and the condition of the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical and the condition of its container, carton, or product labeling as a result of storage or shipping.
- e. For any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical identified under subsections (I)(1)(a) or (b), the full-service drug wholesale permittee shall ensure that the identified item or items and other evidence of criminal activity, and accompanying documentation is retained and not destroyed until its disposition is authorized by the Board and the FDA.
2. A nonprescription drug wholesale permittee shall ensure that the return of any nonprescription drug, precursor chemical, or regulated chemical meets the following criteria.
 - a. Any nonprescription drug, precursor chemical, or regulated chemical that is outdated, damaged, deteriorated, adulterated, misbranded, counterfeited, or contraband or suspected of being adulterated, misbranded, counterfeited, or contraband, or otherwise deemed unfit for human or animal consumption shall be quarantined and physically separated from other nonprescription drugs, precursor chemicals, or regulated chemicals until the nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA.
 - b. Any nonprescription drug, precursor chemical, or regulated chemical whose immediate or sealed outer or secondary containers or product labeling are misbranded, counterfeited, or contraband or suspected of being misbranded, counterfeited, or contraband shall be quarantined and physically separated from other nonprescription drugs, precursor chemicals, or regulated chemicals until the nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA. When the immediate or sealed outer or secondary containers or product labeling are determined to be misbranded, counterfeited, or contraband or suspected of being misbranded, counterfeited, or contraband, the nonprescription drug wholesale permittee shall provide notice of the misbranding, counterfeiting, or contrabanding or suspected misbranding, counterfeiting, or contrabanding within three business days of the determination to the Board, FDA, and manufacturer or wholesale distributor from which the nonprescription drug, precursor chemical, or regulated chemical was acquired.
 - c. Any nonprescription drug, precursor chemical, or regulated chemical that has been opened or used, but is not adulterated, misbranded, counterfeited, or contraband or suspected of being misbranded, counterfeited, or contraband, shall be identified as opened or used, or both, and quarantined and physically separated from other nonprescription drugs, precursor chemicals, or regulated chemicals until the nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA.
 - d. If the conditions under which a nonprescription drug, precursor chemical, or regulated chemical has been returned cast doubt on the safety, identity, strength, quality, or purity of the nonprescription drug, precursor chemical, or regulated chemical, the nonprescription drug, precursor chemical, or regulated chemical shall be quarantined and physically separated from other nonprescription drugs, precursor chemicals, or regulated chemicals until the nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA, except as provided in subsection (I)(2)(d)(i).
 - i. If examination, testing, or other investigation proves that the nonprescription drug, precursor chemical, or regulated chemical meets appropriate standards of safety, identity, strength, quality, and purity, the nonprescription drug, precursor chemical, or regulated chemical does not need to be destroyed or returned to the manufacturer or wholesale distributor.
 - ii. In determining whether the conditions under which a nonprescription drug, precursor chemical, or regulated chemical has been returned cast doubt on the safety, identity, strength, quality, or purity of the nonprescription drug, precursor chemical, or regulated chemical, the nonprescription drug wholesale permittee shall consider, among other things, the conditions under which the nonprescription drug, precursor chemical, or regulated chemical has been held, stored, or shipped before or during its return and the condition of the nonprescription drug, precursor chemical, or regulated chemical and the condition of its container, carton, or product labeling as a result of storage or shipping.
 - e. For any nonprescription drug, precursor chemical, or regulated chemical identified under subsections (I)(2)(a) or (b), the nonprescription drug wholesale permittee shall ensure that the identified item or items and other evidence of criminal activity, and

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accompanying documentation is retained and not destroyed until its disposition is authorized by the Board and the FDA.

3. A full-service drug wholesale permittee and nonprescription drug wholesale permittee shall comply with the recordkeeping requirements of subsection (G) for all outdated, damaged, deteriorated, adulterated, misbranded, counterfeited and contraband narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals.

J. Facility. A full-service or nonprescription drug wholesale permittee shall:

1. Ensure that the facility occupied by the full-service or nonprescription drug wholesale permittee is of adequate size and construction, well-lighted inside and outside, adequately ventilated, and kept clean, uncluttered, and sanitary;
2. Ensure that the permittee's warehouse facility:
 - a. Is secure from unauthorized entry; and
 - b. Has an operational security system designed to provide protection against theft;
3. In a full-service drug wholesale facility, ensure that only authorized personnel may enter areas where any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is kept;
4. In a nonprescription drug wholesale facility, ensure that only authorized personnel may enter areas where any nonprescription drug, precursor chemical, or regulated chemical is kept;
5. In a full-service drug wholesale facility, ensure that any thermolabile narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is stored in an area where room temperature is maintained in compliance with storage conditions prescribed on the product label;
6. In a nonprescription drug wholesale facility, ensure that any thermolabile nonprescription drug, precursor chemical, or regulated chemical is stored in an area where room temperature is maintained in compliance with storage conditions prescribed on the product label;
7. Make the facility available for inspection by a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5) during regular business hours;
8. In a full-service drug wholesale facility, provide a quarantine area for storage of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical that is outdated, damaged, deteriorated, adulterated, misbranded, counterfeited, or contraband or suspected of being adulterated, misbranded, counterfeited, or contraband, otherwise deemed unfit for human or animal consumption, or that is in an open container; and
9. In a nonprescription drug wholesale facility, provide a quarantine area for storage of any nonprescription drug,

precursor chemical, or regulated chemical that is outdated, damaged, deteriorated, adulterated, misbranded, counterfeited, or contraband or suspected of being adulterated, misbranded, counterfeited, or contraband, otherwise deemed unfit for human or animal consumption, or that is in an open container.

K. Quality controls.

1. A full-service drug wholesale permittee shall:

- a. Ensure that any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical that meets the criteria specified in subsection (I)(1) is not sold, distributed, or delivered to any person for human or animal consumption;
- b. Ensure that a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is not manufactured, packaged, repackaged, labeled, or relabeled by any of its employees;
- c. Ensure that any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical stocked, sold, offered for sale, or delivered is:
 - i. Kept clean,
 - ii. Protected from contamination and other deteriorating environmental factors, and
 - iii. Stored in a manner that complies with applicable federal and state law and official compendium storage requirements;
- d. Maintain manual or automatic temperature and humidity recording devices or logs to document conditions in areas where any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is stored; and
- e. Develop and implement a program to ensure that:
 - i. Any expiration-dated narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is reviewed regularly;
 - ii. Any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical that has less than 120 days remaining on the expiration date, or is deteriorated, damaged, or does not comply with federal law, is moved to a quarantine area and not sold or distributed; and
 - iii. Any quarantined narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired.

2. A nonprescription drug wholesale permittee shall:

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- a. Ensure that any nonprescription drug, precursor chemical, or regulated chemical that meets the criteria specified in subsection (I)(2) is not sold, distributed, or delivered to any person for human or animal consumption;
- b. Ensure that a nonprescription drug, precursor chemical, or regulated chemical is not manufactured, packaged, repackaged, labeled, or relabeled by any of its employees;
- c. Ensure that any nonprescription drug, precursor chemical, or regulated chemical stocked, sold, offered for sale, or delivered is:
 - i. Kept clean,
 - ii. Protected from contamination and other deteriorating environmental factors, and
 - iii. Stored in a manner that complies with applicable federal and state law and official compendium storage requirements;
- d. Maintain manual or automatic temperature and humidity recording devices or logs to document conditions in areas where any nonprescription drug, precursor chemical, or regulated chemical is stored; and
- e. Develop and implement a program to ensure that:
 - i. Any expiration-dated nonprescription drug, precursor chemical, or regulated chemical is reviewed regularly;
 - ii. Any nonprescription drug, precursor chemical, or regulated chemical that has fewer than 120 days remaining on the expiration date, or is deteriorated, damaged, or does not comply with federal law, is moved to a quarantine area and not sold or distributed; and
 - iii. Any quarantined nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired.

L. Fingerprint clearance.

1. After receiving the state and federal criminal history record of a designated representative, the Board shall compare the record with the list of criminal offenses that preclude a designated representative from receiving a fingerprint clearance. If the designated representative's criminal history record does not contain any of the offenses listed in subsection (L)(2), the Board shall issue the designated representative a fingerprint clearance.
2. The Board shall not issue a fingerprint clearance to a designated representative who is awaiting trial for or who has been convicted of committing or attempting or conspiring to commit one or more of the following offenses in this state or the same or similar offenses in another state or jurisdiction:
 - a. Unlawfully administering intoxicating liquors, controlled substances, dangerous drugs, or prescription-only drugs;
 - b. Sale of peyote;

- c. Possession, use, or sale of marijuana, dangerous drugs, prescription-only drugs, or controlled substances;
- d. Manufacture or distribution of an imitation controlled substance;
- e. Manufacture or distribution of an imitation prescription-only drug;
- f. Possession or possession with intent to use an imitation controlled substance;
- g. Possession or possession with intent to use an imitation prescription-only drug; or
- h. A felony offense involving sale, distribution, or transportation of, offer to sell, transport, or distribute, or conspiracy to sell, transport, or distribute marijuana, dangerous drugs, prescription-only drugs, or controlled substances.

3. If the Board determines, after conducting a state and federal criminal history record check, that it is not authorized to issue a fingerprint clearance, the Board shall notify the full-service drug wholesale applicant or permittee that employs the designated representative that the Board is not authorized to issue a fingerprint clearance. This notice shall include the criminal history information on which the denial was based. This criminal history information is subject to dissemination restrictions under A.R.S. § 41-1750 and federal law.

Historical Note

Former Rules 6.5110, 6.5120, 6.5130, 6.5140, 6.5210, 6.5220, 6.5230, 6.5240, 6.5310, 6.5320, 6.5410, and 6.5420. Amended effective August 10, 1978 (Supp. 78-4). Amended effective April 20, 1982 (Supp. 82-2).

Amended subsection (A) effective August 12, 1988 (Supp. 88-3). Amended effective February 8, 1991 (Supp. 91-1). Amended effective August 24, 1992 (Supp. 92-3). Amended by final rulemaking at 6 A.A.R. 4589, effective November 14, 2000 (Supp. 00-4). Amended by final rulemaking at 10 A.A.R. 232, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 11 A.A.R. 1105, effective April 30, 2005 (Supp. 05-1). Amended by final rulemaking at 11 A.A.R. 4270, effective December 6, 2005 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 3477, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 19 A.A.R. 702, effective June 1, 2013 (Supp. 13-2). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).

R4-23-606. Resident-Pharmacy Permit: Community, Hospital, and Limited Service

A. Permit. A person shall not operate a pharmacy in Arizona without a current Board-issued

pharmacy permit.

B. Application.

1. To obtain a permit to operate a pharmacy in Arizona, a person shall submit a completed application, on a form available from the Board, and the fee specified in R4-23-205.
2. Before issuing a pharmacy permit, the Board shall:

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- a. Receive and approve a completed permit application; and
 - b. Receive a satisfactory compliance inspection report on the facility from a Board compliance officer.
3. Before issuing a pharmacy permit, the Board may interview the applicant and the pharmacist-in-charge, if different from the applicant, at a Board meeting based on the

need for additional information.

- C. Notification. A pharmacy permittee shall notify the Board office within 10 days of changes involving the type of pharmacy operated, telephone or fax number, e-mail or mailing address, business name, or staff pharmacist. A pharmacy permittee shall provide the Board office immediate notice of a change of the pharmacist-in-charge.
- D. If any nonprescription drugs are sold outside the pharmacy area when the pharmacy area is

closed, the pharmacy permittee shall ensure that the business has a current, Board-issued

nonprescription drug permit as required in Section R4-23-603.

- E. Change of ownership. A pharmacy permittee shall comply with R4-23-601(F).
- F. Relocation or remodel.

- 1. No fewer than 30 days before the relocation or remodel of an existing pharmacy, the pharmacy permittee shall submit, electronically or manually, a completed application for remodel or relocation using the form specified under subsection (B). A fee is not required with an application for remodel or relocation.
- 2. The new or remodeled facility shall pass a final inspection by a Board compliance officer before operations begin.

- G. Permit renewal. To renew a pharmacy permit, the permittee shall comply with R4-23-602(D).

Historical Note

Former Rules 6.6010, 6.6020, 6.6030, 6.6040, 6.6050, 6.6060, 6.6071, 6.6072, 6.6073, 6.6074, 6.6075, and 6.6076. Amended effective August 10, 1978 (Supp. 78-4). Amended subsections (G) and (H) effective April 20, 1982 (Supp. 82-2). Amended subsection (L) effective July 2, 1982 (Supp. 82-4). Amended subsections (G) and (H) effective August 12, 1988 (Supp. 88-3). Amended effective November 1, 1993 (Supp. 93-4). Section heading amended effective April 5, 1996 (Supp. 96-2). Amended by final rulemaking at 7 A.A.R. 3825, effective August 9, 2001 (Supp. 01-3). Amended by final rulemaking at 20 A.A.R. 1364, effective August 2, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).

R4-23-607. Nonresident Permits

- A. Permit. A person that is not a resident of Arizona shall not sell or distribute any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical into Arizona without possessing both:
 - 1. A current Board-issued nonresident pharmacy permit, nonresident manufacturer permit, nonresident full-service or nonprescription drug wholesale permit, or nonresident nonprescription drug permit; and
 - 2. A current equivalent license or permit issued by the licensing authority in the jurisdiction where the person resides.
- B. Application. To obtain a nonresident pharmacy, nonresident manufacturer, nonresident full-service or nonprescription drug wholesale, or nonprescription drug permit, a person shall submit a completed application, on a form furnished by the Board, and the fee specified in R4-23-205.
- C. Notification. A permittee shall submit notification of any change required in this subsection using the permittee's online profile or as a written notice by mail, fax, or e-mail to the Board office within 10 days of the change.
 - 1. Nonresident pharmacy. A nonresident pharmacy permittee shall notify the Board of changes involving the type of pharmacy operated, address, telephone number, business name, or pharmacist-in-charge.
 - 2. Nonresident manufacturer. A nonresident manufacturer permittee shall notify the Board of changes involving listed drugs, address, telephone number, business name, or manager, including manager's telephone number.
 - 3. Nonresident drug wholesaler. A nonresident full-service or nonprescription drug wholesale permittee shall notify the Board of changes involving the types of drugs sold or distributed, address, telephone number, business name, or manager or designated representative, including the manager's or designated representative's telephone number. For a change of designated representative, a nonresident full-service drug wholesale permittee shall submit the documentation, fingerprints, and fee required with the application under subsection (B).
 - 4. Nonresident nonprescription drug retailer. A nonresident nonprescription drug permittee shall notify the Board of changes involving permit category, address, telephone number, business name, or manager, including manager's telephone number.
- D. Change of ownership. A nonresident permittee shall comply with R4-23-601(F).
- E. Drug sales.
 - 1. Nonresident pharmacy. A nonresident pharmacy permittee shall:
 - a. Not sell, distribute, give away, or dispose of any narcotic or other controlled substance or prescription-only drug or device to anyone in Arizona except:
 - i. A pharmacy, drug manufacturer, or full-service drug wholesaler currently permitted by the Board;
 - ii. A medical practitioner currently licensed under A.R.S. Title 32; or

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- iii. An Arizona resident upon receipt of a valid prescription order for the resident;
 - b. Not sell, distribute, give away, or dispose of any nonprescription drug, precursor chemical, or regulated chemical to anyone in Arizona except:
 - i. A pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board;
 - ii. A medical practitioner currently licensed under A.R.S. Title 32; or
 - iii. An Arizona resident either upon receipt of a valid prescription order for the resident or in the original container packaged and labeled by the manufacturer;
 - c. Except for a drug sale that results from the receipt and dispensing of a valid prescription order for an Arizona resident, maintain a copy of the current permit or license of each person in Arizona that buys, receives, or disposes of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
 - d. Provide permit and license records upon request, if immediately available, or in no fewer than two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901.
- 2. Nonresident manufacturer. A nonresident manufacturer permittee shall:
 - a. Not sell, distribute, give away, or dispose of any narcotic or other controlled substance or prescription-only drug or device to anyone in Arizona except a pharmacy, drug manufacturer, or full-service drug wholesaler currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - b. Not sell, distribute, give away, or dispose of any nonprescription drug, precursor chemical, or regulated chemical to anyone in Arizona except a pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - c. Maintain a copy of the current permit or license of each person in Arizona that buys, receives, or disposes of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
 - d. Provide permit and license records upon request, if immediately available, or in no more than two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901.
- 3. Nonresident full-service drug wholesaler. In addition to complying with the distributions restrictions specified in A.R.S. § 32-1983, a nonresident full-service drug wholesale permittee shall:
 - a. Not sell, distribute, give away, or dispose of, any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical to anyone in Arizona, except in the original container, packaged and labeled by the manufacturer or repackager;
 - b. Not package, repack, label, or relabel any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical for shipment or delivery to anyone in Arizona;
 - c. Provide track and trace documents required under the Drug Supply Chain and Security Act upon request, if immediately available, or in no more than two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901;
 - d. Not sell, distribute, give away, or dispose of any narcotic or other controlled substance, prescription only drug or device, nonprescription drug, precursor chemical, or regulated chemical to anyone in Arizona except a pharmacy, drug manufacturer, or full service drug wholesaler currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - e. Not sell, distribute, give away, or dispose of any nonprescription drug, precursor chemical, or regulated chemical to anyone in Arizona except a pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - f. Maintain a copy of the current permit or license of each person in Arizona that buys, receives, or disposes of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
 - g. Provide permit and license records upon request, if immediately available, or in no more than two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901.
- 4. Nonresident nonprescription drug wholesaler. A nonresident nonprescription drug wholesale permittee shall:
 - a. Not sell, distribute, give away, or dispose of any nonprescription drug, precursor chemical, or regulated chemical to anyone in Arizona, except in the original container, packaged and labeled by the manufacturer or repackager;
 - b. Not package, repack, label, or relabel any nonprescription drug, precursor chemical, or regulated chemical for shipment or delivery to anyone in Arizona;

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- c. Not sell, distribute, give away, or dispose of any nonprescription drug, precursor chemical, or regulated chemical to anyone in Arizona except a pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - d. Maintain a copy of the current permit or license of each person in Arizona that buys, receives, or disposes of any nonprescription drug, precursor chemical, or regulated chemical; and
 - e. Provide permit and license records upon request, if immediately available, or in no more than two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901.
5. Nonresident nonprescription drug retailer. A nonresident nonprescription drug permittee shall not:
- a. Sell, distribute, give away, or dispose of a nonprescription drug, precursor chemical, or regulated chemical to anyone in Arizona except in the original container packaged and labeled by the manufacturer;
 - b. Package, repackage, label, or relabel any drug, precursor chemical, or regulated chemical for shipment or delivery to anyone in Arizona; or
 - c. Sell, distribute, give away, or dispose of any drug, precursor chemical, or regulated chemical to anyone in Arizona that exceeds its expiration date, is contaminated or deteriorated from excessive heat, cold, sunlight, moisture, or other factors, or does not comply with federal law.
- F. When selling or distributing any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical into Arizona, a nonresident pharmacy, nonresident manufacturer, nonresident full-service or nonprescription drug wholesale, or nonprescription drug permittee shall comply with federal law, the permittee's resident state drug law, and this Section.

Historical Note

Former Rules 6.6110, 6.6120, and 6.6130; Amended effective August 10, 1978 (Supp. 78-4). Repealed effective July 24, 1985 (Supp. 85-4). New Section adopted by final rulemaking at 6 A.A.R. 4589, effective November 14, 2000 (Supp. 00-4). Amended by final rulemaking at 7 A.A.R. 3825, effective August 9, 2001 (Supp. 01-3). Amended by final rulemaking at 10 A.A.R. 232, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 13 A.A.R. 520, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 13 A.A.R. 3477, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2). Amended by final rulemaking at 26 A.A.R. 223, effective March 14, 2020 (Supp. 20-1).

R4-23-608. Change of Personnel and Responsibility

- A. A community, hospital, or limited-service pharmacy permittee shall give the Board:
 - 1. Notice by mail, facsimile, or electronic mail within ten days of employing or terminating a pharmacist; and
 - 2. Immediate notice of designating or terminating a pharmacist-in-charge.
- B. Responsibility of ownership and management. The owner and management of a pharmacy shall:
 - 1. Ensure that pharmacists, interns, and other pharmacy employees comply with state and federal laws and administrative rules; and
 - 2. Not overrule a pharmacist in matters of pharmacy ethics and interpreting laws pertaining to the practice of pharmacy or the distribution of drugs and devices.
- C. The Board may suspend or revoke a pharmacy permit if the owner or management of a pharmacy violates subsection (B).

Historical Note

Former Rules 6.6140 and 6.6150; Amended subsection (A) effective August 9, 1983 (Supp. 83-4). Amended effective November 1, 1993 (Supp. 93-4). Amended by final rulemaking at 7 A.A.R. 4253, effective September 11, 2001 (Supp. 01-3).

R4-23-609. Pharmacy Area of Community Pharmacy

- A. Minimum area of community pharmacy. The minimum area of a community pharmacy, the actual area primarily devoted to stocking drugs restricted to pharmacists, and to the compounding and dispensing of prescription medication, exclusive of office area or other support function area, shall not be less than 300 square feet. A maximum of three pharmacy personnel may practice or work simultaneously in the minimum area. The pharmacy permittee shall provide an additional 60 square feet of floor area for each additional pharmacist, graduate intern, pharmacy intern, pharmacy technician, pharmacy technician trainee, or support personnel who may practice or work simultaneously. All of the allotted square footage area, including adequate shelving, shall lend itself to efficient pharmaceutical practice and permit free movement and visual surveillance of personnel by the pharmacist.
- B. Compounding and dispensing counter. On or after January 6, 2004, a pharmacy permit applicant or remodel or relocation applicant shall provide a compounding and dispensing counter that provides a minimum of three square feet of pharmacy counter working area of not less than 16 inches in depth and 24 inches in length for the practice of one pharmacist, graduate intern, pharmacy intern, pharmacy technician, or pharmacy technician trainee. For each additional pharmacist, graduate intern, pharmacy intern, pharmacy technician, or pharmacy technician trainee practicing simultaneously, there shall be an additional three square feet of pharmacy counter working area of not less than 16 inches in depth and 24 inches in length. The Board shall determine a pharmacy's total required compounding and dispensing counter area by multiplying the maximum number of personnel allowed in the pharmacy area using the requirements specified in subsection (A) by three square feet per person. A pharmacy permittee or pharmacist-in-charge may operate the pharmacy with a total pharmacy counter working area specified in subsection (A) that is equal

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to the actual maximum number of pharmacists, graduate interns, pharmacy interns, pharmacy technicians, and pharmacy technician trainees, working simultaneously in the pharmacy area times three square feet per person.

- C. Working area for compounding and dispensing counter. The aisle floor area used by the pharmacist, graduate intern, pharmacy intern, pharmacy technician, or pharmacy technician trainee at the compounding and dispensing counter shall extend the full length of the counter and be clear and continuous for a minimum of 36 inches from any counter, fixture, or structure.
- D. Area for patient counseling. On or after April 1, 1995, a pharmacy permit applicant or remodel or relocation applicant shall provide a separate and distinct patient counseling area that provides patient privacy. This subsection does not apply to a pharmacy exempt from the requirements of R4-23-402(B).
- E. Narcotic cabinet or safe. To prevent diversion, narcotics and other controlled substances may be:
 1. Kept in a separate locked cabinet or safe, or
 2. Dispersed throughout the pharmacy's prescription-only drug stock.
- F. Building security standard of community pharmacy area. The pharmacy area shall be enclosed by a permanent barrier or partition from floor or counter to structural ceiling or roof, with entry doors that can be securely locked. The barrier shall be designed so that only a pharmacist can access the area where prescription-only drugs, narcotics, and other controlled substances are stored, compounded and dispensed. The permanent barrier may be constructed of other than a solid material. If constructed of a material other than a solid, the openings or interstices of the material shall not be large enough to permit removal of items in the pharmacy area through the barrier. Any material used in the construction of the permanent barrier must be of sufficient strength and thickness that it cannot be readily or easily removed, penetrated, or bent. The pharmacy permittee shall submit plans and specifications of the permanent barrier to the Board for approval.
- G. Drug storage and security.
 1. The pharmacy permittee shall ensure that drugs and devices are stored in a dry, well-lit, ventilated, and clean and orderly area. The pharmacy permittee shall maintain the drug storage area at temperatures that ensure the integrity of the drugs before dispensing as stated in the official compendium defined in A.R.S. § 32-1901(55) or the manufacturer's or distributor's labeling.
 2. If the pharmacy permittee needs additional storage area for drugs that are restricted to sale by a pharmacist, the pharmacy permittee shall ensure that the area is contained by a permanent barrier from floor or counter to structural ceiling or roof. The pharmacy permittee shall lock all doors and gates to the drug storage area. Only a pharmacist with a key is permitted to enter the storage area, except in an extreme emergency.
- H. A pharmacy permittee or pharmacist-in-charge shall ensure that the pharmacy working counter area is protected from unauthorized access while the pharmacy is open for business

by a barrier not less than 66 inches in height or another method approved by the Board or its designee.

Historical Note

Former Rules 6.6210, 6.6220, 6.6230, 6.6240, 6.6250, 6.6310, 6.6320, and 6.6330; Amended effective August 10, 1978 (Supp. 78-4). Amended effective August 9, 1983 (Supp. 83-4). Amended effective November 1, 1993 (Supp. 93-4). Amended effective April 1, 1995; filed with the Secretary of State January 31, 1995 (Supp. 95-1). Amended by final rulemaking at 9 A.A.R. 5030, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 19 A.A.R. 97, effective March 10, 2013 (Supp. 13-1).

R4-23-610. Community Pharmacy Personnel and Security Procedures

- A. Every pharmacy shall have a pharmacist designated as the "pharmacist-in-charge."
 1. The pharmacist-in-charge shall ensure the communication and compliance of Board directives to the management, other pharmacists, interns, and technicians of the pharmacy.
 2. The pharmacist-in-charge shall:
 - a. Ensure that all pharmacy policies and procedures required under 4 A.A.C. 23 are prepared, implemented, and complied with;
 - b. Review biennially and, if necessary, revise all pharmacy policies and procedures required under 4 A.A.C. 23;
 - c. Document the review required under subsection (A)(2)(b);
 - d. Ensure that all pharmacy policies and procedures required under 4 A.A.C. 23 are assembled as a written or electronic manual; and
 - e. Make all pharmacy policies and procedures required under 4 A.A.C. 23 available in the pharmacy for employee reference and inspection by the Board or its staff.
- B. Personnel permitted in the pharmacy area of a community pharmacy include pharmacists, graduate interns, pharmacy interns, compliance officers, drug inspectors, peace officers acting in their official capacity, other persons authorized by law, pharmacy technicians, pharmacy technician trainees, support personnel, and other designated personnel. Pharmacy interns, graduate interns, pharmacy technicians, pharmacy technician trainees, support personnel, and other designated personnel shall be permitted in the pharmacy area only when a pharmacist is on duty, except in an extreme emergency as defined in R4-23-110.
 1. The pharmacist-in-charge shall comply with the minimum area requirements as described in R4-23-609 for a community pharmacy and for compounding and dispensing counter area.
 2. A pharmacist employed by a pharmacy shall ensure that the pharmacy is physically secure while the pharmacist is on duty.
- C. In a community pharmacy, a pharmacist shall ensure that the pharmacy area, and any additional storage area for drugs that

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is restricted to access only by a pharmacist is locked when a pharmacist is not present, except in an extreme emergency.

- D. A pharmacist is the only person permitted by the Board to unlock the pharmacy area or any additional storage area for drugs restricted to access only by a pharmacist, except in an extreme emergency.
- E. A pharmacy permittee or pharmacist-in-charge shall ensure that any prescription-only drugs and controlled substances received in an area outside the pharmacy area are immediately transferred unopened to the pharmacy area. The pharmacist-in-charge shall ensure that any prescription-only drug and controlled substance shipments are opened and marked by pharmacy personnel in the pharmacy area under the supervision of a pharmacist, graduate intern, or pharmacy intern.
- F. A pharmacy permittee or pharmacist-in-charge may provide a small opening or slot through which a written prescription order or prescription medication container to be refilled may be left in the prescription area when the pharmacist is not present.
- G. A pharmacist shall ensure that prescription medication is not left outside the prescription area or picked up by the patient when the pharmacist is not present by either:
 - 1. Delivering the prescription medication to the patient, or
 - 2. Securing the prescription medication inside the locked pharmacy, except when using an automated storage and distribution system that complies with the requirements of R4-23-614.

Historical Note

Former Rules 6.6410, 6.6420, 6.6430, 6.6440, 6.6450, 6.6460, 6.6470, 6.6480, and 6.6490; Amended subsection (F), deleted subsection (I) effective August 9, 1983 (Supp. 83-4). Amended effective May 16, 1990 (Supp. 90-2). Amended effective November 1, 1993 (Supp. 93-4). Amended effective April 1, 1995; filed with the Secretary of State January 31, 1995 (Supp. 95-1). Amended by final rulemaking at 5 A.A.R. 4441, effective November 2, 1999 (Supp. 99-4). Amended by final rulemaking at 10 A.A.R. 4453, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 13 A.A.R. 2631, effective September 8, 2007 (Supp. 07-3).

R4-23-611. Pharmacy Facilities

- A. Facilities. A pharmacy permittee or pharmacist-in-charge shall ensure that:
 - 1. A pharmacy's facilities are constructed according to state and local laws and ordinances;
 - 2. A pharmacy facility's:
 - a. Walls, ceilings, windows, floors, shelves, and equipment are clean and in good repair and order; and
 - b. Counters, shelves, aisles, and open spaces are not cluttered;
 - 3. Adequate trash receptacles are provided and emptied periodically during the day;

- 4. A pharmacy facility of any pharmacy permit issued or pharmacy remodeled after February 1, 2014 provides access to toilet facilities either:
 - a. Within the pharmacy area, or
 - b. No further than a walking distance of 100 feet from the pharmacy area or an alternative distance approved by the Board or its designee;
- 5. The toilet facilities are maintained in a sanitary condition and in good repair;
- 6. All professional personnel and staff of the pharmacy keep themselves and their apparel clean while in the pharmacy area;
- 7. No animals, except licensed assistant animals and guard animals, are allowed in the pharmacy;
- 8. The pharmacy facility is kept free of insects and rodents; and
- 9. There is a sink with hot and cold running water, other than a sink in a toilet facility, within the pharmacy area for use in preparing drug products.
- B. Supply of drugs and chemicals. A pharmacy permittee or pharmacist-in-charge shall ensure that:
 - 1. A pharmacy maintains a stock of drugs and chemicals that:
 - a. Are sufficient to meet the normal demands of the trading area or patient base the pharmacy serves; and
 - b. Meet all standards of strength and purity as established by the official compendiums;
 - 2. All stock, materials, drugs, and chemicals held for ultimate sale or supply to the consumer are not contaminated;
 - 3. Policies and procedures are developed, implemented, and complied with to prevent the sale or use of a drug or chemical:
 - a. That exceeds its expiration date;
 - b. That is deteriorated or damaged by reason of age, heat, light, cold, moisture, crystallization, chemical reaction, rupture of coating, disintegration, solidification, separation, discoloration, change of odor, precipitation, or other change as determined by organoleptic examination or by other means;
 - c. That is improperly labeled;
 - d. Whose container is defective; or
 - e. That does not comply with federal law; and
 - 4. The policies and procedures described in subsection (B)(3):
 - a. Are made available in the pharmacy for employee reference and inspection by the Board or its designee; and
 - b. Provide the following:
 - i. Any expiration-dated drug or chemical is reviewed regularly;
 - ii. Any drug or chemical that exceeds its expiration date, is deteriorated or damaged, improperly labeled, has a defective container, or does not comply with federal law, is moved to a quarantine area and not sold or distributed; and
 - iii. Any quarantined drug or chemical is properly destroyed or returned to its source of supply.

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Historical Note

Former Rules 6.6510, 6.6520, 6.6530, 6.6540, 6.6550, 6.6560, 6.6570, 6.6580, 6.6600, 6.6610, 6.6620, 6.6630, 6.6640, 6.6650, and 6.6660; Amended subsection (B) effective August 9, 1983 (Supp. 83-4). Amended effective April 1, 1995; filed with the Secretary of State January 31, 1995 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4253, effective September 11, 2001 (Supp. 01-3). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 19 A.A.R. 4165, effective February 1, 2014 (Supp. 13-4).

R4-23-612. Equipment

A pharmacy permittee or pharmacist-in-charge shall ensure that a pharmacy has the necessary equipment to allow a pharmacist to practice the profession of pharmacy, including the following:

1. Adequate refrigeration equipment dedicated to the storage of drugs and biologicals;
2. A C-V controlled substance register, if C-V controlled substances are sold without an order of a medical practitioner;
3. Graduates in assorted sizes;
4. One mortar and pestle, not required if the pharmacy permittee states in the application that compounding will not be performed in the pharmacy;
5. Spatulas of assorted sizes including one nonmetallic;
6. Prescription balance, Class A with weights or an electronic balance of equal or greater accuracy, not required if the pharmacy permittee states in the application that compounding will not be performed in the pharmacy;
7. One ointment tile or equivalent, not required if the pharmacy permittee states in the application that compounding will not be performed in the pharmacy;
8. A current hard-copy or access to a current electronic-copy of the Arizona Pharmacy Act and administrative rules and Arizona Controlled Substance Act;
9. A professional reference library consisting of a minimum of one current reference or text, in hard-copy or electronic media, addressing the following subject areas:
 - a. Pharmacology or toxicology,
 - b. Therapeutics,
 - c. Drug compatibility, and
 - d. Drug product equivalency;
10. An assortment of labels, including prescription labels, transfer labels for controlled substances, and cautionary and warning labels;
11. A red C stamp as defined in R4-23-110, if C-III, C-IV, and C-V controlled substance invoices are not filed separately from other invoices;
12. Current antidote and drug interaction information; and
13. Regional poison control phone number prominently displayed in the pharmacy area.

Historical Note

Former Rule 6.6670; Former Section R4-23-612 repealed, new Section R4-23-612 adopted effective August 10, 1978 (Supp. 78-4). Amended effective

August 9, 1983 (Supp. 83-4). Amended effective April 5, 1996 (Supp. 96-2). Amended by final rulemaking at 7 A.A.R. 4253, effective September 11, 2001 (Supp. 01-3). Amended by final rulemaking at 19 A.A.R. 4165, effective February 1, 2014 (Supp. 13-4).

R4-23-613. Procedure for Discontinuing a Pharmacy

- A.** A pharmacy permittee or pharmacist-in-charge shall provide written notice to the Board and the Drug Enforcement Administration (D.E.A.) at least 14 days before discontinuing operation of the pharmacy. The notice shall contain the following information:
1. Name, address, pharmacy permit number, and D.E.A. registration number of the pharmacy discontinuing business;
 2. Name, address, pharmacy permit number (if applicable), and D.E.A. registration number (if applicable) of the licensee, permittee, or registrant to whom any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical will be sold or transferred;
 3. Name and address of the location where the discontinuing pharmacy's records of purchase and disbursement of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical will be kept and the person responsible for the records. These records shall be kept for a minimum of three years from the date the pharmacy is discontinued;
 4. Name and address of the location where the discontinuing pharmacy's prescription files and patient profiles will be kept and the person responsible for the files and profiles. These records shall be kept for a minimum of seven years from the date the last original or refill prescription was dispensed; and
 5. The proposed date of discontinuing business operations.
- B.** The pharmacy permittee shall ensure that all pharmacy signs and symbols are removed from both the inside and outside of the premises.
- C.** The pharmacy permittee or pharmacist-in-charge shall ensure that all state permits and certificates of registration are returned to the Board office and that D.E.A. registration certificates and unused D.E.A. Schedule II order forms are returned to the D.E.A. Regional Office in Phoenix.
- D.** The pharmacist-in-charge of the pharmacy discontinuing business shall ensure that:
1. Only a pharmacist has access to the prescription-only drugs and controlled substances until they are transferred to the licensee, permittee, or registrant listed in subsection (A)(2);
 2. All narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals are removed from the premises on or before the date the pharmacy is discontinued; and
 3. All controlled substances are transferred as follows:
 - a. Take an inventory of all controlled substances that are transferred using the procedures in R4-23-1003;

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- b. Include a copy of the inventory with the controlled substances that are transferred;
 - c. Keep the original of the inventory with the discontinued pharmacy's records of narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical purchase and disbursement for a minimum of three years from the date the pharmacy is discontinued;
 - d. Use a D.E.A. form 222 to transfer any Schedule II controlled substances; and
 - e. Transfer controlled substances that need destruction in the same manner as all other controlled substances.
 - E. Upon receipt of outdated or damaged controlled substances from a discontinued pharmacy, the licensee, permittee, or registrant described in subsection (A)(2) shall contact a D.E.A. registered reverse distributor for proper destruction of outdated or damaged controlled substances. If there are controlled substances a reverse distributor will not accept, the licensee, permittee, or registrant shall then contact the Board office and request an inspection for the purpose of drug destruction.
 - F. During the three-year record retention period specified in subsection (A)(3), the person described in subsection (A)(3) shall provide to the Board upon its request a discontinued pharmacy's records of the purchase and disbursement of narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals.
 - G. During the seven-year record retention period specified in subsection (A)(4), the person described in subsection (A)(4) shall provide to the Board upon its request a discontinued pharmacy's records of prescription files and patient profiles.
- Historical Note**
- New Section made by final rulemaking at 7 A.A.R. 3825, effective August 9, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 1105, effective April 30, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 1912, effective July 1, 2006 (Supp. 06-2). Amended by final rulemaking at 14 A.A.R. 3670, effective November 8, 2008 (Supp. 08-3).
- R4-23-614. Automated Storage and Distribution System**
- A. Before using an automated storage and distribution system, a pharmacy permittee or pharmacist-in-charge shall:
 - 1. Ensure that the automated storage and distribution system and the policies and procedures comply with subsection (B); and
 - 2. Notify the Board in writing of the intent to use an automated storage and distribution system, including the type or name of the system.
 - B. A pharmacy permittee or pharmacist-in-charge shall establish policies and procedures for appropriate performance and use of the automated storage and distribution system that:
 - 1. Ensure that the automated storage and distribution system is in good working order while maintaining appropriate recordkeeping and security safeguards;
 - 2. Ensure that an automated storage and distribution system used by the pharmacy that allows access to drugs or devices by a patient:
 - a. Only contains prescriptions that:
 - i. Do not require oral consultation as specified in R4-23-402(B); and
 - ii. Are properly labeled and verified by a pharmacist before placement into the automated storage and distribution system and subsequent release to patients;
 - b. Allows a patient to choose whether or not to use the system;
 - c. Is located either in a wall of a properly permitted pharmacy or within 20 feet of a properly permitted pharmacy if the automated storage and distribution system is secured against the wall or floor in such a manner that prevents the automated storage and distribution system's unauthorized removal;
 - d. Provides a method to identify the patient and only release that patient's prescriptions;
 - e. Is secure from access and removal of drugs or devices by unauthorized individuals;
 - f. Provides a method for a patient to obtain a consultation with a pharmacist if requested by the patient; and
 - g. Does not allow the system to dispense refilled prescriptions if a pharmacist determines that the patient requires oral counseling as specified in R4-23-402(B);
 - 3. Ensure that an automated storage and distribution system used by the pharmacy that allows access to drugs or devices only by authorized licensed personnel for the purposes of administration based on a valid prescription order or medication order:
 - a. Provides for adequate security to prevent unauthorized individuals from accessing or obtaining drugs or devices; and
 - b. Provides for the filling, stocking, or restocking of all drugs or devices in the system only by a Board licensee or other authorized licensed personnel; and
 - 4. Implement an ongoing quality assurance program that monitors compliance with the established policies and procedures of the automated storage and distribution system and federal and state law.
 - C. A pharmacy permittee or pharmacist-in-charge shall:
 - 1. Ensure that the policies and procedures required under subsection (B) are prepared, implemented, and complied with;
 - 2. Review biennially and, if necessary, revise the policies and procedures required under subsection (B);
 - 3. Document the review required under subsection (C)(2);
 - 4. Assemble the policies and procedures as a written or electronic manual; and
 - 5. Make the policies and procedures available for employee reference and inspection by the Board or its staff within the pharmacy and at any location outside the pharmacy where the automated storage and distribution system is used.

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- D.** The Board may prohibit a pharmacy permittee or pharmacist-in-charge from using an automated storage and distribution system if the pharmacy permittee or the pharmacy permittee's employees do not comply with the requirements of subsections (A), (B), or (C).

Historical Note

New Section made by final rulemaking at 13 A.A.R. 616, effective April 7, 2007 (Supp. 07-1).

R4-23-615. Mechanical Storage and Counting Device for a Drug in Solid, Oral Dosage Form

- A.** A pharmacy permittee or pharmacist-in-charge shall ensure that a mechanical storage and counting device for a drug in a solid, oral dosage form that is used by a pharmacist or a pharmacy intern, graduate intern, pharmacy technician, or pharmacy technician trainee under the supervision of a pharmacist complies with the following method to identify the contents of the device:
1. The drug name and strength are affixed to the front of each cell or cassette of the device;
 2. A paper or electronic log is kept for each cell or cassette that contains:
 - a. An identification of the cell or cassette by the drug name and strength or the number of the cell or cassette;
 - b. The drug's manufacturer or National Drug Code (NDC) number;
 - c. The expiration date and lot number from the manufacturer's stock bottle that is used to fill the cell or cassette. If multiple lot numbers of the same drug are added to a cell or cassette, each lot number and expiration date shall be documented, and the earliest expiration date shall become the expiration date of the mixed lot of drug in the cell or cassette;
 - d. The date the cell or cassette is filled;
 - e. Documentation of the identity of the licensee who placed the drug into the cell or cassette; and
 - f. If the licensee who filled the cell or cassette is not a pharmacist, documentation of the identity of the pharmacist who supervised the non-pharmacist licensee who filled the cell or cassette; and
 3. The paper or electronic log is available in the pharmacy for inspection by the Board or its designee for not less than two years.
- B.** A pharmacy permittee or pharmacist-in-charge shall ensure that any drug previously counted by a mechanical storage and counting device for a drug in a solid, oral dosage form that has not left the pharmacy is not returned to the drug's cell, cassette, or stock bottle, unless the drug return method is approved by the Board or its designee as specified in subsection (G). This subsection does not prevent a pharmacy permittee or pharmacist-in-charge from using a manual or mechanical counting device to count and dispense a previously counted drug that has not left the pharmacy if the previously counted drug is dispensed before its beyond-use-date.
- C.** A pharmacy permittee or pharmacist-in-charge shall ensure the accuracy of any mechanical storage and counting device for a drug in a solid, oral dosage form that is used by a pharmacist or a pharmacy intern, graduate intern, pharmacy technician, or pharmacy technician trainee under the supervision of a pharmacist by documenting completion of the following:
1. Training in the maintenance, calibration, and use of the mechanical storage and counting device for each employee who uses the mechanical storage and counting device;
 2. Maintenance and calibration of the mechanical storage and counting device as recommended by the device's manufacturer; and
 3. Routine quality assurance and accuracy validation testing for each mechanical storage and counting device.
- D.** A pharmacy permittee or pharmacist-in-charge shall ensure that the documentation required in subsection (C) is available for inspection by the Board or its designee.
- E.** A pharmacy permittee or pharmacist-in-charge shall:
1. Ensure that policies and procedures for the performance and use of a mechanical storage and counting device for a drug in a solid, oral dosage form are prepared, implemented, and complied with;
 2. Review biennially and, if necessary, revise the policies and procedures required under subsection (E)(1);
 3. Document the review required under subsection (E)(2);
 4. Assemble the policies and procedures as a written or electronic manual; and
 5. Make the policies and procedures available within the pharmacy for employee reference and inspection by the Board or its staff.
- F.** The Board may prohibit a pharmacy permittee or pharmacist-in-charge from using a mechanical storage and counting device for a drug in a solid, oral dosage form if the pharmacy permittee or the pharmacy permittee's employees do not comply with the requirements of subsections (A), (B), (C), (D), or (E).
- G.** Returning a drug previously counted by a mechanical storage and counting device for a drug in a solid, oral dosage form that has not left the pharmacy to the drug's cell or cassette.
1. Before returning a drug previously counted by a mechanical storage and counting device that has not left the pharmacy to the drug's cell or cassette, a pharmacy permittee or pharmacist-in-charge shall:
 - a. Apply for approval from the Board or its designee for the drug return method to be used in returning the drug;
 - b. Develop a drug return method that uses technology, such as bar coding, to prevent drug return errors;
 - c. Provide documentation depicting the drug return method;
 - d. Demonstrate the drug return method for a Board Compliance Officer; and
 - e. Receive approval from the Board or its designee for the drug return method to be used in returning the drug.
 2. Before approving a request to waive the drug return prohibition in subsection (B), the Board or its designee shall:
 - a. Receive a request in writing from the pharmacy permittee or pharmacist-in-charge;

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- b. Review the documentation of the drug return method; and
- c. Receive a satisfactory inspection report from a Board Compliance Officer that the drug return method uses technology to prevent drug return errors.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 616, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 14 A.A.R. 3677, effective November 8, 2008 (Supp. 08-3).

R4-23-616. Mechanical Counting Device for a Drug in Solid, Oral Dosage Form

- A. A pharmacy permittee or pharmacist-in-charge shall ensure the accuracy of any mechanical counting device for a drug in a solid, oral dosage form that is used by a pharmacist or a pharmacy intern, graduate intern, pharmacy technician, or pharmacy technician trainee under the supervision of a pharmacist by documenting completion of the following:
 1. Training in the maintenance, calibration, and use of the mechanical counting device for each employee who uses the mechanical counting device;
 2. Maintenance and calibration of the mechanical counting device as recommended by the device's manufacturer; and
 3. Routine quality assurance and accuracy validation testing for each mechanical counting device.
- B. A pharmacy permittee or pharmacist-in-charge shall ensure that the documentation required in subsection (A) is available for inspection by the Board or its designee.
- C. A pharmacy permittee or pharmacist-in-charge shall:
 1. Ensure that policies and procedures for the performance and use of a mechanical counting device for a drug in a solid, oral dosage form are prepared, implemented, and complied with;
 2. Review biennially and, if necessary, revise the policies and procedures required under subsection (C)(1);
 3. Document the review required under subsection (C)(2);
 4. Assemble the policies and procedures as a written or electronic manual; and
 5. Make the policies and procedures available within the pharmacy for employee reference and inspection by the Board or its staff.
- D. The Board may prohibit a pharmacy permittee or pharmacist-in-charge from using a mechanical counting device for a drug in a solid, oral dosage form if the pharmacy permittee or the pharmacy permittee's employees do not comply with the requirements of subsections (A), (B), or (C).

Historical Note

New Section made by final rulemaking at 13 A.A.R. 616, effective April 7, 2007 (Supp. 07-1).

R4-23-617. Temporary Pharmacy Facilities or Mobile Pharmacies

- A. Pharmacies located in declared disaster areas, nonresident pharmacies, and pharmacies licensed or permitted in another state but not licensed or permitted in this state, if necessary to provide pharmacy services during a declared state of

emergency, may arrange to temporarily locate to a temporary pharmacy facility or mobile pharmacy or relocate to a temporary pharmacy facility or mobile pharmacy if the pharmacist-in-charge of the temporary pharmacy facility or mobile pharmacy ensures that:

1. The pharmacy is under the control and management of the pharmacist-in-charge or a supervising pharmacist designated by the pharmacist-in-charge;
 2. The pharmacy is located within or adjacent to the declared disaster area;
 3. The Board is notified of the pharmacy's location;
 4. The pharmacy is properly secured to prevent theft and diversion of drugs;
 5. The pharmacy's records are maintained in accordance with Arizona statutes and rules; and
 6. The pharmacy stops providing pharmacy services when the declared state of emergency ends, unless it possesses a current resident pharmacy permit issued by the Board under A.R.S. §§ 32-1929, 32-1930, and 32-1931.
- B. The Board shall have the authority to approve or deny temporary pharmacy facilities, mobile pharmacies, and shall make arrangements for appropriate monitoring and inspection of the temporary pharmacy facilities and mobile pharmacies on a case-by-case basis.
 - C. A temporary pharmacy facility wishing to permanently operate at its temporary site shall apply for and have received a permit issued under A.R.S. §§ 32-1929, 32-1930, and 32-1931 by following the application process under R4-23-606.
 - D. A mobile pharmacy, placed in operation during a declared state of emergency, shall not operate permanently.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 4400, effective January 3, 2009 (Supp. 08-4).

R4-23-618. Reserved**R4-23-619. Reserved****R4-23-620. Continuous Quality Assurance Program**

- A. Each pharmacy permittee shall implement or participate in a continuous quality assurance (CQA) program. A pharmacy permittee meets the requirements of this Section if it holds a current general, special or rural general hospital license from the Arizona Department of Health Services and is any of the following:
 1. Certified by the Centers for Medicare and Medicaid Services to participate in the Medicare or Medicaid programs;
 2. Accredited by the Joint Commission on the Accreditation of Healthcare Organizations; or
 3. Accredited by the American Osteopathic Association.
- B. A pharmacy permittee or the pharmacist-in-charge shall ensure that:
 1. The pharmacy develops, implements, and utilizes a CQ program consistent with the requirements of this Section and A.R.S. § 32-1973;

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2. The medication error data generated by the CQA program is utilized and reviewed on a regular basis, as required by subsection (D); and
 3. Training records, policies and procedures, and other program records or documents, other than medication error data, are maintained for a minimum of two years in the pharmacy or in a readily retrievable manner.
- C.** A pharmacy permittee or pharmacist-in-charge shall:
1. Ensure that policies and procedures for the operation and management of the pharmacy's CQA program are prepared, implemented, and complied with;
 2. Review biennially and, if necessary, revise the policies and procedures required under subsection (C)(1);
 3. Document the review required under subsection (C)(2);
 4. Assemble the policies and procedures as a written or electronic manual; and
 5. Make the policies and procedures available within the pharmacy for employee reference and inspection by the Board or its staff.
- D.** The policies and procedures shall address a planned process to:
1. Train all pharmacy personnel in relevant phases of the CQA program;
 2. Identify and document medication errors;
 3. Record, measure, and analyze data collected to:
 - a. Assess the causes and any contributing factors relating to medication errors, and
 - b. Improve the quality of patient care;
 4. Utilize the findings from subsections (D)(2) and (3) to develop pharmacy systems and workflow processes designed to prevent or reduce medication errors; and
 5. Communicate periodically, and at least annually, with pharmacy personnel to review CQA program findings and inform pharmacy personnel of any changes made to pharmacy policies, procedures, systems, or processes as a result of CQA program findings.
- E.** The Board's regulatory oversight activities regarding a pharmacy's CQA program are limited to inspection of the pharmacy's CQA policies and procedures and enforcing the pharmacy's compliance with those policies and procedures.
- F.** A pharmacy's compliance with this Section shall be considered by the Board as a mitigating factor in the investigation and evaluation of a medication error.
- party in complying with federal and state pharmacy statutes and rules, and
3. Share a common electronic file or technology that allows access to information necessary or required to perform shared services in conformance with the pharmacy act and the Board's rules.
- C.** Notifications to patients.
1. Before using shared services provided by another pharmacy, a pharmacy permittee shall:
 - a. Notify patients that their orders may be processed or filled by another pharmacy; and
 - b. Provide the name of that pharmacy or, if the pharmacy is part of a network of pharmacies under common ownership and any of the network pharmacies may process or fill the order, notify the patient of this fact. The notification may be provided through a one-time written notice to the patient or through use of a sign in the pharmacy.
 2. If an order is delivered directly to the patient by a filling pharmacy and not returned to the requesting pharmacy, the filling pharmacy permittee shall ensure that the following is placed on the prescription container or on a separate sheet delivered with the prescription container:
 - a. The local, and if applicable, the toll-free telephone number of the pharmacy utilizing shared services that has access to the patient's records; and
 - b. A statement that conveys to the patient or patient's care-giver the following information: "Written information about this prescription has been provided for you. Please read this information before you take the medication. If you have questions concerning this prescription, a pharmacist is available during normal business hours to answer these questions at (insert the local and toll-free telephone numbers of the pharmacy utilizing shared services that has access to the patient's records)."
 3. The provisions of subsection (C) do not apply to orders delivered to patients in facilities where a licensed health care professional is responsible for administering the prescription medication to the patient.
- D.** A pharmacy permittee engaged in shared services shall:
1. Maintain manual or electronic records that identify, individually for each order processed, the name, initials, or identification code of each pharmacist, graduate intern, pharmacy intern, pharmacy technician, and pharmacy technician trainee who took part in the order interpretation, order entry verification, drug utilization review, drug compatibility and drug allergy review, final order verification, therapeutic intervention, or refill authorization functions performed at that pharmacy;
 2. Maintain manual or electronic records that identify, individually for each order filled or dispensed, the name, initials, or identification code of each pharmacist, graduate intern, pharmacy intern, pharmacy technician, and pharmacy technician trainee who took part in the filling, dispensing, and counseling functions performed at that pharmacy;

Historical Note

New Section made by final rulemaking at 18 A.A.R.
2603, effective December 2, 2012 (Supp. 12-4).

R4-23-621. Shared Services

- A.** Before participating in shared services, a pharmacy shall have either a current resident or non-resident pharmacy permit issued by the Board.
- B.** A pharmacy may provide or utilize shared services functions only if the pharmacies involved:
1. Have the same owner, or
 2. Have a written contract or agreement that outlines the services provided and the shared responsibilities of each

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3. Report to the Board as soon as practical the results of any disciplinary action taken by another state's pharmacy regulatory agency involving shared services;
 4. Maintain a mechanism for tracking the order during each step of the processing and filling procedures performed at the pharmacy;
 5. Provide for adequate security to protect the confidentiality and integrity of patient information; and
 6. Provide for inspection of any required record or information within 72 hours of any request by the Board or its designee.
- E. Each pharmacy permittee that provides or utilizes shared services shall develop, implement, review, revise, and comply with joint policies and procedures for shared services in the manner described in R4-23-610(A)(2). Each pharmacy permittee is required to maintain only those portions of the joint policies and procedures that relate to that pharmacy's operations. The policies and procedures shall:
1. Outline the responsibilities of each of the pharmacies;
 2. Include a list of the name, address, telephone numbers, and all license and permit numbers of the pharmacies involved in shared services; and
 3. Include policies and procedures for:
 - a. Notifying patients that their orders may be processed or filled by another pharmacy and providing the name of that pharmacy;
 - b. Protecting the confidentiality and integrity of patient information;
 - c. Dispensing orders when the filled order is not received or the patient comes in before the order is received;
 - d. Maintaining required manual or electronic records to identify the name, initials, or identification code and specific activity or activities of each pharmacist, graduate intern, pharmacy intern, pharmacy technician, or pharmacy technician trainee who performed any shared services;
 - e. Complying with federal and state laws; and
 - f. Operating a continuous quality improvement program for shared services, designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care, and resolve identified problems.
- F. Nothing in this Section shall prohibit an individual pharmacist licensed in Arizona, who is an employee of or under contract with a pharmacy, or an Arizona-licensed graduate intern, pharmacy intern, pharmacy technician, or pharmacy technician trainee, working under the supervision of the pharmacist, from accessing that pharmacy's electronic database from inside or outside the pharmacy and performing the order processing functions permitted by the pharmacy act, if both of the following conditions are met:
1. The pharmacy establishes controls to protect the confidentiality and integrity of patient information; and
 2. None of the database is duplicated, downloaded, or removed from the pharmacy's electronic database.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 520, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 19 A.A.R. 97, effective March 10, 2013 (Supp. 13-1).

- R4-23-622. Reserved
- R4-23-623. Reserved
- R4-23-624. Reserved
- R4-23-625. Reserved
- R4-23-626. Reserved
- R4-23-627. Reserved
- R4-23-628. Reserved
- R4-23-629. Reserved
- R4-23-630. Reserved
- R4-23-631. Reserved
- R4-23-632. Reserved
- R4-23-633. Reserved
- R4-23-634. Reserved
- R4-23-635. Reserved
- R4-23-636. Reserved
- R4-23-637. Reserved
- R4-23-638. Reserved
- R4-23-639. Reserved
- R4-23-640. Reserved
- R4-23-641. Reserved
- R4-23-642. Reserved
- R4-23-643. Reserved
- R4-23-644. Reserved
- R4-23-645. Reserved
- R4-23-646. Reserved
- R4-23-647. Reserved
- R4-23-648. Reserved
- R4-23-649. Reserved
- R4-23-650. Reserved

R4-23-651. Definitions

The following definitions apply to R4-23-651 through R4-23-659:

"Administration" means the giving of a dose of medication to a patient as a result of an order of a medical practitioner.

"Direct copy" means an electronic, facsimile or carbonized copy.

"Dispensing for hospital inpatients" means the interpreting, evaluating, and implementing a medication order including preparing for delivery a drug or device to an inpatient or inpatient's agent in a suitable container appropriately labeled

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for subsequent administration to, or use by, an inpatient (hereafter referred to as “dispensing”).

“Drug distribution” means the delivery of drugs other than “administering” or “dispensing.”

“Emergency medical situation” means a condition of emergency in which immediate drug therapy is required for the preservation of health, life, or limb of a person or persons.

“Floor stock” means a supply of essential drugs not labeled for a specific patient and maintained and controlled by the pharmacy at a patient care area for the purpose of timely administration to a patient of the hospital.

“Formulary” means a continually revised compilation of pharmaceuticals (including ancillary information) that reflects the current clinical judgment of the medical staff.

“Hospital pharmacy” means a pharmacy, as defined in A.R.S. § 32-1901, that holds a current permit issued by the Board pursuant to A.R.S. § 32-1931, and is located in a hospital as defined in A.R.S. § 32-1901.

“Inpatient” means any patient who receives non-self-administered drugs from a hospital pharmacy for use while within a facility owned by the hospital.

“Intravenous admixture” means a sterile parenteral solution to which one or more additional drug products have been added.

“Medication order” means a written, electronic, or verbal order from a medical practitioner or a medical practitioner’s authorized agent for administration of a drug or device.

“On-call” means a pharmacist is available to:

Consult or provide drug information regarding drug therapy or related issues; or

Dispense a medication order and review a patient’s medication order for pharmaceutical and therapeutic feasibility under R4-23-653(E)(2) before any drug is administered to a patient, except as specified in R4-23-653(E)(1).

“Patient care area” means any area for the primary purpose of providing a physical environment that is owned by or operated in conjunction with a hospital, for a patient to obtain health care services, except those areas where a physician, dentist, veterinarian, osteopath, or other medical practitioner engages primarily in private practice.

“Repackaged drug” means a drug product that is transferred by pharmacy personnel from an original manufacturer’s container to another container properly labeled for subsequent dispensing.

“Satellite pharmacy” means a work area in a hospital setting under the direction of a pharmacist that is a remote extension of a centrally licensed hospital pharmacy and owned by and dependent upon the centrally licensed hospital pharmacy for administrative control, staffing, and drug procurement.

“Single unit” means a package of medication that contains one discrete pharmaceutical dosage form.

“Supervision” means the process by which a pharmacist directs the activities of hospital pharmacy personnel to a sufficient degree to ensure that all activities are performed accurately, safely, and without risk of harm to patients.

Historical Note

Former Rules 6.7110, 6.7120, and 6.7130; Amended effective August 10, 1978 (Supp. 78-4). Amended subsection (B) effective April 20, 1982 (Supp. 82-2). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Amended effective November 1, 1993 (Supp. 93-4). Amended effective April 5, 1996 (Supp. 96-2). Amended by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4).

R4-23-652. Hospital Pharmacy Permit

- A. The following rules are applicable to all hospitals as defined by A.R.S. § 32-1901 and hospital pharmacies as defined by R4-23-651.
- B. Before opening a hospital pharmacy, a person shall obtain a pharmacy permit as specified in R4-23-602 and R4-23-606.
- C. Discontinued hospitals. If a hospital license is discontinued by the state Department of Health Services, the pharmacy permittee or pharmacist-in-charge shall follow the procedures described in R4-23-613 for discontinuing a pharmacy.

Historical Note

Former Rules 6.7210, 6.7220, 6.7230, 6.7231, 6.7232, and 6.7233. Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Amended by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4).

R4-23-653. Personnel: Professional or Technician

- A. Each hospital pharmacy shall be directed by a pharmacist who is licensed to engage in the practice of pharmacy in Arizona and is referred to as the Director of Pharmacy. The Director of Pharmacy shall be the pharmacist-in-charge, as defined in A.R.S. § 32-1901 or shall appoint a pharmacist-in-charge. The Director of Pharmacy and the pharmacist-in-charge, if a different individual, shall:
 1. Be responsible for all the activities of the hospital pharmacy and for meeting the requirements of the Arizona Pharmacy Act and these rules;
 2. Ensure that the policies and procedures required by these rules are prepared, implemented, and complied with;
 3. Review biennially and, if necessary, revise the policies and procedures required under these rules;
 4. Document the review required under subsection (A)(3);
 5. Assemble the policies and procedures as a written manual or by another method approved by the Board or its designee; and
 6. Make the policies and procedures available within the pharmacy for employee reference and inspection by the Board or its designee.
- B. In all hospitals, a pharmacist shall be in the hospital during the time the pharmacy is open for pharmacy services, except for an extreme emergency as defined in R4-23-110. Pharmacy services shall be provided for a minimum of 40 hours per week, unless an exception for less than the minimum hours is

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made upon written request by the hospital and with express permission of the Board or its designee.

- C. In a hospital where the pharmacy is not open 24 hours per day for pharmacy services, a pharmacist shall be “on-call” as defined in R4-23-651 when the pharmacy is closed.
- D. The Director of Pharmacy may be assisted by other personnel approved by the Director of Pharmacy in order to operate the pharmacy competently, safely, and adequately to meet the needs of the hospital’s patients.
- E. Pharmacists. A pharmacist or a pharmacy intern or graduate intern under the supervision of a pharmacist shall perform the following professional practices:
 - 1. Verify a patient’s medication order before administration of a drug to the patient, except:
 - a. In an emergency medical situation; or
 - b. In a hospital where the pharmacy is open less than 24 hours a day for pharmacy services, a pharmacist shall verify a patient’s medication order within four hours of the time the pharmacy opens for pharmacy services;
 - 2. Verify a medication order’s pharmaceutical and therapeutic feasibility based upon:
 - a. The patient’s medical condition,
 - b. The patient’s allergies,
 - c. The pharmaceutical and therapeutic incompatibilities, and
 - d. The recommended dosage limits;
 - 3. Measure, count, pour, or otherwise prepare and package a drug needed for dispensing, except a pharmacy technician or pharmacy technician trainee may measure, count, pour, or otherwise prepare and package a drug needed for dispensing under the supervision of a pharmacist according to written policies and procedures approved by the Board or its designee;
 - 4. Compound, admix, combine, or otherwise prepare and package a drug needed for dispensing, except a pharmacy technician may compound, admix, combine, or otherwise prepare and package a drug needed for dispensing under the supervision of a pharmacist according to written policies and procedures approved by the Board or its designee;
 - 5. Verify the accuracy, correct procedure, compounding, admixing, combining, measuring, counting, pouring, preparing, packaging, and safety of a drug prepared and packaged by a pharmacy technician or pharmacy technician trainee according to subsections (E)(3) and (4) and according to the policies and procedures in subsection (G);
 - 6. Supervise drug repackaging and check the completed repackaged product as specified in R4-23-402(A);
 - 7. Supervise training and education in aseptic technique and drug incompatibilities for all personnel involved in the admixture of parenteral products within the hospital pharmacy;
 - 8. Consult with the medical practitioner regarding the patient’s drug therapy or medical condition;
 - 9. When requested by a medical practitioner, patient, patient’s agent, or when the pharmacist deems it necessary, provide consultation with a patient regarding the medication order, patient’s profile, or overall drug therapy;
- 10. Monitor a patient’s drug therapy for safety and effectiveness;
- 11. Provide drug information to patients and health care professionals;
- 12. Manage the activities of pharmacy technicians, pharmacy technician trainees, other personnel, and systems to ensure that all activities are performed accurately, safely, and without risk of harm to patients;
- 13. Verify the accuracy of all aspects of the original, completed medication order; and
- 14. Ensure compliance by pharmacy personnel with a quality assurance program developed by the hospital.
- F. Pharmacy technicians and pharmacy technician trainees. Before working as a pharmacy technician or pharmacy technician trainee, an individual shall meet the eligibility and licensure requirements prescribed in 4 A.A.C. 23, Article 11
- G. Pharmacy technician policies and procedures. Before employing a pharmacy technician or pharmacy technician trainee, a Director of Pharmacy or pharmacist-in-charge shall develop the policies and procedures required under R4-23-1104.
- H. Pharmacy technician training program.
 - 1. A Director of Pharmacy or pharmacist-in-charge shall comply with the training program requirements of R4-23-1105 based on the needs of the hospital pharmacy;
 - 2. A pharmacy technician or pharmacy technician trainee shall:
 - a. Perform only those tasks for which training and competency have been demonstrated; and
 - b. Not perform professional practices reserved for a pharmacist, graduate intern, or pharmacy intern in subsection (E), except as specified in subsections (E)(3) and (4).
- I. Supervision. A hospital pharmacy’s Director of Pharmacy and the pharmacist-in-charge, if a different individual, shall supervise all of the activities and operations of a hospital pharmacy. A pharmacist shall supervise all functions and activities of pharmacy technicians, pharmacy technician trainees, and other hospital pharmacy personnel to ensure that all functions and activities are performed competently, safely, and without risk of harm to patients.

Historical Note

Former Rules 6.7310 and 6.7320; Amended effective August 10, 1978 (Supp. 78-4). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Amended effective November 1, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3).

R4-23-654. Absence of Pharmacist

- A. If a pharmacist will not be on duty in the hospital, the Director of Pharmacy or pharmacist-in-charge shall arrange, before the pharmacist’s absence, for the medical staff and other authorized personnel of the hospital to have access to drugs in

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the remote drug storage area defined in R4-23-110 or in the hospital pharmacy if a drug is not available in a remote drug storage area and is required to treat the immediate needs of a patient. A pharmacist shall be on-call during all absences.

- B. If a pharmacist will not be on duty in the hospital pharmacy, the Director of Pharmacy or pharmacist-in-charge shall arrange, before the pharmacist's absence, for the medical staff and other authorized personnel of the hospital to have telephone access to an on-call pharmacist.
- C. The hospital pharmacy permittee shall ensure that the hospital pharmacy is not without a pharmacist on duty in the hospital for more than 72 consecutive hours.
- D. Remote drug storage area. The Director of Pharmacy or pharmacist-in-charge shall, in consultation with the appropriate committee of the hospital:
 - 1. Develop and maintain an inventory listing of the drugs to be included in a remote drug storage area; and
 - 2. Develop, implement, review, and revise in the same manner described in R4-23-653(A) and comply with policies and procedures that ensure proper storage, access, and accountability for drugs in a remote drug storage area.
- E. Access to hospital pharmacy. If a drug is not available from a remote drug storage area and the drug is required to treat the immediate needs of a patient whose health may be compromised, the drug may be obtained from the hospital pharmacy according to the requirements of this subsection.
 - 1. The Director of Pharmacy or pharmacist-in-charge shall, in consultation with the appropriate committee of the hospital, develop, implement, review, and revise in the same manner described in R4-23-653(A) and comply with policies and procedures to ensure that access to the hospital pharmacy during the pharmacist's absence conforms to the following requirements:
 - a. Access is delegated to only one supervisory nurse in each shift;
 - b. The policy and name of supervisory nurse is communicated in writing to the medical staff of the hospital;
 - c. Access is delegated only to a nurse who has received training from the Director of Pharmacy, pharmacist-in-charge, or Director's designee in the procedures required for proper access, drug removal, and recordkeeping; and
 - d. Access is delegated by the supervisory nurse to another nurse only in an emergency.
 - 2. If a nurse to whom authority is delegated to access the hospital pharmacy removes a drug from the hospital pharmacy, the nurse shall:
 - a. Record the following information on a form or by another method approved by the Board or its designee:
 - i. Patient's name;
 - ii. Drug name, strength, and dosage form;
 - iii. Quantity of drug removed; and
 - iv. Date and time of removal;
 - b. Sign or initial, if a corresponding signature is on file in the hospital pharmacy, the form recording the drug removal;

- c. Attach the original or a direct copy of the medication order for the drug to the form recording the drug removal; and
- d. Place the form recording the drug removal conspicuously in the hospital pharmacy.

- 3. Within four hours after a pharmacist returns from an absence, the pharmacist shall verify all records of drug removal that occurred during the pharmacist's absence according to R4-23-653(E).

Historical Note

Former Rules 6.7410, 6.7420, 6.7430, 6.7440, 6.7450, and 6.7460; Amended subsection (A) effective Aug. 9, 1983 (Supp. 83-4). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Amended by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3).

R4-23-655. Physical Facility

- A. General. A hospital pharmacy permittee shall ensure that the hospital pharmacy has sufficient equipment and physical facilities for proper compounding, dispensing, and storage of drugs, including parenteral preparations.
- B. Minimum area of hospital pharmacy. The minimum area of a hospital pharmacy depends on the type of hospital, the number of beds, and the pharmaceutical services provided. Any hospital pharmacy permit issued or hospital pharmacy remodeled after January 31, 2003 shall provide a minimum hospital pharmacy area, the actual area primarily devoted to drug dispensing and preparation functions, exclusive of bulk drug storage, satellite pharmacy, and office areas that is not less than 500 square feet. The minimum area requirement, not including unusable area, may be varied upon approval by the Board for out-of-the-ordinary conditions or for systems that require less space.
- C. The Board may also require that a hospital pharmacy permittee or applicant provide:
 - 1. More than the minimum area if equipment, inventory, personnel, or other factors cause crowding to a degree that interferes with safe pharmacy practice;
 - 2. Additional dispensing, preparation, or storage areas because of the increased number of specific drugs prescribed per day, the increased use of intravenous and irrigating solutions, and the increased use of disposable and prepackaged products;
 - 3. Additional dispensing, preparation, or storage areas to handle investigational drugs, emergency drug kits, chemotherapeutics, alcohol and other flammables, poisons, external preparations, and radioisotopes, and to accommodate quality control procedures; and
 - 4. Additional office space to provide for an increased number of personnel, a drug information library, a poison information library, research support, teaching and conferences, and a waiting area.
- D. Hospital pharmacy area. A hospital pharmacy permittee shall ensure that the hospital pharmacy area is enclosed by a permanent barrier or partition from floor to ceiling with entry

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doors that can be securely locked, constructed according to R4-23-609(F).

- E. Hospital pharmacy storage areas. The hospital pharmacy permittee, Director of Pharmacy, or pharmacist-in-charge shall ensure that all undispensed or undistributed drugs are stored in designated areas within the hospital pharmacy or other locked areas under the control of a pharmacist that ensure proper sanitation, temperature, light, ventilation, moisture control, segregation, and security.

Historical Note

Former Rules 6.7471, 6.7472, 6.7473, 6.7474, and 6.7490; Amended effective Aug. 9, 1983 (Supp. 83-4). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Correction to Table 1 ("spare feet" changed to "square feet") (Supp. 91-1). Amended by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4). Amended by final rulemaking at 11 A.A.R. 462, effective March 5, 2005 (Supp. 05-1).

R4-23-656. Sanitation and Equipment

A hospital pharmacy permittee or Director of Pharmacy shall ensure that a hospital pharmacy:

1. Has a professional reference library consisting of hard-copy or electronic media appropriate for the scope of pharmacy services provided by the hospital;
2. Has a sink, other than a sink in a toilet facility, that:
 - a. Has hot and cold running water;
 - b. Is within the hospital pharmacy area for use in preparing drug products; and
 - c. Is maintained in a sanitary condition and in good repair;
3. Maintains a room temperature within a range compatible with the proper storage of drugs;
4. Has a refrigerator and freezer with a temperature maintained within a range compatible with the proper storage of drugs requiring refrigeration or freezing; and
5. Has a designated area for a laminar air flow hood and other supplies required for the preparation of sterile products as specified in R4-23-670.

Historical Note

Former Rule 6.7480. Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Amended by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4).

R4-23-657. Security

A. Personnel security standards. A Director of Pharmacy shall ensure that:

1. No one is permitted in the pharmacy unless a pharmacist is present except as provided in this Section and R4-23-654. If only one pharmacist is on duty in the pharmacy and that pharmacist must leave the pharmacy for an emergency or patient care duties, nonpharmacist personnel may remain in the pharmacy to perform duties as outlined in R4-23-653, provided that all C-II controlled substances are secured to prohibit access by other than a pharmacist, and that the pharmacist remains available in the hospital;

2. All hospital pharmacy areas are kept locked by key or programmable lock to prevent access by unauthorized personnel; and
 3. Pharmacists, pharmacy or graduate interns, pharmacy technicians, pharmacy technician trainees, and other personnel working in the pharmacy wear identification badges, including name and position, whenever on duty.
- B. Prescription blank security. The Director of Pharmacy shall develop, implement, review, and revise in the same manner described in R4-23-653(A) and comply with policies and procedures for the safe distribution and control of prescription blanks bearing identification of the hospital.

Historical Note

Former Rule 6.7500; Amended effective Aug. 9, 1983 (Supp. 83-4). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Amended by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3).

R4-23-658. Drug Distribution and Control

- A. General. The Director of Pharmacy or pharmacist-in-charge shall in consultation with the medical staff, develop, implement, review, and revise in the same manner described in R4-23-653(A) and comply with written policies and procedures for the effective operation of a drug distribution system that optimizes patient safety.
- B. Responsibility. The Director of Pharmacy is responsible for the safe and efficient procurement, dispensing, distribution, administration, and control of drugs, including the following:
1. In consultation with the appropriate department personnel and medical staff committee, develop a medication formulary for the hospital;
 2. Proper handling, distribution, and recordkeeping of investigational drugs; and
 3. Regular inspections of drug storage and preparation areas within the hospital.
- C. Physician orders. A Director of Pharmacy or pharmacist-in-charge shall ensure that:
1. Drugs are dispensed from the hospital pharmacy only upon a written order, direct copy or facsimile of a written order, or verbal order of an authorized medical practitioner; and
 2. A pharmacist reviews the original, direct or facsimile copy, or verbal order before an initial dose of medication is administered, except as specified in R4-23-653(E)(1).
- D. Labeling. A Director of Pharmacy or pharmacist-in-charge shall ensure that all drugs distributed or dispensed by a hospital pharmacy are packaged in appropriate containers and labeled as follows:
1. For use inside the hospital.
 - a. Labels for all single unit packages contain at a minimum, the following information:
 - i. Drug name, strength, and dosage form;
 - ii. Lot number and beyond-use-date; and
 - iii. Appropriate auxiliary labels;

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- b. Labels for repackaged preparations contain at a minimum the following information:
 - i. Drug name, strength, and dosage form;
 - ii. Lot number and beyond-use-date;
 - iii. Appropriate auxiliary labels; and
 - iv. Mechanism to identify pharmacist accountable for repackaging;
 - c. Labels for all intravenous admixture preparations contain at a minimum the following information:
 - i. Patient's name and location;
 - ii. Name and quantity of the basic parenteral solution;
 - iii. Name and amount of drug added;
 - iv. Date of preparation;
 - v. Beyond-use-date and time;
 - vi. Guidelines for administration;
 - vii. Appropriate auxiliary label or precautionary statement; and
 - viii. Initials of pharmacist responsible for admixture preparation; and
 2. For use outside the hospital. Any drug dispensed to a patient by a hospital pharmacy that is intended for self-administration outside of the hospital is labeled as specified in A.R.S. §§ 32-1963.01(C) and 32-1968(D) and A.A.C. R4-23-402.
- E. Controlled substance accountability. A Director of Pharmacy or pharmacist-in-charge shall ensure that effective policies and procedures are developed, implemented, reviewed, and revised in the same manner described in R4-23-653(A) and complied with regarding the use, accountability, and recordkeeping of controlled substances in the hospital, including the use of locked storage areas when controlled substances are stored in patient care areas.
- F. Emergency services dispensing. If a hospital permits dispensing of drugs from the emergency services department when the pharmacy is unable to provide this service, the Director of Pharmacy, in consultation with the appropriate department personnel and medical staff committee shall develop, implement, review, and revise in the same manner described in R4-23-653(A) and comply with written policies and procedures for dispensing drugs for outpatient use from the hospital's emergency services department. The policies and procedures shall include the following requirements:
 1. Drugs are dispensed only to patients who have been admitted to the emergency services department;
 2. Drugs are dispensed only by an authorized medical practitioner, not a designee or agent;
 3. The nature and type of drugs available for dispensing are designed to meet the immediate needs of the patients treated within the hospital;
 4. Drugs are dispensed only in quantities sufficient to meet patient needs until outpatient pharmacy services are available;
 5. Drugs are prepackaged by a pharmacist or a pharmacy intern, graduate intern, pharmacy technician, or pharmacy technician trainee under the supervision of a pharmacist in suitable containers and appropriately prelabeled with the drug name, strength, dosage form, quantity, manufacturer, lot number, beyond-use-date, and any appropriate auxiliary labels;
6. Upon dispensing, the authorized medical practitioner completes the label on the prescription container that complies with the requirements of R4-23-658(D); and
7. The hospital pharmacy maintains a dispensing log, hard-copy prescription, or electronic record, approved by the Board or its designee and includes the patient name and address, drug name, strength, dosage form, quantity, directions for use, medical practitioner's signature or identification code, and DEA registration number, if applicable.

Historical Note

Former Rules 6.7610, 6.7620, and 6.7710; Amended effective Aug. 9, 1983 (Supp. 83-4). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Correction to subsection (I)(5) ("unnecessary" changed to "necessary") (Supp. 91-1). Amended effective November 1, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3).

R4-23-659. Administration of Drugs

- A. Self-administration. A hospital shall not allow self-administration of medications by a patient unless the Director of Pharmacy or pharmacist-in-charge, in consultation with the appropriate department personnel and medical staff committee, develops, implements, reviews, and revises in the same manner described in R4-23-653(A) and complies with policies and procedures for self-administration of medications by a patient. The policies and procedures shall specify that self-administration of medications, if allowed, occurs only when:
 1. Specifically ordered by a medical practitioner, and
 2. The patient is educated and trained in the proper manner of self-administration.
- B. Drugs brought in by a patient. If a hospital allows a patient to bring a drug into the hospital and before a patient brings a drug into the hospital, the Director of Pharmacy or pharmacist-in-charge shall, in consultation with the appropriate department personnel and medical staff committee, develop, implement, review, and revise in the same manner described in R4-23-653(A) and comply with policies and procedures for a patient-owned drug brought into the hospital. The policies and procedures shall specify the following criteria for a patient-owned drug brought into the hospital:
 1. When policy allows the administration of a patient-owned drug, the drug is not administered to the patient unless:
 - a. A pharmacist or medical practitioner identifies the drug, and
 - b. A medical practitioner writes a medication order specifying administration of the identified patient-owned drug; and

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2. If a patient-owned drug will not be used during the patient's hospitalization, the hospital pharmacy's personnel shall:

- a. Package, seal, and give the drug to the patient's agent for removal from the hospital; or
- b. Package, seal, and store the drug for return to the patient at the time of discharge from the hospital.

- C. Drug samples. The Director of Pharmacy or pharmacist-in-charge is responsible for the receipt, storage, distribution, and accountability of drug samples within the hospital, including developing, implementing, reviewing, and revising in the same manner described in R4-23-653(A) and complying with specific policies and procedures regarding drug samples.

Historical Note

Former Rules 6.7720, 6.7730, 6.7740, 6.7760, 6.7770, 6.7780, 6.7800, 6.7810, 6.7820, 6.7830, 6.7840, 6.7850, 6.7871, 6.7872, and 6.7873; Amended effective Aug. 9, 1983 (Supp. 83-4). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Correction to Section heading ("rules" changed to "roles") (Supp. 91-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3).

R4-23-660. Investigational Drugs

The Director of Pharmacy or pharmacist-in-charge shall ensure that:

1. The following information concerning an investigational drug is available for use by hospital personnel:
 - a. Composition,
 - b. Pharmacology,
 - c. Adverse reactions,
 - d. Administration guidelines, and
 - e. All other available information concerning the drug, and
2. An investigational drug is:
 - a. Properly stored in, labeled, and dispensed from the pharmacy, and
 - b. Not dispensed before the drug is approved by the appropriate medical staff committee of the hospital.

Historical Note

Former Rules 6.7881, 6.7882, and 6.7883; Amended subsection (A) effective Aug. 9, 1983 (Supp. 83-4). Repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4).

R4-23-661. Repealed**Historical Note**

Former Rules 6.7910, 6.7920, 6.7930, 6.7940, and 6.7950. Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Section repealed by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4).

R4-23-662. Repealed**Historical Note**

Adopted effective February 7, 1990 (Supp. 90-1). Section repealed by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4).

R4-23-663. Repealed**Historical Note**

Adopted effective February 7, 1990 (Supp. 90-1). Amended effective November 1, 1993 (Supp. 93-4). Section repealed by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4).

R4-23-664. Repealed**Historical Note**

Adopted effective February 7, 1990 (Supp. 90-1). Subsection label removed (Supp. 91-1). Section repealed by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4).

R4-23-665. Reserved**R4-23-666. Reserved****R4-23-667. Reserved****R4-23-668. Reserved****R4-23-669. Reserved****R4-23-670. Sterile Pharmaceutical Products**

- A. In addition to the minimum area requirement of R4-23-609(A) and R4-23-655(B) and before compounding a sterile pharmaceutical product, a pharmacy permittee, limited-service pharmacy permittee, or applicant shall provide a minimum sterile pharmaceutical product compounding area that is not less than 100 square feet of contiguous floor area, except any pharmacy permit issued or pharmacy remodeled before November 1, 2006 may continue to use a sterile pharmaceutical product compounding area that is not less than 60 square feet of contiguous floor area, until a pharmacy ownership change occurs that requires issuance of a new permit or the pharmacy is remodeled. The pharmacy permittee or the pharmacist-in-charge shall ensure that the sterile pharmaceutical product compounding area:
 1. Is dedicated to the purpose of preparing and compounding sterile pharmaceutical products;
 2. Is isolated from other pharmacy functions;
 3. Restricts entry or access;
 4. Is free from unnecessary disturbances in air flow;
 5. Is made of non-porous and cleanable floor, wall, and ceiling material; and
 6. Meets the minimum air cleanliness standards of an ISO Class 7 environment as defined in R4-23-110, except an ISO class 7 environment is not required if all sterile pharmaceutical product compounding occurs within an ISO class 5 environment isolator, such as a glove box, pharmaceutical isolator, barrier isolator, pharmacy isolator, or hospital pharmacy isolator.
- B. In addition to the equipment requirements in R4-23-611 and R4-23-612 or R4-23-656 and before compounding a sterile

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pharmaceutical product, a pharmacy permittee, limited-service pharmacy permittee, or applicant shall ensure that a pharmacist who compounds a sterile pharmaceutical product has the following equipment:

1. Environmental control devices capable of maintaining a compounding area environment equivalent to an "ISO class 5 environment" as defined in R4-23-110. Devices capable of meeting these standards include: laminar airflow hoods, hepa filtered zonal airflow devices, glove boxes, pharmaceutical isolators, barrier isolators, pharmacy isolators, hospital pharmacy isolators, and biological safety cabinets;
 2. Disposal containers designed for needles, syringes, and other material used in compounding sterile pharmaceutical products and if applicable, separate containers to dispose of cytotoxic, chemotherapeutic, and infectious waste products;
 3. Freezer storage units with thermostatic control and thermometer, if applicable;
 4. Packaging or delivery containers capable of maintaining official compendial drug storage conditions;
 5. Infusion devices and accessories, if applicable; and
 6. In addition to the reference library requirements of R4-23-612, a current reference pertinent to the preparation of sterile pharmaceutical products.
- C.** Before compounding a sterile pharmaceutical product, the pharmacy permittee, limited-service pharmacy permittee, or pharmacist-in-charge shall:
1. Prepare, implement, and comply with policies and procedures for compounding and dispensing sterile pharmaceutical products,
 2. Review biennially and if necessary revise the policies and procedures required under subsection (C)(1),
 3. Document the review required under subsection (C)(2),
 4. Assemble the policies and procedures as a written manual or by another method approved by the Board or its designee, and
 5. Make the policies and procedures available in the pharmacy for employee reference and inspection by the Board or its designee.
- D.** The assembled policies and procedures shall include, where applicable, the following subjects:
1. Supervisory controls and verification procedures to ensure the quality and safety of sterile pharmaceutical products;
 2. Clinical services and drug monitoring procedures for:
 - a. Patient drug utilization reviews;
 - b. Inventory audits;
 - c. Patient outcome monitoring;
 - d. Drug information; and
 - e. Education of pharmacy and other health professionals;
 3. Controlled substances;
 4. Supervisory controls and verification procedures for:
 - a. Cytotoxics handling, storage, and disposal;
 - b. Disposal of unused supplies and pharmaceutical products; and
 - c. Handling and disposal of infectious wastes;
 5. Pharmaceutical product administration, including guidelines for the first dosing of a pharmaceutical product;
 6. Drug and component procurement;
 7. Pharmaceutical product compounding, dispensing, and storage;
 8. Duties and qualifications of professional and support staff;
 9. Equipment maintenance;
 10. Infusion devices and pharmaceutical product delivery systems;
 11. Investigational drugs and their protocols;
 12. Patient profiles;
 13. Patient education and safety;
 14. Quality management procedures for:
 - a. Adverse drug reactions;
 - b. Drug recalls;
 - c. Expired pharmaceutical products;
 - d. Beyond-use-dating for both standard-risk and substantial-risk sterile pharmaceutical products consistent with the requirements of R4-23-410(B)(3)(d);
 - e. Temperature and other environmental controls;
 - f. Documented process and product validation testing; and
 - g. Semi-annual certification of the laminar air flow hood or other ISO class 5 environment, other equipment, and the ISO class 7 environment, including documentation of routine cleaning and maintenance for each laminar air flow hood or other ISO class 5 environment, other equipment, and the ISO class 7 environment; and
 15. Sterile pharmaceutical product delivery requirements for:
 - a. Shipment to the patient;
 - b. Security; and
 - c. Maintaining official compendial storage conditions.
- E.** Standard-risk sterile pharmaceutical product compounding. Before compounding a standard-risk sterile pharmaceutical product, a pharmacy permittee or pharmacist-in-charge shall ensure compliance with the following minimum standards:
1. Compounding occurs only in an ISO class 5 environment within an ISO class 7 environment, and the ISO class 7 environment may have a specified prep area inside the environment;
 2. Compounding sterile pharmaceutical products from sterile commercial drugs or sterile pharmaceutical otic or ophthalmic products from non-sterile ingredients occurs using procedures that involve only a few closed-system, basic, simple aseptic transfers and manipulations;
 3. Each person who compounds wears adequate personnel protective clothing for sterile preparation that includes gown, gloves, head cover, and booties. Each person who compounds is not required to wear personnel protective clothing when all sterile pharmaceutical compounding occurs within an ISO class 5 environment isolator, and the ISO Class 5 environment isolator is not inside an ISO Class 7 environment; and
 4. Each person who compounds completes an annual media-fill test to validate proper aseptic technique.

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- F.** Substantial-risk sterile pharmaceutical product compounding. Before compounding a substantial-risk sterile pharmaceutical product, a pharmacy permittee or pharmacist-in-charge shall ensure compliance with the following minimum standards:
1. Compounding parenteral or injectable sterile pharmaceutical products from non-sterile ingredients occurs only in an ISO class 5 environment within an ISO class 7 environment and the ISO class 7 environment shall not have a prep area inside the environment;
 2. Each person who compounds wears adequate personnel protective clothing for sterile preparation that includes gown, gloves, head cover, and booties. Each person who compounds is not required to wear personnel protective clothing when all sterile pharmaceutical compounding occurs within an ISO class 5 environment isolator, and the ISO Class 5 environment isolator is not inside an ISO Class 7 environment; and
 3. Each person who compounds completes a semi-annual media-fill test that simulates the most challenging or stressful conditions for compounding using dry non-sterile media to validate proper aseptic technique.
- D.** The Board shall require more than the minimum area in a limited-service pharmacy when the Board determines that equipment, personnel, or other factors in the limited-service pharmacy cause crowding that interferes with safe pharmacy practice.
- E.** Before dispensing from a limited-service pharmacy, the limited-service pharmacy permittee or pharmacist-in-charge shall:
1. Prepare, implement, and comply with written policies and procedures for pharmacy operations and drug dispensing and distribution,
 2. Review biennially and if necessary revise the policies and procedures required under subsection (E)(1),
 3. Document the review required under subsection (E)(2),
 4. Assemble the policies and procedures as a written manual or by another method approved by the Board or its designee, and
 5. Make the policies and procedures available in the pharmacy for employee reference and inspection by the Board or its designee.

Historical Note

Adopted effective November 1, 1993 (Supp. 93-4).
Amended by final rulemaking at 10 A.A.R. 3391,
effective October 2, 2004 (Supp. 04-3). Amended by
final rulemaking at 12 A.A.R. 3981, effective December
4, 2006 (Supp. 06-4).

Historical Note

Adopted effective April 5, 1996 (Supp. 96-2). Amended
by final rulemaking at 9 A.A.R. 1064, effective May 4,
2003 (Supp. 03-1). Amended by final rulemaking at 10
A.A.R. 3391, effective October 2, 2004 (Supp. 04-3).
Amended by final rulemaking at 12 A.A.R. 3032,
effective October 1, 2006 (Supp. 06-3).

R4-23-671. General Requirements for Limited-service Pharmacy

- A.** Before opening a limited-service pharmacy, a person shall obtain a permit in compliance with A.R.S. §§ 32-1929, 32-1930, 32-1931, and R4-23-606.
- B.** The limited-service pharmacy permittee shall secure the limited-service pharmacy by conforming with the following standards:
1. Permit no one to be in the limited-service pharmacy unless the pharmacist-in-charge or a pharmacist authorized by the pharmacist-in-charge is present;
 2. Require the pharmacist-in-charge to designate in writing, by name, title, and specific area, those persons who will have access to particular areas of the limited-service pharmacy;
 3. Implement procedures to guard against theft or diversion of drugs, including controlled substances; and
 4. Require all persons working in the limited-service pharmacy to wear badges, with their names and titles, while on duty.
- C.** To obtain permission to deviate from the minimum area requirement set forth in R4-23-609, R4-23-673, or R4-23-682, a limited-service pharmacy permittee shall submit a written request to the Board and include documentation that the deviation will facilitate experimentation or technological advances in the practice of pharmacy as defined in A.R.S. § 32-1901. If the Board determines the requested deviation from the minimum area requirement will enhance the practice of pharmacy and benefit the public, the Board shall grant the requested deviation.

R4-23-672. Limited-service Correctional Pharmacy

- A.** The limited-service pharmacy permittee shall ensure that the limited-service correctional pharmacy complies with the standards for area, personnel, security, sanitation, equipment, drug distribution and control, administration of drugs, drug source, quality assurance, investigational drugs, and inspections as set forth in R4-23-608, R4-23-609(A) through (D) and (F) through (H), R4-23-610(A), R4-23-611, R4-23-612, R4-23-653(E), R4-23-658(B) through (E), R4-23-659, and R4-23-660.
- B.** The pharmacist-in-charge of a limited-service correctional pharmacy shall authorize only pharmacists, interns, pharmacy technicians, pharmacy technician trainees, compliance officers, drug inspectors, peace officers, and correctional officers acting in their official capacities, other persons authorized by law, support personnel, and other designated personnel to be in the limited-service correctional pharmacy.
- C.** When no pharmacist will be on duty in the correctional facility, the pharmacist-in-charge shall arrange, before there is no pharmacist on duty, for the medical staff and other authorized personnel of the correctional facility to have access to drugs in remote drug storage areas or, if a drug is not available in a remote drug storage area and is required to treat the immediate needs of a patient, in the limited-service correctional pharmacy.
1. The pharmacist-in-charge shall, in consultation with the appropriate committee of the correctional facility, develop and implement procedures to ensure that remote drug storage areas:

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- a. Contain only properly labeled drugs that might reasonably be needed and can be administered safely during the pharmacist's absence,
 - b. Contain drugs packaged only in amounts sufficient for immediate therapeutic requirements,
 - c. Are accessible only with a physician's written order,
 - d. Provide a written record of each drug withdrawn,
 - e. Are inventoried at least once each week, and
 - f. Are audited for compliance with the requirements of this rule at least once each month.
2. The pharmacist-in-charge shall, in consultation with the appropriate committee of the correctional facility, develop and implement procedures to ensure that access to the limited-service correctional pharmacy when no pharmacist is on duty conforms to the following requirements:
 - a. Is delegated to only one nurse, who is in a supervisory position;
 - b. Is communicated in writing to medical staff of the correctional facility;
 - c. Is delegated only to a nurse who has received training from the pharmacist-in-charge in proper methods of access, removal of drugs, and recordkeeping procedures; and
 - d. Is delegated by the supervisory nurse to another nurse only in an emergency.
 3. When a nurse to whom authority to access the limited-service correctional pharmacy is delegated removes a drug from the limited-service correctional pharmacy, the nurse shall:
 - a. Record the following information on a form:
 - i. Patient's name,
 - ii. Name of the drug and its strength and dosage form,
 - iii. Dose prescribed,
 - iv. Amount of drug removed, and
 - v. Date and time of removal;
 - b. Sign the form recording the drug removal;
 - c. Attach the original or a direct copy of a physician's written order for the drug to the form recording the drug removal; and
 - d. Place the form recording the drug removal conspicuously in the limited-service correctional pharmacy.
 4. Within four hours after a pharmacist in the limited-service correctional pharmacy returns to duty following an absence in which the limited-service correctional pharmacy was accessed by a nurse to whom authority had been delegated, the pharmacist shall verify all records of drug removal according to R4-23-402.
- D.** When no pharmacist will be on duty in the correctional facility, the pharmacist-in-charge shall arrange, before there is no pharmacist on duty, for the medical staff and other authorized personnel of the correctional facility to have telephone access to a pharmacist.
- E.** The limited-service pharmacy permittee shall ensure that the limited-service correctional pharmacy is not without a pharmacist on duty for more than 96 consecutive hours.
- F.** In addition to the requirements of R4-23-671, the limited-service pharmacy permittee shall secure the limited-service correctional pharmacy as follows:
1. Permit no one to be in the limited-service correctional pharmacy unless a pharmacist is on duty except:
 - a. As provided in subsection (C)(3) when a pharmacist is not on duty; or
 - b. A pharmacy technician or pharmacy technician trainee may remain to perform duties in R4-23-1104(A), when a pharmacist is on duty and available in the correctional facility but temporarily absent from the pharmacy, provided:
 - i. All controlled substances are secured in a manner that prohibits access by persons other than a pharmacist;
 - ii. Activities performed by a pharmacy technician or pharmacy technician trainee while the pharmacist is temporarily absent are verified by the pharmacist immediately upon returning to the pharmacy;
 - iii. Any drug measured, counted, poured, or otherwise prepared and packaged by a pharmacy technician or pharmacy technician trainee while the pharmacist is temporarily absent is verified by the pharmacist immediately upon returning to the pharmacy; and
 - iv. Any drug that has not been verified by a pharmacist for accuracy is not dispensed, supplied, or distributed while the pharmacist is temporarily absent from the pharmacy; and
 2. Provide keyed or programmable locks to all areas of the limited-service correctional pharmacy.
- G.** The pharmacist-in-charge of a limited-service correctional pharmacy shall ensure that the written policies and procedures for pharmacy operations and drug distribution within the correctional facility include the following:
1. Physicians' orders, prescription orders, or both;
 2. Authorized abbreviations;
 3. Formulary system;
 4. Clinical services and drug utilization management including:
 - a. Participation in drug selection,
 - b. Drug utilization reviews,
 - c. Inventory audits,
 - d. Patient outcome monitoring,
 - e. Committee participation,
 - f. Drug information, and
 - g. Education of pharmacy and other health professionals;
 5. Duties and qualifications of professional and support staff;
 6. Products of abuse and contraband medications;
 7. Controlled substances;
 8. Drug administration;
 9. Drug product procurement;
 10. Drug compounding, dispensing, and storage;
 11. Stop orders;
 12. Pass or discharge medications;

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13. Investigational drugs and their protocols;
14. Patient profiles;
15. Quality management procedures for:
 - a. Adverse drug reactions;
 - b. Drug recalls;
 - c. Expired and beyond-use-date drugs;
 - d. Medication or dispensing errors;
 - e. Drug storage; and
 - f. Education of professional staff, support staff, and patients;
16. Recordkeeping;
17. Sanitation;
18. Security;
19. Access to remote drug storage areas by non-pharmacists; and
20. Access to limited-service correctional pharmacy by non-pharmacists.

Historical Note

Adopted effective April 5, 1996 (Supp. 96-2). Amended by final rulemaking at 10 A.A.R. 4453, effective December 4, 2004 (Supp. 04-4).

R4-23-673. Limited-service Mail-order Pharmacy

- A. The limited-service pharmacy permittee shall design and construct the limited-service mail-order pharmacy to conform with the following requirements:
 1. A dispensing area devoted to stocking, compounding, and dispensing prescription medications, which is physically separate from a non-dispensing area devoted to non-dispensing pharmacy services;
 2. A dispensing area of at least 300 square feet if three or fewer persons work in the dispensing area simultaneously;
 3. A dispensing area that provides 300 square feet plus 60 square feet for each person in excess of three persons if more than three persons work in the dispensing area simultaneously;
 4. Space in the dispensing area permits efficient pharmaceutical practice, free movement of personnel, and visual surveillance by the pharmacist;
 5. A non-dispensing area of at least 30 square feet for each person working simultaneously in the non-dispensing area; and
 6. Space in the non-dispensing area permits free movement of personnel and visual surveillance by the pharmacist; or
- B. The limited-service pharmacy permittee shall design and construct the limited-service mail-order pharmacy to conform with the following requirements:
 1. A contiguous area in which both dispensing and non-dispensing pharmacy services are provided;
 2. A contiguous area of at least 300 square feet if three or fewer persons work in the area simultaneously;
 3. A contiguous area that provides 300 square feet plus 60 square feet for each person in excess of three persons if more than three persons work in the area simultaneously; and
 4. Space in the contiguous area permits efficient pharmaceutical practice, free movement of personnel, and visual surveillance by the pharmacist.
- C. The limited-service pharmacy permittee shall ensure that the limited-service mail-order pharmacy complies with the standards for area, personnel, security, sanitation, and equipment set forth in R4-23-608, R4-23-609(B) through (H), R4-23-610 (A) and (C) through (F), R4-23-611, and R4-23-612.
- D. The pharmacist-in-charge of a limited-service mail-order pharmacy shall authorize only pharmacists, interns, pharmacy technicians, pharmacy technician trainees, compliance officers, drug inspectors, peace officers acting in their official capacities, support personnel, other persons authorized by law, and other designated personnel to be in the limited-service mail-order pharmacy.
- E. The pharmacist-in-charge of a limited-service mail-order pharmacy shall ensure that prescription medication is delivered to the patient or locked in the dispensing area when a pharmacist is not present in the pharmacy.
- F. In addition to the delivery requirements of R4-23-402, the limited-service pharmacy permittee shall, during regular hours of operation but not less than five days and a minimum 40 hours per week, provide toll-free telephone service to facilitate communication between patients and a pharmacist who has access to patient records at the limited-service mail-order pharmacy. The limited-service pharmacy permittee shall disclose this toll-free number on a label affixed to each container of drugs dispensed from the limited-service mail-order pharmacy.
- G. The pharmacist-in-charge of a limited-service mail-order pharmacy shall ensure that the written policies and procedures for pharmacy operations and drug distribution include the following:
 1. Prescription orders;
 2. Clinical services and drug utilization management for:
 - a. Drug utilization reviews,
 - b. Inventory audits,
 - c. Patient outcome monitoring,
 - d. Drug information, and
 - e. Education of pharmacy and other health professionals;
 3. Duties and qualifications of professional and support staff;
 4. Controlled substances;
 5. Drug product procurement;
 6. Drug compounding, dispensing, and storage;
 7. Patient profiles;
 8. Quality management procedures for:
 - a. Adverse drug reactions,
 - b. Drug recalls,
 - c. Expired and beyond-use-date drugs,
 - d. Medication or dispensing errors, and
 - e. Education of professional and support staff;
 9. Recordkeeping;
 10. Sanitation;
 11. Security;
 12. Drug delivery requirements for:
 - a. Transportation,
 - b. Security,
 - c. Temperature and other environmental controls,
 - d. Emergency provisions, and

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13. Patient education.

Historical Note

Adopted effective April 5, 1996 (Supp. 96-2). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 10 A.A.R. 4453, effective December 4, 2004 (Supp. 04-4).

R4-23-674. Limited-service Long-term Care Pharmacy

- A.** A limited-service pharmacy permittee shall ensure that the limited-service long-term care pharmacy complies with:
1. The general requirements of R4-23-671;
 2. The professional practice standards of Article 4 and Article 11; and
 3. The permits and drug distribution standards of R4-23-606 through R4-23-612, R4-23-670, and this Section.
- B.** If a limited-service long-term care pharmacy permittee contracts with a long-term care facility as a Provider Pharmacy, as defined in R4-23-110, the limited-service long-term care pharmacy permittee shall ensure that the long-term care consultant pharmacist and the pharmacist-in-charge of the limited-service long-term care pharmacy comply with R4-23-701, R4-23-701.01, R4-23-701.02, R4-23-701.03, R4-23-701.04, and this Section.
- C.** The limited-service long-term care pharmacy permittee or pharmacist-in-charge shall ensure that prescription medication is delivered to the patient's long-term care facility or locked in the dispensing area of the pharmacy when a pharmacist is not present in the pharmacy.
- D.** The pharmacist-in-charge of a limited-service long-term care pharmacy shall authorize only those individuals listed in R4-23-610(B) to be in the limited-service long-term care pharmacy.
- E.** In consultation with the long-term care facility's medical director and director of nursing, the long-term care consultant pharmacist and pharmacist-in-charge of the long-term care facility's provider pharmacy may develop, if necessary, a medication formulary for the long-term care facility that ensures the safe and efficient procurement, dispensing, distribution, administration, and control of drugs in the long-term care facility.
- F.** The limited-service long-term care pharmacy permittee or pharmacist-in-charge shall ensure that the written policies and procedures required in R4-23-671(E) include the following:
1. Clinical services and drug utilization management for:
 - a. Drug utilization reviews,
 - b. Inventory audits,
 - c. Patient outcome monitoring,
 - d. Drug information, and
 - e. Education of pharmacy and other health professionals;
 2. Controlled substances;
 3. Drug compounding, dispensing, and storage;
 4. Drug delivery requirements for:
 - a. Transportation,
 - b. Security,
 - c. Temperature and other environmental controls, and
 - d. Emergency provisions;
 5. Drug product procurement;

6. Duties and qualifications of professional and support staff;
7. Emergency drug supply unit procedures;
8. Formulary, including development, review, modification, use, and documentation, if applicable;
9. Patient profiles;
10. Patient education;
11. Prescription orders, including:
 - a. Approved abbreviations,
 - b. Stop-order procedures, and
 - c. Leave-of-absence and discharge prescription order procedures;
12. Quality management procedures for:
 - a. Adverse drug reactions,
 - b. Drug recalls,
 - c. Expired and beyond-use-date drugs,
 - d. Medication or dispensing errors, and
 - e. Education of professional and support staff;
13. Recordkeeping;
14. Sanitation; and
15. Security.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 1064, effective May 4, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3).

R4-23-675. Limited-service Sterile Pharmaceutical Products Pharmacy

- A.** The limited-service pharmacy permittee or the pharmacist-in-charge shall ensure that the limited-service sterile pharmaceutical products pharmacy complies with the standards for area, personnel, security, sanitation, equipment, sterile pharmaceutical products, and limited-service pharmacies established in R4-23-608, R4-23-609, R4-23-610, R4-23-611, R4-23-612, R4-23-670, and R4-23-671.
- B.** The pharmacist-in-charge of a limited-service sterile pharmaceutical products pharmacy shall authorize only pharmacists, interns, compliance officers, peace officers acting in their official capacities, pharmacy technicians, pharmacy technician trainees, support personnel, and other designated personnel to be in the limited-service sterile pharmaceutical products pharmacy.
- C.** The pharmacist-in-charge of a limited-service sterile pharmaceutical products pharmacy shall ensure that prescription medication is delivered to the patient or locked in the dispensing area when a pharmacist is not present in the pharmacy.
- D.** In addition to the delivery requirements of R4-23-402, the limited-service pharmacy permittee shall, during regular hours of operation, but not less than a minimum 40 hours per week, provide toll-free telephone service to facilitate communication between patients and a pharmacist who has access to patient records at the limited-service sterile pharmaceutical products pharmacy. The limited-service pharmacy permittee shall disclose this toll-free number on a label affixed to each container dispensed from the limited-service sterile pharmaceutical products pharmacy.

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- E. The limited-service pharmacy permittee or the pharmacist-in-charge shall ensure development, implementation, review and revision in the same manner described in R4-23-671(E) and compliance with policies and procedures for pharmacy operations, including pharmaceutical product compounding, dispensing, and distribution, that comply with the requirements of R4-23-402, R4-23-410, R4-23-670, and R4-23-671.
- F. The non-dispensing roles of the pharmacist may include chart reviews, audits, drug therapy monitoring, committee participation, drug information, and in-service training of pharmacy and other health professionals.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3391, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). This Section was not amended as originally stated in the historical note published in Supp. 13-3; therefore the reference to the amendment has been removed (Supp. 18-2).

R4-23-676. Third-party Logistics Provider Permit

- A. A person shall not provide logistics services, as described under A.R.S. § 32-1941(A), until the Board issues a third-party logistics provider permit for the facility.
- B. A person that wants to provide logistics services shall obtain a Board-issued third-party logistics provider permit for each facility.
- C. Application. To obtain a third-party logistics provider permit for a facility, a person shall submit a completed application, using a form available on the Board's website, and the fee specified in R4-23-205.
- D. Change of ownership. A third-party logistics provider permittee shall comply with R4-23-601(F).
- E. A third-party logistics provider permittee shall renew the permit as specified under R4-23-602(D).
- F. The Board shall adhere to the time frames specified under R4-23-602(C) when processing an initial or renewal application for a third-party logistics provider permit.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).

R4-23-677. Automated Prescription-dispensing Kiosk Permit

- A. General provisions.
- Only a person issued a Board permit under A.R.S. § 32-1929 to operate a pharmacy in Arizona may apply to the Board under A.R.S. § 32-1930 for a permit to operate an automated prescription-dispensing kiosk.
 - A pharmacy permittee described under subsection (A)(1) shall apply for a separate permit for each automated prescription-dispensing kiosk to be operated.
 - To obtain an automated prescription-dispensing kiosk permit, a pharmacy permittee shall submit a completed application, using a form available on the Board's website, and the fee specified in R4-23-205.
 - A pharmacy permittee to which the Board issues an automated prescription-dispensing kiosk permit shall

designate a pharmacist in charge of the automated prescription-dispensing kiosk.

- A pharmacy permittee to which the Board issues an automated prescription-dispensing kiosk permit shall not place the automated prescription-dispensing kiosk in a gas station or convenience store.
- B. Policies and procedures. A pharmacy permittee to which the Board issues an automated prescription-dispensing kiosk permit shall:
- Ensure policies and procedures are established for the appropriate performance and use of the automated prescription-dispensing kiosk. The policies and procedures shall address:
 - Maintaining a record of each transaction in a manner that attaches the record to the permit number of the automated prescription-dispensing kiosk;
 - Controlling access to the automated prescription-dispensing kiosk;
 - Operating the automated prescription-dispensing kiosk;
 - Training personnel who use the automated prescription-dispensing kiosk;
 - Maintaining patient services when the automated prescription-dispensing kiosk is not operating or the prescribed drug or device is not available;
 - Securing the automated prescription-dispensing kiosk against unauthorized removal of the kiosk or access to or removal of drugs or devices from the kiosk;
 - Assuring a patient receives the pharmacy services necessary for appropriate pharmaceutical care including consultation with a pharmacist;
 - Maintaining integrity of information in the system and patient confidentiality;
 - Stocking and restocking the automated prescription-dispensing kiosk;
 - Ensuring compliance with packaging and labeling requirements; and
 - Removing drugs and devices from the automated prescription-dispensing kiosk without dispensing them and handling wasted or discarded drugs and devices;
 - Ensure the policies and procedures are implemented and complied with by all personnel using the automated prescription-dispensing kiosk;
 - Maintain the policies and procedures by:
 - Reviewing the policies and procedures biennially and making needed revisions, if any;
 - Documenting the review required under subsection (B)(3)(a);
 - Assembling the policies and procedures as a written or electronic manual; and
 - Making the policies and procedures available within the pharmacy permittee to which the Board issued an automated prescription-dispensing kiosk permit for reference by pharmacy personnel and inspection by the Board; and

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4. Implement a quality assurance program to monitor compliance with the policies and procedures and all state and federal law.
- C. Change of ownership. An automated prescription-dispensing kiosk permittee shall comply with R4-23-601(F).
- D. An automated prescription-dispensing kiosk permittee shall renew the permit as specified under R4-23-602(D).
- E. The Board shall adhere to the time frames specified under R4-23-602(C) when processing an initial or renewal application for an automated prescription-dispensing kiosk permit.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 1012, effective June 1, 2019 (Supp. 19-2).

R4-23-678. Reserved

R4-23-679. Reserved

R4-23-680. Reserved

R4-23-681. General Requirements for Limited-service Nuclear Pharmacy

- A. To be an authorized nuclear pharmacist, a pharmacist shall:
 1. Hold a current pharmacist license issued by the Board; and
 2. Be certified as a nuclear pharmacist by:
 - a. The Board of Pharmaceutical Specialties, or
 - b. A similar group recognized by the Arizona State Board of Pharmacy; or
 3. Satisfy each of the following requirements:
 - a. Meet minimal standards of training for status as an authorized user of radioactive material, as specified by the Arizona Radiation Regulatory Agency and the United States Nuclear Regulatory Commission;
 - b. Submit certification of completion of a Board-approved nuclear pharmacy training program or other training program recognized by the Arizona Radiation Regulatory Agency, with 200 hours of didactic training in the following areas:
 - i. Radiation physics and instrumentation,
 - ii. Radiation protection,
 - iii. Mathematics pertaining to the use and measurement of radioactivity,
 - iv. Radiation biology, and
 - v. Radiopharmaceutical chemistry;
 - c. Submit evidence of a minimum of 500 hours of clinical/practical nuclear pharmacy training under the supervision of an authorized nuclear pharmacist in the following areas:
 - i. Procuring radioactive materials;
 - ii. Compounding radiopharmaceuticals;
 - iii. Performing routine quality control procedures;
 - iv. Dispensing radiopharmaceuticals;
 - v. Distributing radiopharmaceuticals;
 - vi. Implementing basic radiation protection procedures; and
 - vii. Consulting and educating the nuclear medicine community, patients, pharmacists, other health professionals, and the general public; and

- d. Submit written certification, signed by a preceptor who is an authorized nuclear pharmacist, that the above training was satisfactorily completed.

- B. Radiopharmaceuticals are prescription-only drugs that require specialized techniques in their handling and testing, to obtain optimum results and minimize hazards.

1. A person shall not sell, barter, or otherwise dispose of, or be in possession of any radiopharmaceutical except under the conditions detailed in A.R.S. § 32-1929.

2. A person shall not manufacture, compound, sell, or dispense any radiopharmaceutical unless the person is a pharmacist or a pharmacy intern acting under the direct supervision of a pharmacist in accordance with A.R.S. § 32-1961 and these rules, with the exception of the following, if the following are licensed by the Arizona Radiation Regulatory Agency to use radiopharmaceuticals in compliance with A.R.S. § 30-673;
 - a. A medical practitioner who administers a radiopharmaceutical to the medical practitioner's patient as provided in A.R.S. § 32-1921(A),
 - b. A hospital nuclear medicine department, and
 - c. A medical practitioner's office.

3. The Board shall cooperate with the Arizona Radiation Regulatory Agency and other interested state and federal agencies, in the enforcement of these rules for the protection of the public. This cooperation may include exchange of licensing and other information, joint inspections, and other activities where indicated.

- C. In addition to compliance with all the applicable federal and state laws and rules governing drugs, whether radioactive or not, a limited-service nuclear pharmacy permittee shall comply with all laws and rules of the Arizona Radiation Regulatory Agency and the U.S. Nuclear Regulatory Commission, including emergency and safety provisions.

- D. A limited-service nuclear pharmacy permittee shall comply with the education, experience, and licensing requirements of the Arizona Radiation Regulatory Agency.

- E. A limited-service nuclear pharmacy permittee shall ensure that radiopharmaceuticals are transferred only to a person or firm that holds a current Radioactive Materials License issued by the Arizona Radiation Regulatory Agency.

Historical Note

Adopted effective December 3, 1974 (Supp. 75-1).
Amended subsections (A), (C) and (D) effective Aug. 12, 1988 (Supp. 88-3). Amended effective July 8, 1997 (Supp. 97-3).

R4-23-682. Limited-service Nuclear Pharmacy

- A. Before operating a limited-service nuclear pharmacy, a person shall obtain a permit in compliance with A.R.S. §§ 32-1929, 32-1930, and 32-1931, and R4-23-606.
- B. A permit to operate a limited-service nuclear pharmacy shall be issued only to a person who is or employs an authorized nuclear pharmacist and holds a current Arizona Radiation Regulatory Agency Radioactive Materials License. A limited-service nuclear pharmacy permittee that fails to maintain a current Arizona Radiation Regulatory Agency Radioactive Materials License shall be immediately suspended pending

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revocation by the Board. A limited-service nuclear pharmacy permittee shall have copies of Arizona Radiation Regulatory Agency inspection reports available upon request for Board inspection.

1. A limited-service nuclear pharmacy permittee shall designate an authorized nuclear pharmacist as the pharmacist-in-charge. The pharmacist-in-charge shall be responsible to the Board:
 - a. For the operations of the pharmacy related to the practice of pharmacy and distribution of drugs and devices;
 - b. For communicating Board directives to the management, pharmacists, interns, and other personnel of the pharmacy; and
 - c. For the pharmacy's compliance with all federal and state pharmacy laws and rules.
 2. An authorized nuclear pharmacist shall directly supervise all personnel performing tasks in the preparation and distribution of radiopharmaceuticals and ancillary drugs.
 3. An authorized nuclear pharmacist shall be present whenever the limited-service nuclear pharmacy is open for business.
- C.** A limited-service nuclear pharmacy permittee shall ensure that the limited-service nuclear pharmacy complies with the standards for personnel, area, security, sanitation, and general requirements in R4-23-608, R4-23-609, R4-23-610, R4-23-611, and R4-23-671.
1. A limited-service nuclear pharmacy shall contain separate areas for:
 - a. Preparing and dispensing radiopharmaceuticals,
 - b. Receiving and shipping radiopharmaceuticals,
 - c. Storing radiopharmaceuticals, and
 - d. Decaying radioactive waste.
 2. The Board may require more than the minimum area in instances where equipment, inventory, personnel, or other factors cause crowding to a degree that interferes with safe pharmacy practice.
- D.** The pharmacist-in-charge shall designate in writing, by title and specific area, the persons who may have access to particular pharmacy areas.
- E.** A limited-service nuclear pharmacy permittee shall maintain records of acquisition, inventory, and disposition of radiopharmaceuticals, other radioactive substances, and other drugs in accordance with federal and state statutes and rules.
1. A prescription order, in addition to the requirements in A.R.S. § 32-1968(C) and R4-23-407(A), shall contain:
 - a. The date and time of calibration of the radiopharmaceutical,
 - b. The name of the procedure for which the radiopharmaceutical is prescribed, and
 - c. The words "Physician's Use Only" instead of the name of the patient if the radiopharmaceutical is nontherapeutic or for a nonblood product.
 2. The lead container used to store and transport a radiopharmaceutical shall have a label that, in addition to the requirements in A.R.S. § 32-1968(D), includes:
 - a. The date and time of calibration of the radiopharmaceutical,
 - b. The name of the radiopharmaceutical,
 - c. The molybdenum 99 content to USP limits,
 - d. The name of the procedure for which the radiopharmaceutical is prescribed,
 - e. The words "Physician's Use Only" instead of the name of the patient if the radiopharmaceutical is nontherapeutic or for a nonblood product,
 - f. The words "Caution: Radioactive Material," and
 - g. The standard radiation symbol.
- F.** The following minimum requirements are in addition to the requirements of the Arizona Radiation Regulatory Agency, the applicable U.S. Nuclear Regulatory Commission regulations, and the applicable regulations of the federal Food and Drug Administration. A limited-service nuclear pharmacy permittee shall provide:
1. In addition to the minimum pharmacy area requirements in R4-23-609:
 - a. An area for the storing, compounding, and dispensing of radiopharmaceuticals completely separate from pharmacy areas for nonradioactive drugs;
 - b. A minimum of 80 sq. ft. for a hot lab and storage area; and
 - c. A minimum of 300 sq. ft. of compounding and dispensing area;
 2. The following equipment:
 - a. Fume hood, approved by the Arizona Radiation Regulatory Agency;
 - b. Laminar flow hood;
 - c. Dose calibrator;
 - d. Refrigerator;
 - e. Prescription balance, Class A, and weights or an electronic balance of equal or greater accuracy;
 - f. Well scintillation counter;
 - g. Incubator oven;
 - h. Microscope;
 - i. An assortment of labels, including prescription labels and cautionary and warning labels;
 - j. Glassware necessary for compounding and dispensing radiopharmaceuticals as required by the Arizona Radiation Regulatory Agency;
 - k. Other equipment necessary for radiopharmaceutical quality control for products compounded or dispensed as required by the Arizona Radiation Regulatory Agency;

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- l. Current antidote and drug interaction information; and
- m. Regional poison control phone number prominently displayed in the pharmacy area;
3. Supplies necessary for compounding and dispensing radiopharmaceuticals as required by the Arizona Radiation Regulatory Agency;
4. A professional reference library consisting of a minimum of one current reference or text addressing each of the following subject areas:
 - a. Therapeutics,
 - b. Nuclear pharmacy practice, and
 - c. Imaging;
5. Current editions and supplements of:
 - a. A.R.S. §§ 30-651 through 30-696 pertaining to the Arizona Radiation Regulatory Agency,
 - b. Rules of the Arizona Radiation Regulatory Agency,
 - c. Regulations of the federal Food and Drug Administration pertaining to radioactive drugs,
 - d. Arizona Pharmacy Act and rules,
 - e. Arizona Uniform Controlled Substances Act, and
 - f. Radiological Health Handbook.
- G.** The pharmacist-in-charge of a limited-service nuclear pharmacy shall prepare, implement, review, and revise in the same manner described in R4-23-671(E) and comply with written policies and procedures for pharmacy operations and drug distribution.
- H.** The written policies and procedures of a limited-service nuclear pharmacy shall include the following:
 1. Prescription orders;
 2. Clinical services and drug utilization management including:
 - a. Drug utilization reviews,
 - b. Inventory audits,
 - c. Patient outcome monitoring,
 - d. Drug information, and
 - e. Education of pharmacy and other health professionals;
 3. Duties and qualifications of professional and support staff;
 4. Radioactive material handling, storage, and disposal;
 5. Drug product procurement;
 6. Drug compounding, dispensing, and storage;
 7. Investigational drugs and their protocols;
 8. Patient profiles;
 9. Quality management procedures for:
 - a. Adverse drug reaction reports;
 - b. Drug recall;
 - c. Expired and beyond-use-date drugs;
 - d. Medication or dispensing errors;
 - e. Radiopharmaceutical quality assurance;
 - f. Radiological health and safety;
 - g. Drug storage and disposition; and
 - h. Education of professional staff, support staff, and patients;
 10. Recordkeeping;
 11. Sanitation;
 12. Security;
 13. Drug delivery requirements for:
 - a. Transportation,
 - b. Security,
 - c. Radiological health and safety procedures,
 - d. Temperature and other environmental controls, and
 - e. Emergency provisions; and
14. Patient education.

Historical note

Adopted effective July 8, 1997 (Supp. 97-3). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3).

R4-23-683. Reserved**R4-23-684. Reserved****R4-23-685. Reserved****R4-23-686. Reserved****R4-23-687. Reserved****R4-23-688. Reserved****R4-23-689. Reserved****R4-23-690. Reserved****R4-23-691. Repealed****Historical Note**

Adopted effective Dec. 3, 1974 (Supp. 75-1). Amended effective Aug. 12, 1988 (Supp. 88-3). Amended effective November 1, 1993 (Supp. 93-4). Repealed effective July 8, 1997 (Supp. 97-3).

R4-23-692. Compressed Medical Gas (CMG) Distributor-Resident or Nonresident**A. Permit.**

1. A person shall not manufacture, process, transfill, package, or label a compressed

medical gas in Arizona, or manufacture, process, transfill, package, or label a compressed

medical gas outside Arizona and ship into Arizona without a current Board-issued

resident or nonresident compressed medical gas distributor permit.

2. Before operating as a compressed medical gas distributor, a person shall register with

the FDA as a medical gas manufacturer and comply with the drug listing requirements of the federal act.

- B.** Application. To obtain a resident or nonresident CMG distributor permit, a person shall submit to the Board a completed application form and the fee specified in R4-23-205.

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1. A resident CMG distributor permit applicant shall include documentation of compliance with local zoning laws, if required by the Board.
 2. **A nonresident CMG distributor permit applicant that resides in a jurisdiction that issues an equivalent license or permit shall include a copy of the equivalent license or permit.**
- C.** Notification. A resident or nonresident CMG distributor permittee shall submit using the permittee's online profile or provide written notice by mail, fax, or e-mail to the Board office within 10 days of changes involving the telephone or fax number, e-mail or mailing address, or business name.
- D.** Change of ownership. A resident or nonresident CMG distributor permittee shall comply with R4-23-601(F).
- E.** Relocation.
1. No fewer than 30 days before a resident CMG distributor permittee relocates, the permittee shall electronically or manually submit a completed application for relocation using a form furnished by the Board, and the documentation required in subsection (B). A fee is not required with an application for relocation.
 2. A nonresident CMG distributor permittee shall provide written notice by mail, fax, or e-mail to the Board office no fewer than 10 days before relocating.
- F.** A resident or nonresident CMG distributor permittee is authorized to sell or distribute a compressed medical gas under a compressed medical gas order only to durable medical equipment and compressed medical gas suppliers and other entities that are registered, licensed, or permitted to use, administer, or distribute compressed medical gases.
- G.** Facility. A resident or nonresident CMG distributor permittee shall ensure the facility is clean, uncluttered, sanitary, temperature controlled, and secure from unauthorized access.
- H.** Current Good Manufacturing Practice: A resident or nonresident CMG distributor permittee is required under federal law to follow the good manufacturing practice requirements of 21 CFR parts 210 and 211.
- I.** Records: A resident or nonresident CMG distributor permittee shall:
1. Establish and implement written procedures for maintaining records pertaining to production, transfilling, process control, labeling, packaging, quality control, distribution, returns, recalls, training of personnel, complaints, and any information required by federal or state law.
 2. Retain the records required by Section R4-23-601, this Section, and 21 CFR parts 210 and 211 for not fewer than three years or one year after the expiration date of the compressed medical gas, whichever is longer.
 3. Make the records required by Section R4-23-601, this Section, and 21 CFR parts 210 and 211 available for inspection by the Board or its compliance officer, or if stored in a centralized recordkeeping system apart from the inspection location and not electronically retrievable, provide the records within four working days of a request by the Board or its compliance officer.
- J.** Inspection.
1. A resident CMG distributor permittee shall make the CMG distributor's facility available for inspection by the Board or its compliance officers under A.R.S. § 32-1904.
 2. Within 10 days from the date of a request by the Board or its staff, a nonresident CMG distributor permittee shall provide a copy of the most recent inspection report completed by the permittee's resident licensing authority or the FDA or a copy of the most recent inspection report completed by a third-party auditor approved by the permittee's resident licensing authority or the Board or its designee. The Board may inspect, or may employ a third-party auditor to inspect, a nonresident permittee as specified in A.R.S. § 32-1904.
- K.** Permit renewal. To renew a CMG distributor permit, the permittee shall comply with R4-23-602(D).
- L.** Nothing in this Section shall be construed to prohibit the emergency administration of oxygen by licensed health-care personnel, emergency medical technicians, first responders, fire fighters, law enforcement officers, and other emergency personnel trained in the proper use of emergency oxygen.
- Historical Note**
- Adopted effective January 12, 1998 (Supp. 98-1).
Amended by final rulemaking at 19 A.A.R. 97, effective March 10, 2013 (Supp. 13-1). Amended by final rulemaking at 20 A.A.R. 1364, effective August 2, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).
- R4-23-693. Durable Medical Equipment (DME) and Compressed Medical Gas (CMG) Supplier-Resident or Nonresident**
- A.** Permit. A person shall not sell, lease, or supply durable medical equipment or a compressed medical gas to a patient or consumer in Arizona for use in a home or residence without a current Board-issued resident or nonresident durable medical equipment and compressed medical gas supplier permit.
1. The permit requirements of this Section do not apply to the following unless there is a separate business entity engaged in the business of providing durable medical equipment or a compressed medical gas to a patient or consumer for use in a home or residence:
 - a. A medical practitioner licensed under A.R.S. Title 32;
 - b. A hospital, long-term care facility, hospice, or other health-care facility using durable medical equipment

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or a compressed medical gas in the normal course of treating a patient; and

- c. A pharmacy.
- 2. Nothing in this Section shall be construed to prohibit a person with a current Board-issued nonprescription drug permit from the retail sale of nonprescription drugs or devices.
- B. Application.** To obtain a resident or nonresident DME and CMG supplier permit, a person shall submit a completed application form and fee specified in R4-23-205.
 - 1. A resident DME and CMG supplier permit applicant shall include documentation of compliance with local zoning laws, if required by the Board.
 - 2. A nonresident DME and CMG supplier permit applicant that resides in a jurisdiction that issues an equivalent license or permit shall include a copy of the equivalent license or permit.
- C. Notification.** A resident or nonresident DME and CMG supplier permittee shall submit using the permittee's online profile or provide written notice by mail, fax, or e-mail to the Board office within 10 days of changes involving the telephone or fax number, email or mailing address, or business name.
- D. Change of ownership.** A resident or nonresident DME and CMG supplier permittee shall comply with R4-23-601(F).
- E. Relocation.**
 - 1. No fewer than 30 days before a resident DME and CMG supplier permittee relocates, the permittee shall submit a completed application for relocation electronically or manually on a form furnished by the Board, and the documentation required in subsection (B). A fee is not required with an application for relocation.
 - 2. A nonresident DME and CMG supplier permittee shall provide written notice by mail, fax, or e-mail to the Board office no fewer than 10 days before relocating.
- F. Orders.** A resident or nonresident DME and CMG supplier shall sell, lease, or provide:
 - 1. Durable medical equipment that is a prescription-only device, as defined in A.R.S. § 32-1901, only under a prescription or medication order from a medical practitioner; and
 - 2. A compressed medical gas only under a compressed medical gas order from a medical practitioner.
- G. Restriction.** A DME and CMG supplier permit authorizes the permittee to procure, possess, and provide a prescription-only device or compressed medical gas to a patient or consumer as specified in subsection (F). A DME and CMG supplier permit does not authorize the permittee to procure, possess, or provide narcotics or other controlled substances, prescription-only drugs other than compressed medical gases, precursor chemicals, or regulated chemicals.
- H. Facility.** A resident or nonresident DME and CMG supplier permittee shall ensure the facility is clean, uncluttered, sanitary, temperature controlled, and secure from unauthorized access. A permittee shall maintain separate and identified storage areas in the facility and in delivery vehicles for clean, dirty, contaminated, or damaged durable medical equipment or compressed medical gases.
- I.** A resident or nonresident DME and CMG supplier permittee shall not manufacture, process, transfill, package, or label a compressed medical gas, except as stated in subsection (K).
- J. Records.** A resident or nonresident DME and CMG supplier permittee shall establish and implement written procedures for maintaining records about acquisition, distribution, returns, recalls, training of personnel, maintenance, cleaning, and complaints.
- K.** A permittee shall:
 - 1. Ensure a prescription order, medication order, or compressed medical gas order is obtained as specified in subsection (F);
 - 2. Ensure each compressed medical gas container supplied by the permittee contains a label bearing the name and address of the permittee;
 - 3. Ensure all appropriate warning labels are present on the durable medical equipment or compressed medical gas;
 - 4. Retain the records required by Section R4-23-601 and this Section for not fewer than three years, or if supplying a compressed medical gas, one year after the expiration date of the compressed medical gas, whichever is longer; and
 - 5. Make the records required by Section R4-23-601 and this Section available for inspection by the Board or its compliance officer, or if stored in a centralized recordkeeping system apart from the inspection location and not electronically retrievable for inspection, provide the records within four working days of a request by the Board or its staff.
- L. Inspection.**
 - 1. A resident DME and CMG supplier permittee shall make the DME and CMG supplier's facility available for inspection by the Board or its compliance officers under A.R.S. § 32-1904.
 - 2. Within 10 days from the date of a request by the Board or its staff, a nonresident DME and CMG supplier permittee shall provide a copy of the most recent inspection report completed by the permittee's resident licensing authority, or a copy of the most recent inspection report completed by a third-party auditor approved by the permittee's resident licensing authority or the Board or its designee. The Board may inspect, or may employ a third-party auditor to inspect, a nonresident permittee as specified in A.R.S. § 32-1904.
- M. Permit renewal.** To renew a resident or nonresident DME and CMG supplier permit, the permittee shall comply with in R4-23-602(D).
- N.** Nothing in this Section shall be construed to prohibit the emergency administration of oxygen by licensed health-care personnel, emergency medical technicians, first responders, fire fighters, law enforcement officers, and other emergency personnel trained in the proper use of emergency oxygen.

Historical Note

Adopted effective January 12, 1998 (Supp. 98-1).

Amended by final rulemaking at 20 A.A.R. 1364,

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effective August 2, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).

ARTICLE 7. NON-PHARMACY LICENSED OUTLETS – GENERAL PROVISIONS

R4-23-701. Long-term Care Facilities Pharmacy Services: Consultant Pharmacist

- A.** The long-term care consultant pharmacist as defined in R4-23-110 shall:
1. Possess a valid Arizona pharmacist license issued by the Board;
 2. Ensure the provision of pharmaceutical patient care services as defined in R4-23-110;
 3. Review the distribution and storage of drugs and devices and assist the facility in establishing policies and procedures for the distribution and storage of drugs and devices;
 4. Provide resident evaluation programs that relate to monitoring the therapeutic response and utilization of all drugs and devices prescribed or administered to residents, using as guidelines the most current indicators established by the Centers for Medicare and Medicaid Services, United States Department of Health and Human Services as required in 42 CFR 483.60 (revised October 1, 2010, incorporated by reference and on file with the Board. This incorporated material contains no future editions or amendments.).
 5. Serve as a resource for pharmacy-related education services within the facility;
 6. Participate in quality management of resident care in the facility; and
 7. Communicate with the provider pharmacy regarding areas of mutual concern and resolution.
- B.** A long-term care consultant pharmacist shall ensure that:
1. When a provider pharmacy is not open for business, arrangements are made in advance by the long-term care consultant pharmacist, in cooperation with the pharmacist-in-charge of the provider pharmacy and the director of nursing and medical staff of the long-term care facility, for providing emergency drugs for the licensed nursing staff to administer to the residents of the facility using an emergency drug supply unit located at the facility;
 2. The label and packaging of prescription-only and nonprescription drugs intended for use within a long-term care facility complies with state and federal law; and
 3. The long-term care facility:
 - a. Stores controlled substances listed in A.R.S. § 36-2513 in a separately locked and permanently affixed compartment, unless the facility uses a single-unit package medication distribution system; and
 - b. Maintains accurate records of controlled substance administration or ultimate disposition.
- C.** The long-term care consultant pharmacist shall:
1. Ensure availability of records and reports designed to provide the data necessary to evaluate the drug use of

each long-term care facility resident that include the following:

- a. Provider pharmacy patient profiles and long-term care facility medication administration records;
 - b. Reports of suspected adverse drug reactions;
 - c. Inspection reports of drug storage areas with emphasis on detecting outdated drugs; and
 - d. Accountability reports, that include:
 - i. Date and time of administration,
 - ii. Name of the person who administered the drug,
 - iii. Documentation and verification of any wasted or partial doses,
 - iv. Exception reports for refused doses, and
 - v. All drug destruction forms; and
2. Identify and report drug irregularities and dispensing errors to the prescriber, the director of nursing of the facility, and the provider pharmacy.
- D.** A long-term care consultant pharmacist or pharmacist-in-charge of a provider pharmacy shall ensure that:
1. Discontinued or outdated drugs, including controlled substances, are destroyed or disposed of in a timely manner using methods consistent with federal, state, and local requirements and subject to review by the Board or its staff; and
 2. Drug containers with illegible or missing labels are:
 - a. Identified; and
 - b. Replaced or relabeled by a pharmacist employed by the pharmacy that dispensed the prescription medication.

Historical Note

Former Rules 6.8110, 6.8120, 6.8130, 6.8140, 6.8150, 6.8160, and 6.8170; Amended effective Aug. 10, 1978 (Supp. 78-4). Section repealed, new Section adopted effective December 18, 1992 (Supp. 92-4). Amended by final rulemaking at 9 A.A.R. 1064, effective May 4, 2003 (Supp. 03-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3).

R4-23-701.01. Long-term Care Facilities Pharmacy Services: Provider Pharmacy

The limited-service pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall ensure that:

1. A prescription medication is provided only by a valid prescription order for an individual long-term care facility resident, properly labeled for that resident, as specified in this subsection. Nothing in this Section shall prevent a provider pharmacy from supplying nonprescription drugs in a manufacturer's unopened container or emergency drugs using an emergency drug supply unit as specified in R4-23-701.02;
2. A prescription medication label for a long-term care facility resident complies with A.R.S. §§ 32-1968 and 36-2525 and contains:
 - a. The drug name, strength, dosage form, and quantity; and
 - b. The beyond-use-date;

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3. Only a pharmacist employed by the pharmacy that dispensed the prescription medication may, through the exercise of professional judgment, relabel or alter a prescription medication label that is illegible or missing;
4. The provider pharmacy develops and implements drug recall policies and procedures that protect the health and safety of facility residents. The drug recall procedures shall include immediate discontinuation of any patient level recalled drug and notification of the prescriber and director of nursing of the facility; and
5. Drugs previously dispensed to a resident of the long-term care facility by another pharmacy, and drugs previously dispensed by the provider pharmacy, are not repackaged.

Historical Note

Adopted effective December 18, 1992 (Supp. 92-4).
 Amended by final rulemaking at 9 A.A.R. 1064, effective May 4, 2003 (Supp. 03-1). Amended by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3).

R4-23-701.02. Long-term Care Facilities Pharmacy Services: Emergency Drugs

- A. The limited-service pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall ensure that:
 1. An emergency drug supply unit is available within the long-term care facility;
 2. Drugs contained in an emergency drug supply unit remain the property of the provider pharmacy, and
 3. Controlled substance drugs contained in an emergency drug supply unit are included in all inventories required under A.R.S. § 36-2523(B) and R4-23-1003(A).
 - B. An emergency drug supply unit shall meet the following criteria:
 1. The drugs are necessary to meet the immediate and emergency therapeutic needs of long-term care facility residents as determined by the provider pharmacy's pharmacist-in-charge in consultation with the long-term care facility's medical director and nursing director;
 2. The purpose of the emergency drug supply unit in a long-term care facility is not to relieve a provider pharmacy of the responsibility for timely provision of the resident's routine drug needs, but to ensure that an emergency drug supply unit is available for facility residents in need of immediate and emergency therapeutic drugs; and
 3. The drugs are provided in a manufacturer's unit of use package or are prepackaged and labeled to include the drug name, strength, dosage form, manufacturer, lot number, and expiration date and provider pharmacy's name, address, telephone number, and pharmacist's initials.
 - C. The limited-service pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall ensure that an emergency drug supply unit:
 1. Is stored in an area that:
 - a. Is temperature controlled; and
 - b. Prevents unauthorized access;
 2. Contains on the exterior of the emergency drug supply unit a label to indicate that the contents are for emergency use only;
 3. Contains on the exterior of the emergency drug supply unit a complete list of the contents of the unit by drug name, strength, dosage form, and quantity and the provider pharmacy's name, address, and telephone number;
 4. Contains on the exterior of the emergency drug supply unit a label that indicates the date of the earliest drug expiration date;
 5. Contains on the exterior of the emergency drug supply unit a label that indicates the date of and pharmacist responsible for the last inspection of the emergency drug supply unit; and
 6. Is secured with a tamper-evident seal, or is locked and sealed in a manner that obviously reveals when the unit has been opened or tampered with.
- D. The limited-service pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall:
1. Prepare, implement, review, and revise in the same manner described in R4-23-671(E) and comply with written policies and procedures for the storage and use of an emergency drug supply unit in a long-term care facility;
 2. Make the policies and procedures available in the provider pharmacy and long-term care facility for employee reference and inspection by the Board or its staff;
 3. Ensure that the written policies and procedures include the following:
 - a. Drug removal procedures that require:
 - i. The long-term care facility's personnel receive a valid prescription order for each drug removed from the emergency drug supply unit,
 - ii. The long-term care facility's personnel notify the provider pharmacy when a drug is removed from the emergency drug supply unit,
 - b. Outdated drug replacement procedures, and
 - c. Security and inspection procedures;
 4. Exchange or restock the emergency drug supply unit weekly, or more often as necessary, to ensure the availability of an adequate supply of emergency drugs within the long-term care facility. Restocking of the emergency drug supply unit at the facility shall be completed by an Arizona licensed pharmacist employed by the provider pharmacy, or by an Arizona licensed intern, graduate intern, technician or technician trainee under the direct onsite supervision of an Arizona licensed pharmacist; and
 5. Educate pharmacy and long-term care facility personnel in the storage and use of an emergency drug supply unit.
- E. In addition to the requirements of subsections (A) through (D), an automated emergency drug supply unit may be used provided:
1. The pharmacy permittee or pharmacist-in-charge of the provider pharmacy notifies the Board or its staff in writing of the intent to use an automated emergency drug supply unit, including the name and type of unit;

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2. The provider pharmacy is notified electronically when the automated emergency drug supply unit has been accessed;
 3. All events involving the access of the automated emergency drug supply unit are recorded electronically and maintained for not less than two years;
 4. The provider pharmacy is capable of producing a report of all transactions of the automated emergency drug supply unit including a single drug usage report as required in R4-23-408(B)(5) on inspection by the Board or its staff;
 5. The provider pharmacy develops written policies and procedures for:
 - a. Accessing the automated emergency drug supply unit in the event of a system malfunction or downtime,
 - b. Authorizing and modifying user access,
 - c. An ongoing quality assurance program that includes:
 - i. Training in the use of the automated emergency drug supply unit for all authorized users,
 - ii. Maintenance and calibration of the automated emergency drug supply unit as recommended by the device manufacturer; and
 6. Documentation of the requirements of subsection (E)(5)(c)(ii) is maintained for inspection by the Board or its staff for not less than two years.
- F.** The Board may prohibit a pharmacy permittee or pharmacist-in-charge of a provider pharmacy from using an automated emergency drug supply unit if the pharmacy permittee or pharmacy permittee's employees do not comply with the requirements of subsections (A) through (E).

Historical Note

Adopted effective December 18, 1992 (Supp. 92-4).
 Amended by final rulemaking at 9 A.A.R. 1064, effective May 4, 2003 (Supp. 03-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3).

R4-23-701.03. Long-term Care Facilities Pharmacy Services: Emergency Drug Prescription Order

The limited-service pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall ensure that every emergency drug prescription order is evaluated according to the requirements of R4-23-402(A) by a pharmacist within 72 hours of the first dose of drug administered by long-term care facility personnel under the emergency drug prescription order.

Historical Note

Adopted effective December 18, 1992 (Supp. 92-4).
 Amended by final rulemaking at 9 A.A.R. 1064, effective May 4, 2003 (Supp. 03-1).

R4-23-701.04. Long-term Care Facilities Pharmacy Services: Automated Dispensing Systems

- A.** Before using an automated dispensing system as defined in R4-23-110, a pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall:
 1. Notify the Board or its staff in writing of the intent to use an automated dispensing system, including the name and type of system;
 2. Obtain a separate controlled substances registration at the location of each long-term care facility at which an automated dispensing system containing controlled substances will be located as required by federal law; and
 3. Maintain copies of the registrations required under subsection (A)(2) at the provider pharmacy for inspection by the Board or its staff.
- B.** A pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall ensure:
 1. Drugs contained in an automated dispensing system remain the property of the provider pharmacy,
 2. Controlled substance drugs contained in an automated dispensing system are included in all inventories required under A.R.S. § 36-2523(B) and R4-23-1003(A),
 3. Schedule II drugs are not stocked in an automated dispensing system, and
 4. A separate emergency drug supply unit is available in the long-term care facility to meet the requirements of R4-23-701.02.
- C.** A pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall:
 1. Ensure that policies and procedures as required in subsection (D) for the use of an automated dispensing system in a long-term care facility are prepared, implemented, and complied with;
 2. Review biennially and, if necessary, revise the policies and procedures required under subsection (D);
 3. Document the review required under subsection (C)(2);
 4. Assemble the policies and procedures as a written or electronic manual; and
 5. Make the policies and procedures available for employee reference and inspection by the Board or its staff within the pharmacy and at any location outside of the pharmacy where the automated dispensing system is used.
- D.** A pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall ensure the written policies and procedures include:
 1. Drug removal procedures that include the following:
 - a. A drug is provided only by a valid prescription order for an individual long-term care facility resident;
 - b. A drug is dispensed from an automated dispensing system only after a pharmacist has:
 - i. Reviewed and verified the resident's prescription order as required by R4-23-402(A), and
 - ii. Electronically authorized the access for that drug for that particular resident, and
 - c. The automated dispensing system labels each individual drug packet with a

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- resident specific label that complies with R4-23-701.01(2) and contains the resident's room number or facility identification number; and
2. Security procedures that include the following:
 - a. The pharmacy permittee or pharmacist-in-charge of the provider pharmacy is responsible for authorizing user access, including adding and removing users and modifying user access;
 - b. Each authorized user is a licensee of the Board or authorized licensed personnel of the long-term care facility; and
 - c. The automated dispensing system is secured at the long-term care facility by electronic or mechanical means or a combination thereof designed to prevent unauthorized access;
 3. Drug stocking procedures that include the following:
 - a. Automated dispensing systems that use non-removable containers that do not allow prepackaging of the container as set out in subsection (D)(3)(b):
 - i. Are stocked at the long-term care facility by an Arizona licensed pharmacist employed by the provider pharmacy, or by an Arizona licensed intern, graduate intern, technician or technician trainee under the direct onsite supervision of an Arizona licensed pharmacist; and
 - ii. Utilize bar code or other technologies to ensure the correct drug is placed in the correct canister or container; and
 - b. Automated dispensing systems that use removable containers may be stocked at the long-term care facility by an authorized user provided:
 - i. The prepackaging of the container occurs at the provider pharmacy;
 - ii. A pharmacist verifies the container has been properly filled and labeled, and the container is secured with a tamper-evident seal;
 - iii. The individual containers are transported to the long-term care facility in a secure, tamper-evident shipping container; and
 - iv. The automated dispensing system uses microchip, bar-coding, or other technologies to ensure the containers are accurately loaded in the automated dispensing system; and
 4. Recordkeeping and report procedures that include the following:
 - a. All events involving the access of the automated dispensing system are recorded electronically and maintained for not less than two years;
 - b. The provider pharmacy is capable of producing a report of all transactions of the automated dispensing system including:
 - i. A single drug usage report that complies with R4-23-408(B)(5); and
 - ii. An authorized user history including date and time of access and type of transaction; and
 - c. The provider pharmacy has procedures to safeguard the storage, packaging, and distribution of drugs by monitoring:
 - i. Current inventory;
 - ii. Expiration dates;
 - iii. Controlled substance dispensing;
 - iv. Re-dispense requests; and
 - v. Wastage.
 - E. A pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall:
 1. Ensure that an electronic log is kept for each container fill that includes:
 - a. An identification of the container by drug name and strength, and container number;
 - b. The drug's manufacturer or National Drug Code (NDC) number;
 - c. The expiration date and lot number from the manufacturer's stock bottle that is used to fill the container. If multiple lot numbers of the same drug are added to a container, each lot number and expiration date shall be documented;
 - d. The date the container is filled;
 - e. Documentation of the identity of the licensee who placed the drug into the container; and
 - f. If the licensee who filled the container is not a pharmacist, documentation of the identity of the pharmacist who supervised the non-pharmacist licensee; and
 2. Maintain the electronic log for inspection by the Board or its staff for not less than two years.
 - F. A pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall:
 1. Implement an ongoing quality assurance program that monitors performance of the automated dispensing system and compliance with the established policies and procedures that includes:
 - a. Training in the use of the automated dispensing system for all authorized users,
 - b. Maintenance and calibration of the automated dispensing system as recommended by the device manufacturer,
 - c. Routine accuracy validation testing no less than every three months, and
 - d. Downtime and malfunction procedures to ensure the timely provision of medication to the long-term care facility resident, and
 2. Maintain documentation of the requirements of subsections (F)(1)(b) and (F)(1)(c) for inspection by the Board or its staff for not less than two years.
 - G. The Board may prohibit a pharmacy permittee or pharmacist-in-charge from using an automated dispensing system in a long-term care facility if the pharmacy permittee or the pharmacy permittee's employees do not comply with the requirements of subsections (A) through (F).

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Historical Note

New Section made by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3).

R4-23-702. Hospice Inpatient Facilities

- A.** If a pharmacy permittee contracts to provide pharmacy services to the patients of a hospice inpatient facility as defined in R4-23-110, the pharmacy permittee shall ensure that:
1. A prescription medication is provided only by a valid prescription order for an individual hospice inpatient facility patient, properly labeled for that patient, as specified in this subsection. Nothing in this section shall prevent a provider pharmacy from supplying non-prescription drugs in a manufacturer's unopened container;
 2. A prescription medication label for a hospice inpatient facility patient complies with A.R.S. §§ 32-1968 and 36-2525 and contains:
 - a. The drug name, strength, dosage form, and quantity; and
 - b. The beyond-use date; and
 3. If the label on the hospice inpatient facility patient's drug container becomes damaged or soiled, a pharmacist employed by the pharmacy that dispensed the drug container, through the exercise of professional judgment, may relabel the drug container. Only a pharmacist is permitted to label a drug container or alter the label of a drug container.
- B.** A pharmacist may help hospice inpatient facility personnel develop written policies and procedures for the procurement, administration, storage, control, recordkeeping, and disposal of drugs in the facility.
- C.** The provider pharmacy may contract with the hospice inpatient facility to provide pharmacist services at the facility that include evaluation of the patient's response to medication therapy, identification of potential adverse drug reactions, and recommended appropriate corrective action.
- D.** A provider pharmacy that places an emergency drug supply unit at a hospice inpatient facility shall comply with the requirements of R4-23-701.02.
- E.** A pharmacy shall not place an automated dispensing system as defined in R4-23-701.04 in a hospice inpatient facility.
- F.** Drugs previously dispensed to a patient of the hospice inpatient facility by another pharmacy, and drugs previously dispensed by the provider pharmacy, shall not be repackaged.

Historical Note

Former Rules 6.8210, 6.8211, 6.8212, 6.8213, 6.8214, 6.8221, 6.8222, 6.8223, 6.8824, 6.8231, 6.8232, 6.8233, 6.8241, 6.8242, and 6.8243; Amended effective August 10, 1978 (Supp. 78-4). Repealed effective December 18, 1992 (Supp. 92-4). New Section made by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3).

R4-23-703. Assisted Living Facilities

- A.** Before dispensing, selling, or delivering a prescription or nonprescription drug to an assisted living facility resident, a pharmacy permittee shall verify the assisted living facility has

a current and active license issued by the Arizona Department of Health Services.

- B.** A pharmacy permittee shall ensure that, except as provided under subsection (C):
1. A controlled substance prescription drug is dispensed, sold, or delivered to an assisted living facility resident only after receiving a valid prescription order for the controlled substance prescription drug from the resident's medical practitioner; and
 2. The controlled substance prescription drug is labeled in accordance with A.R.S. §§ 32-1963.01, 32-1968, and 36-2525 and includes the beyond-use date on the label.
- C.** A pharmacy permittee may dispense, sell, or deliver to an assisted living facility resident a Schedule III, IV, or V controlled substance prescription if the pharmacy permittee:
1. Receives a written or oral prescription order for the Schedule III, IV, or V controlled substance from:
 - a. The resident's medical practitioner,
 - b. An individual licensed by the Arizona Board of Nursing who is acting within the scope of practice of the individual's license, or
 - c. The manager or a caregiver of the assisted living facility if the resident's medical practitioner has a written agreement with the assisted living facility designating a representative of the assisted living facility as an agent of the medical practitioner and a licensed medical practitioner provided the prescription order;
 2. Complies with subsection (D)(2); and
 3. Labels the Schedule III, IV, or V controlled substance as specified under subsection (B)(2).
- D.** A pharmacy permittee may dispense, sell, or deliver to an assisted living facility resident a non-controlled substance prescription or non-prescription drug if the pharmacy permittee:
1. Receives a written or oral prescription order for the non-controlled substance prescription or non-prescription drug from:
 - a. The resident's medical practitioner,
 - b. An individual licensed by the Arizona Board of Nursing who is acting within the scope of practice of the individual's license, or
 - c. An assisted living facility manager or caregiver acting under the authority of a licensed medical practitioner;
 2. Determines the written or oral prescription order:
 - a. Meets the requirements of R4-23-407, and
 - b. Includes the name and title of the individual transmitting the prescription order; and
 3. Labels the non-narcotic prescription or non-prescription drug in accordance with A.R.S. §§ 32-1963.01 and 32-1968 and includes the beyond-use date on the label.
- E.** If the label on an assisted living facility resident's drug container becomes damaged or soiled, a pharmacist employed by the pharmacy permittee that dispensed the drug container, through the exercise of professional judgment, may relabel the drug container. Only a pharmacist is permitted to label a drug container or alter the label of a drug container.

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- F. A pharmacist may help assisted living facility personnel develop written policies and procedures regarding procuring, administering, storing, controlling, keeping records, and disposing of drugs in the facility and provide information concerning safe and effective supervision of drug self-administration.
- G. A pharmacy permittee shall not place an emergency drug supply unit as described in R4-23-701.02 or an automated dispensing system as described in R4-23-701.04 in an assisted living facility.
- H. A pharmacist shall not repackage a drug previously dispensed to an assisted living facility resident.

Historical Note

Former Rules 6.8310, 6.8320, 6.8330, 6.8340, 6.8350, 6.8360, and 6.8370; Amended effective August 10, 1978 (Supp. 78-4). Amended by final rulemaking at 5 A.A.R. 2561, effective July 16, 1999 (Supp. 99-3). Amended by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3). Amended by final rulemaking at 23 A.A.R. 2424, effective October 14, 2017 (Supp. 17-3).

R4-23-704. Customized Patient Medication Packages

In lieu of dispensing two or more prescribed drugs in separate containers, a pharmacist may, with the consent of the patient, the patient's caregiver, the prescriber, or the facility caring for the patient, provide a customized patient medication package. The pharmacist preparing a customized patient medication package shall abide by the guidelines set forth in the current edition of the official compendium for labeling, packaging, and recordkeeping, and state and federal law.

Historical Note

Former Rules 6.8410, 6.8411, 6.8412, 6.8413, 6.8414, 6.8415, 6.8416, and 6.8417. Section R4-23-704 repealed by final rulemaking at 5 A.A.R. 862, effective March 3, 1999 (Supp. 99-1). Amended by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3).

R4-23-705. Repealed**Historical Note**

Former Rules 6.8420, 6.8421, 6.8422, 6.8423, 6.8424, 6.8425, 6.8426, 6.8427, 6.8428, and 6.8429. Amended effective August 10, 1978 (Supp. 78-4). Amended effective August 24, 1992 (Supp. 92-3). Repealed effective December 18, 1992 (Supp. 92-4).

R4-23-706. Repealed**Historical Note**

Former Rules 6.8431, 6.8432, 6.8433, 6.8434, 6.8435, 6.8436, and 6.8437; Amended effective August 10, 1978 (Supp. 78-4). Amended subsections (C), (E), (F), and (G) effective April 20, 1982 (Supp. 82-2). Section R4-23-706 repealed by final rulemaking at 5 A.A.R. 862, effective March 3, 1999 (Supp. 99-1).

R4-23-707. Repealed**Historical Note**

Former Rules 6.8441, 6.8442, 6.8450, 6.8451, 6.8452, 6.8453, 6.8454, 6.8455, 6.8456, and 6.8457. Section R4-

23-707 repealed by final rulemaking at 5 A.A.R. 862, effective March 3, 1999 (Supp. 99-1).

R4-23-708. Repealed**Historical Note**

Former Rules 6.8461, 6.8462, 6.8463, and 6.8464. Section R4-23-708 repealed by final rulemaking at 5 A.A.R. 862, effective March 3, 1999 (Supp. 99-1).

R4-23-709. Repealed**Historical Note**

Former Rules 6.8471, 6.8472, and 6.8473. Section R4-23-709 repealed by final rulemaking at 5 A.A.R. 862, effective March 3, 1999 (Supp. 99-1).

ARTICLE 8. DRUG CLASSIFICATION

Article 8, consisting of Sections R4-23-801 and R4-23-802, recodified from Article 5 at 9 A.A.R. 4011, effective August 18, 2003 (Supp. 03-3).

R4-23-801. Repealed**Historical Note**

Former Rules 7.1110, 7.1120, and 7.1130. Repealed effective November 4, 1998 (Supp. 98-4). Recodified from R4-23-501 at 9 A.A.R. 4011, effective August 18, 2003 (Supp. 03-3). Repealed by final rulemaking at 26 A.A.R. 223, effective March 14, 2020 (Supp. 20-1).

R4-23-802. Veterinary

Veterinary preparation: A veterinary drug manufacturer or supplier may distribute:

1. A prescription-only veterinary drug to:
 - a. A veterinary medical practitioner licensed under A.R.S. Title 32, Chapter 21,
 - b. A full-service drug wholesaler permitted under A.R.S. Title 32, Chapter 18, or
 - c. A pharmacy permitted under A.R.S. Title 32, Chapter 18, and
2. A nonprescription veterinary drug to:
 - a. A veterinary medical practitioner licensed under A.R.S. Title 32, Chapter 21,
 - b. A nonprescription drug retailer permitted under A.R.S. Title 32, Chapter 18,
 - c. A full-service or nonprescription drug wholesaler permitted under A.R.S. Title 32, Chapter 18, or
 - d. A pharmacy permitted under A.R.S. Title 32, Chapter 18.

Historical Note

Former Rules 7.1210, 7.1220, and 7.1230. Repealed effective November 4, 1998 (Supp. 98-4). Recodified from R4-23-502 at 9 A.A.R. 4011, effective August 18, 2003 (Supp. 03-3).

R4-23-803. Repealed**Historical Note**

Former Rules 7.1300, 7.1400, 7.1500, and 7.1000. Repealed effective November 4, 1998 (Supp. 98-4).

R4-23-804. Repealed

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Historical Note

Former Rules 7.2100, 7.2200, 7.2300, 7.2410, 7.2420, and 7.2430. Repealed effective November 4, 1998 (Supp. 98-4).

ARTICLE 9. PENALTIES AND MISCELLANEOUS**R4-23-901. Penalty for Violations**

Any person, firm, or corporation violating any provision of 4 A.A.C. 23 is subject to the penalties in A.R.S. § 32-1996. In addition, a license or permit issued under the provisions of A.R.S. Title 32, Chapter 18 is subject to suspension or revocation for violation of 4 A.A.C. 23.

Historical Note

Former Rule 9.0000. Amended by final rulemaking at 6 A.A.R. 3177, effective August 3, 2000 (Supp. 00-3).

R4-23-902. Non-disciplinary Civil Penalties

As authorized under A.R.S. § 32-1904(D), the Board may issue the following non-disciplinary civil penalties to a licensee or permittee who engages in the specified acts or omissions without posing an imminent threat to public health or safety:

1. Failing to submit a remodel application before remodeling a permitted facility: \$250;
2. Failing to provide notice before a business is relocated: \$500;
3. Failing to update contact information: \$50/occurrence to a maximum of twice;
4. Failing to update change of employment information: \$50/occurrence to a maximum of twice;
5. Failing to complete required continuing education:
 - a. Registered pharmacist: \$100/deficient hour of continuing education for the first occurrence, \$150/deficient hour for second occurrence; and
 - b. Pharmacy technician: \$25/deficient hour of continuing education for the first occurrence, \$37.50/deficient hour for second occurrence;
6. Failing to provide notice of a new pharmacist in charge: \$100/occurrence to a maximum of twice;
7. Failing to provide notice of a new designated representative: \$100/occurrence to a maximum of twice;
8. Failing to provide notice of a new criminal charge, arrest, or conviction in any jurisdiction: \$250/occurrence to a maximum of twice;
9. Failing to provide notice of disciplinary action taken against the licensee or permittee by another jurisdiction: \$250/occurrence to a maximum of twice;
10. Failing to renew a license timely and continuing to work with an expired license:
 - a. Registered pharmacist: \$100/day worked not to exceed \$1,000; and
 - b. Pharmacy technician: \$50/day worked not to exceed \$500;
11. Failing to conduct a controlled substance inventory when there is a new pharmacist in charge: \$250/occurrence to a maximum of twice;
12. Failing to obtain a permit before shipping into Arizona anything for which a permit is required: \$100/item shipped;
13. Failing to respond timely to a subpoena: \$50;

14. Failing to provide notice before there is a change in ownership: \$250; and
15. Failing to conduct required controlled substance inventories: \$250.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).

ARTICLE 10. UNIFORM CONTROLLED SUBSTANCES AND DRUG OFFENSES**R4-23-1001. Repealed****Historical Note**

Adopted effective August 2, 1982 (Supp. 82-4). Section repealed by final rulemaking at 6 A.A.R. 3177, effective August 3, 2000 (Supp. 00-3).

R4-23-1002. Repealed**Historical Note**

Adopted effective August 2, 1982 (Supp. 82-4). Repealed effective November 4, 1998 (Supp. 98-4).

R4-23-1003. Records and Order Forms**A. Records.**

1. If the pharmacist-in-charge of a pharmacy is replaced by another pharmacist-in-charge, the new pharmacist-in-charge shall complete an inventory of all controlled substances in the pharmacy within 10 days of assuming the responsibility. This inventory and any other required controlled substance inventory shall:
 - a. Include an exact count of all Schedule II controlled substances;
 - b. Include an exact count of all Schedule III through Schedule V controlled substances or an estimated count if the stock container contains fewer than 1001 units;
 - c. Indicate the date the inventory is taken and whether the inventory is taken before opening of business or after close of business for the pharmacy;
 - d. Be signed by:
 - i. The pharmacist-in-charge; or
 - ii. For other required inventories, the pharmacist who does the inventory;
 - e. Be kept separately from all other records; and
 - f. Be available in the pharmacy for inspection by the Board or its designee for not less than three years.
2. A loss of a controlled substance shall be reported:
 - a. Within 10 days of discovery;
 - b. On a DEA form 106;
 - c. By the pharmacist-in-charge of a pharmacy or a manufacturer;
 - d. By the permittee or designated representative of a full-service wholesaler; and
 - e. To the federal Drug Enforcement Administration (DEA), the Narcotic Division of the Department of Public Safety (DPS), and the Board of Pharmacy. A copy of the DEA form 106 shall be kept on file by the pharmacy permittee. The DEA form 106 shall state whether the police investigated the loss.

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3. Every person manufacturing any controlled substance, including repackaging or relabeling, shall record and retain for not less than three years the manufacturing, repackaging, or relabeling date for each controlled substance.
 4. Every person receiving, selling, delivering, or disposing of any controlled substance shall record and retain for not less than three years the following information:
 - a. The name, strength, dosage form, and quantity of each controlled substance received, sold, delivered, or disposed;
 - b. The name, address, and DEA registration number of the person from whom each controlled substance is received;
 - c. The name, address, and DEA registration number of the person to whom each controlled substance is sold or delivered or who disposes of each controlled substance; and
 - d. The date of each transaction.
 5. A full-service drug wholesale permittee or the designated representative shall complete an inventory of all controlled substances in the manner prescribed in subsection (A)(1). The permittee or designated representative shall conduct this inventory:
 - a. On May 1 of each year or as directed by the Board; and
 - b. If there is a change of ownership, or discontinuance of business, or within 10 days of a change of a designated representative.
 6. A drug manufacturer permittee or the pharmacist-in-charge shall complete an inventory of all controlled substances in the manner prescribed in subsection (A)(1). The permittee or pharmacist-in-charge shall conduct this inventory:
 - a. On May 1 of each year or as directed by the Board; and
 - b. If there is a change of ownership, or discontinuance of business, or within 10 days of a change of a pharmacist-in-charge.
- B. Order form.** For purposes of A.R.S. § 36-2524, "Order Form" means DEA Form 222c.

Historical Note

Adopted effective August 2, 1982 (Supp. 82-4).
 Amended effective November 1, 1993 (Supp. 93-4).
 Amended effective April 1, 1995; filed January 31, 1995 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 3177, effective August 3, 2000 (Supp. 00-3). Amended by final rulemaking at 12 A.A.R. 1912, effective July 1, 2006 (Supp. 06-2). Amended by final rulemaking at 14 A.A.R. 3670, effective November 8, 2008 (Supp. 08-3).

R4-23-1004. Schedules of Controlled Substances

As of the effective date of this Section and as required under A.R.S. §§ 36-2512 through 36-2516, the Board adopts the following schedules of controlled substances. The schedules adopted include no later amendments. The adopted schedules are available on the Board's website:

1. Schedule I. 21 CFR, Chapter II, Part 1308.11;

2. Schedule II. 21 CFR, Chapter II, Part 1308.12;
3. Schedule III. 21 CFR, Chapter II, Part 1308.13;
4. Schedule IV. 21 CFR, Chapter II, Part 1308.14; and
5. Schedule V. 21 CFR, Chapter II, Part 1308.15.

Historical Note

Adopted effective August 2, 1982 (Supp. 82-4). Repealed effective November 4, 1998 (Supp. 98-4). New Section made by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).

R4-23-1005. Products Excluded or Exempted from the Schedules of Controlled Substances

The following lists of products are excluded or exempted from the schedules of controlled substances adopted in R4-23-1004. All lists are available on the Board's website and at <https://www.ecfr.gov/current/title-21/chapter-II/part-1308>:

1. Excluded nonnarcotic substances that may be lawfully sold over-the-counter without a prescription order. 21 CFR, Chapter II, Part 1308.22;
2. Exempted chemical preparations and mixtures. 21 CFR, Chapter II, Part 1308.24; and
3. Exempted prescription products containing a nonnarcotic controlled substance. 21 CFR, Chapter II, Part 1308.32.

Historical Note

Adopted effective August 2, 1982 (Supp. 82-4).
 Amended by final rulemaking at 6 A.A.R. 3177, effective August 3, 2000 (Supp. 00-3). Amended by final rulemaking at 18 A.A.R. 2609, effective December 2, 2012 (Supp. 12-4). Amended by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).

R4-23-1006. Substances Excepted from Drug Offenses

The following materials, compounds, mixtures, or preparations containing any stimulant or depressant substance included in A.R.S. §§ 13-3401(6)(b) or 13-3401(6)(c) are excepted from the definition of dangerous drugs under the authority of A.R.S. § 32-1904(B)(14):

1. Over-the-counter drugs excepted in R4-23-1005(A).
2. Chemical preparations excepted in R4-23-1005(B).
3. Prescription-only drugs excepted in R4-23-1005(C).

Historical Note

Adopted effective August 2, 1982 (Supp. 82-4).
 Amended by final rulemaking at 6 A.A.R. 3177, effective August 3, 2000 (Supp. 00-3).

ARTICLE 11. PHARMACY TECHNICIANS

Article 11, consisting of R4-23-1101 through R4-23-1105, made by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1).

R4-23-1101. Licensure and Eligibility

- A. License required.** A person shall not work as a pharmacy technician or pharmacy technician trainee in Arizona, unless the person possesses a pharmacy technician or pharmacy technician trainee license issued by the Board.
- B. Eligibility.**

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1. To be eligible for licensure as a pharmacy technician trainee, a person shall:
 - a. Be of good moral character,
 - b. Be at least 18 years of age, and
 - c. Have a high school diploma or the equivalent of a high school diploma.
 2. To be eligible for licensure as a pharmacy technician, a person shall:
 - a. Meet the requirements of subsection (B)(1),
 - b. Complete a pharmacy technician training program that meets the standards prescribed in R4-23-1105, and
 - c. Pass the Pharmacy Technician Certification Board (PTCB) examination or another Board-approved pharmacy technician examination.
- C. A pharmacy technician delinquent license.** Before an Arizona pharmacy technician license will be reinstated, a pharmacy technician whose Arizona pharmacy technician license is delinquent for five or more consecutive years shall furnish to the Board satisfactory proof of fitness to be licensed as a pharmacy technician and pay all past due biennial renewal fees and penalty fees. Satisfactory proof includes:
1. For a person with a delinquent license who is practicing as a pharmacy technician out-of-state with a pharmacy technician license issued by another jurisdiction:
 - a. Proof of current, unrestricted pharmacy technician licensure in another jurisdiction; and
 - b. Proof of employment as a pharmacy technician during the last 12 months; or
 2. For a person with a delinquent license who did not practice as a pharmacy technician within the last 12 months:
 - a. Take and pass a Board-approved pharmacy technician examination, and
 - b. Complete 20 contact hours or two CEUs of continuing education activity sponsored by an approved provider, including at least two contact hours or 0.2 CEUs of continuing education activity in pharmacy law.
- Historical Note**
- New Section made by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 102, effective March 10, 2013 (Supp. 13-1).
- R4-23-1102. Pharmacy Technician Licensure**
- A. Eligibility.** An applicant for licensure as a pharmacy technician shall provide the Board proof the applicant is eligible under R4-23-1101(B)(2), including documentation that the applicant:
1. Completed a pharmacy technician training program that meets the standards prescribed in R4-23-1105(B)(2); and
 2. Passed the Pharmacy Technician Certification Board (PTCB) examination or another Board-approved pharmacy technician examination; or
 3. Meets the requirements of R4-23-1105(D)(1) or (2).
- B. Application.**
1. An applicant for licensure as a pharmacy technician shall:
 - a. Submit a completed application electronically or manually on a form furnished by the Board, and
 - b. Submit with the application form:
 - i. The documents specified in the application form,
 - ii. The initial licensure fee specified in R4-23-205, and
 - iii. The wall license fee specified in R4-23-205.
 2. The Board office shall deem an application form received on the date the Board office electronically or manually date-stamps the form.
- C. Licensure.**
1. If an applicant is found to be ineligible for pharmacy technician licensure under statute and rule, the Board office shall issue a written notice of denial to the applicant.
 2. If an applicant is found to be eligible for pharmacy technician licensure under statute and rule, the Board office shall issue a certificate of licensure and a wall license. An applicant who is assigned a license number and who has been granted "open" status on the Board's license verification site may begin practice as a pharmacy technician before receiving the certificate of licensure.
 3. An applicant who is assigned a license number and who has a "pending" status on the Board's license verification site shall not practice as a pharmacy technician until the Board office issues a certificate of licensure as specified in subsection (C)(2).
 4. A licensee shall maintain the certificate of licensure in the practice site for inspection by the Board or its designee or review by the public.
- D. License renewal.**
1. To renew a license, a pharmacy technician shall submit a completed license renewal application electronically or manually on a form furnished by the Board with the biennial renewal fee specified in R4-23-205.
 2. If the biennial renewal fee is not paid by November 1 of the renewal year specified in A.R.S. § 32-1925, the pharmacy technician license is suspended and the licensee shall not practice as a pharmacy technician. The licensee shall pay a penalty as provided in A.R.S. § 32-1925 and R4-23-205 to vacate the suspension.
 3. A licensee shall maintain the renewal certificate of licensure in the practice site for inspection by the Board or its designee or review by the public.
- E. Time frames for pharmacy technician licensure and license renewal.** The Board office shall follow the time frames established in R4-23-202(F).
- F. Verification of license.** A pharmacy permittee or pharmacist-in-charge shall not permit a person to practice as a pharmacy technician until the pharmacy permittee or pharmacist-in-charge verifies the person is currently licensed by the Board as a pharmacy technician.

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Historical Note

New Section made by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 102, effective March 10, 2013 (Supp. 13-1). Amended by final rulemaking at 19 A.A.R. 2911, effective November 10, 2013 (Supp. 13-3). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).

R4-23-1103. Pharmacy Technician Trainee Licensure

- A. Eligibility. An applicant for licensure as a pharmacy technician trainee shall provide the Board proof the applicant is eligible under R4-23-1101(B)(1).
- B. Application.
 1. An applicant for licensure as a pharmacy technician trainee shall:
 - a. Submit a completed application electronically or manually on a form furnished by the Board, and
 - b. Submit with the application form:
 - i. The documents specified in the application form,
 - ii. The licensure fee specified in R4-23-205, and
 - iii. The wall license fee specified in R4-23-205.
 2. The Board office shall deem an application form received on the date the Board office electronically or manually date-stamps the form.
- C. Licensure.
 1. If an applicant is found to be ineligible for pharmacy technician trainee licensure under statute and rule, the Board office shall issue a written notice of denial to the applicant.
 2. If an applicant is found to be eligible for pharmacy technician trainee licensure under statute and rule, the Board office shall issue a certificate of licensure and a wall license. An applicant who is assigned a license number and who has been granted "open" status on the Board's license verification site may begin practice as a pharmacy technician trainee before receiving the certificate of licensure.
 3. An applicant who is assigned a license number and who has a "pending" status on the Board's license verification site shall not practice as a pharmacy technician trainee until the Board office issues a certificate of licensure as specified in subsection (C)(2).
 4. A licensee shall maintain the certificate of licensure in the practice site for inspection by the Board or its designee or review by the public.
 5. A pharmacy technician trainee license is valid for 36 months from the date issued. A pharmacy technician trainee who does not complete the prescribed training program and pass a Board-approved pharmacy technician examination before the pharmacy technician trainee's license expires is not eligible for licensure as a pharmacy technician and shall not practice as a pharmacy technician or pharmacy technician trainee. The Board has approved the following pharmacy technician examinations:

- a. Pharmacy Technician Certification Board (PTCB) Exam, and
- b. Exam for the Certification of Pharmacy Technicians (ExCPT).

- D. Time frames for pharmacy technician trainee licensure. The Board office shall follow the time frames established in R4-23-202(F).
- E. Verification of license. A pharmacy permittee or pharmacist-in-charge shall not permit a person to practice as a pharmacy technician trainee until the pharmacy permittee or pharmacist-in-charge verifies that the person is currently licensed by the Board as a pharmacy technician trainee.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 2911, effective November 10, 2013 (Supp. 13-3). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2). Amended by final rulemaking at 26 A.A.R. 223, effective March 14, 2020 (Supp. 20-1).

EMERGENCY RULEMAKING**R4-23-1104. Pharmacy Technicians and Pharmacy Technician Trainees**

- A. Permissible tasks of a pharmacy technician trainee. Acting in compliance with all applicable statutes and rules and under the supervision of a pharmacist, a pharmacy technician trainee licensed under R4-23-1103 may assist an intern or pharmacist with the following when applicable to the pharmacy practice site:
 1. Record on the original prescription order the serial number of the prescription medication and date dispensed;
 2. Initiate or accept verbal or electronic refill authorization from a medical practitioner or medical practitioner's agent and record, on the original prescription order or by an alternative method approved by the Board or its designee, the medical practitioner's name, patient name, name and quantity of prescription medication, specific refill information, and name of medical practitioner's agent, if any;
 3. Record information in the refill record or patient profile;
 4. Enter information for a new or refill prescription medication as required under A.R.S. § 32-1964;
 5. Type and affix a label for the prescription medication. A pharmacist or intern working under the supervision of a pharmacist shall verify the accuracy of the label as described under R4-23-402(A)(11);
 6. Reconstitute a prescription medication, if a pharmacist checks the ingredients and procedure before reconstitution and verifies the final product after reconstitution;
 7. Retrieve, count, or pour a prescription medication, if a pharmacist verifies the contents of the prescription medication against the original prescription medication container or by an alternative drug identification method approved by the Board or its designee;
 8. Prepackage drugs in accordance with R4-23-402(A); and

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9. Measure, count, pour, or otherwise prepare and package a drug needed for hospital inpatient dispensing, if a pharmacist verifies the accuracy, measuring, counting, pouring, preparing, packaging, and safety of the drug before the drug is delivered to a patient care area.
- B. Permissible tasks of a pharmacy technician. Acting in compliance with all applicable statutes and rules and under the supervision of a pharmacist, a pharmacy technician licensed under R4-23-1102 may:
 1. Perform the tasks listed in subsection (A);
 2. After completing a pharmacy technician drug compounding training program developed by the pharmacy permittee or pharmacist-in-charge under R4-23-1105(C), assist a pharmacist or intern in compounding prescription medications and sterile or non-sterile pharmaceuticals in accordance with written policies and procedures, if the preparation, accuracy, and safety of the final product is verified by a pharmacist before dispensing;
 3. Perform a final technology-assisted verification of product if the pharmacy technician is qualified under R4-23-1104.01(D);
 4. If technology-assisted verification is performed, type and affix a label for the prescription medication. A pharmacist or intern shall verify the accuracy of the label as described under R4-23-402(A)(12);
 5. Administer a vaccine when:
 - a. Administration of the vaccine is done under an order that complies with A.R.S. § 32-1974 and R4-23-411;
 - b. Administration of the vaccine is delegated by and done under the supervision of a pharmacist on duty who is certified under A.R.S. § 32-1974 to administer vaccines; and
 - c. There is documentation by the permittee that the pharmacy technician has completed the following:
 - i. A practical training program that is approved by the Accreditation Council for Pharmacy Education and includes hands-on injection technique and recognition and treatment of emergency reactions to vaccines; and
 - ii. Current certification in basic cardiopulmonary resuscitation.
 6. Perform a task not related to professional judgment if the task is delegated to the pharmacy technician by the pharmacist on duty after the pharmacist on duty ensures the pharmacy technician is trained to do the task and there is documentation by the permittee of the training; and
 7. A pharmacist on duty shall not delegate or attempt to delegate the following tasks to a pharmacy technician:
 - a. Administering an emergency medication,
 - b. Counseling a patient,
 - c. Conducting a drug utilization review,
 - d. Performing any task that requires the exercise of clinical judgment,
 - e. Issuing a prescription order,
 - f. Receiving a new prescription order for a controlled substance, or
 - g. Transferring by telephone an existing prescription order for a controlled substance.
 - C. A trained and licensed pharmacy technician or pharmacy technician trainee who performs a task as authorized under subsections (A) and (B) shall ensure the task is performed accurately.
 - D. Prohibited activities. A pharmacy technician or pharmacy technician trainee shall not perform a professional practice reserved for a pharmacist or intern in accordance with R4-23-402 or R4-23-653 unless otherwise allowed by rule.
 - E. A pharmacy technician or pharmacy technician trainee shall wear a badge indicating name and title while on duty.
 - F. Before employing a pharmacy technician or pharmacy technician trainee, a pharmacy permittee or pharmacist-in-charge shall develop, implement, review, and revise in the manner described in R4-23-653(A) and comply with policies and procedures outlined in subsection (G) for pharmacy technician and pharmacy technician trainee tasks.
 - G. A pharmacy permittee or pharmacist-in-charge shall ensure policies and procedures required under subsection (F) include the following:
 1. For all practice sites:
 - a. Supervisory controls and verification procedures to ensure the quality and safety of pharmaceutical service;
 - b. Employment performance expectations for a pharmacy technician and pharmacy technician trainee;
 - c. The tasks a pharmacy technician or pharmacy technician trainee may perform as specified under subsections (A) and (B);
 - d. Pharmacist and patient communication;
 - e. Reporting, correcting, and avoiding medication and dispensing errors;
 - f. Security procedures for:
 - i. Confidentiality of patient prescription records, and
 - ii. The pharmacy area;
 - g. Automated medication distribution system;
 - h. Compounding procedures for pharmacy technicians; and
 - i. Brief overview of state and federal pharmacy statutes and rules;
 2. For community and limited-service pharmacy practice sites:
 - a. Prescription dispensing procedures for:
 - i. Accepting a new written prescription order,
 - ii. Accepting a refill request,
 - iii. Selecting a drug product,
 - iv. Counting and pouring,
 - v. Labeling, and
 - vi. Obtaining refill authorization; and
 - b. Computer data-entry procedures for:
 - i. New and refill prescriptions,
 - ii. Patient's drug allergies,
 - iii. Drug-drug interactions,
 - iv. Drug-food interactions,
 - v. Drug-disease state contraindications,
 - vi. Refill frequency,

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- vii. Patient's disease and medical condition,
- viii. Patient's age or date of birth and gender, and
- ix. Patient profile maintenance; and
- 3. For hospital pharmacy practice sites:
 - a. Medication order procurement and data entry,
 - b. Drug preparation and packaging,
 - c. Outpatient and inpatient drug delivery, and
 - d. Inspection of drug storage and preparation areas and patient care areas.

Historical Note

Section made by emergency rulemaking at 29 A.A.R. 1196 (May 26, 2023), with an immediate effective date of May 4, 2023; effective for 180 days (Supp. 23-2).

R4-23-1104. Pharmacy Technicians and Pharmacy Technician Trainees

A. Permissible tasks of a pharmacy technician trainee. Acting in compliance with all applicable statutes and rules and under the supervision of a pharmacist, a pharmacy technician trainee licensed under R4-23-1103 may assist an intern or pharmacist with the following when applicable to the pharmacy practice site:

1. Record on the original prescription order the serial number of the prescription medication and date dispensed;
2. Initiate or accept verbal or electronic refill authorization from a medical practitioner or medical practitioner's agent and record, on the original prescription order or by an alternative method approved by the Board or its designee, the medical practitioner's name, patient name, name and quantity of prescription medication, specific refill information, and name of medical practitioner's agent, if any;
3. Record information in the refill record or patient profile;
4. Enter information for a new or refill prescription medication as required under A.R.S. § 32-1964;
5. Type and affix a label for the prescription medication. A pharmacist or intern working under the supervision of a pharmacist shall verify the accuracy of the label as described under R4-23-402(A)(11);
6. Reconstitute a prescription medication, if a pharmacist checks the ingredients and procedure before reconstitution and verifies the final product after reconstitution;
7. Retrieve, count, or pour a prescription medication, if a pharmacist verifies the contents of the prescription medication against the original prescription medication container or by an alternative drug identification method approved by the Board or its designee;
8. Prepackage drugs in accordance with R4-23-402(A); and
9. Measure, count, pour, or otherwise prepare and package a drug needed for hospital inpatient dispensing, if a pharmacist verifies the accuracy, measuring, counting, pouring, preparing, packaging, and safety of the drug before the drug is delivered to a patient care area.

B. Permissible tasks of a pharmacy technician. Acting in compliance with all applicable statutes and rules and under the supervision of a pharmacist, a pharmacy technician licensed under R4-23-1102 may:

1. Perform the tasks listed in subsection (A);
2. After completing a pharmacy technician drug compounding training program developed by the pharmacy permittee or pharmacist-in-charge under R4-23-1105(C), assist a pharmacist or intern in compounding prescription medications and sterile or non-sterile pharmaceuticals in accordance with written policies and procedures, if the preparation, accuracy, and safety of the final product is verified by a pharmacist before dispensing;
3. Perform a final technology-assisted verification of product if the pharmacy technician is qualified under R4-23-1104.01(D);
4. If technology-assisted verification is performed, type and affix a label for the prescription medication. A pharmacist or intern shall verify the accuracy of the label as described under R4-23-402(A)(12);
5. Perform a task not related to professional judgment if the task is delegated to the pharmacy technician by the pharmacist on duty after the pharmacist on duty ensures the pharmacy technician is trained to do the task and evidence of the training exists in the pharmacy file.
6. A pharmacist on duty shall not delegate or attempt to delegate the following tasks to a pharmacy technician:
 - a. Administering an emergency medication,
 - b. Counseling a patient,
 - c. Conducting a drug utilization review,
 - d. Performing any task that requires the exercise of clinical judgment,
 - e. Issuing a prescription order,
 - f. Receiving a new prescription order for a controlled substance, or
 - g. Transferring by telephone an existing prescription order for a controlled substance; and
7. The pharmacist on duty shall not delegate or attempt to delegate to a pharmacy technician the administering of an immunization or vaccine unless authority for the administration is specifically provided by statute or rule.
- C.** A trained and licensed pharmacy technician or pharmacy technician trainee who performs a task as authorized under subsections (A) and (B) shall ensure the task is performed accurately.
- D.** Prohibited activities. A pharmacy technician or pharmacy technician trainee shall not perform a professional practice reserved for a pharmacist or intern in accordance with R4-23-402 or R4-23-653 unless otherwise allowed by rule.
- E.** A pharmacy technician or pharmacy technician trainee shall wear a badge indicating name and title while on duty.
- F.** Before employing a pharmacy technician or pharmacy technician trainee, a pharmacy permittee or pharmacist-in-charge shall develop, implement, review, and revise in the manner described in R4-23-653(A) and comply with policies and procedures outlined in subsection (G) for pharmacy technician and pharmacy technician trainee tasks.
- G.** A pharmacy permittee or pharmacist-in-charge shall ensure policies and procedures required under subsection (F) include the following:
 1. For all practice sites:

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- a. Supervisory controls and verification procedures to ensure the quality and safety of pharmaceutical service;
 - b. Employment performance expectations for a pharmacy technician and pharmacy technician trainee;
 - c. The tasks a pharmacy technician or pharmacy technician trainee may perform as specified under subsections (A) and (B);
 - d. Pharmacist and patient communication;
 - e. Reporting, correcting, and avoiding medication and dispensing errors;
 - f. Security procedures for:
 - i. Confidentiality of patient prescription records, and
 - ii. The pharmacy area;
 - g. Automated medication distribution system;
 - h. Compounding procedures for pharmacy technicians; and
 - i. Brief overview of state and federal pharmacy statutes and rules;
2. For community and limited-service pharmacy practice sites:
 - a. Prescription dispensing procedures for:
 - i. Accepting a new written prescription order,
 - ii. Accepting a refill request,
 - iii. Selecting a drug product,
 - iv. Counting and pouring,
 - v. Labeling, and
 - vi. Obtaining refill authorization; and
 - b. Computer data-entry procedures for:
 - i. New and refill prescriptions,
 - ii. Patient's drug allergies,
 - iii. Drug-drug interactions,
 - iv. Drug-food interactions,
 - v. Drug-disease state contraindications,
 - vi. Refill frequency,
 - vii. Patient's disease and medical condition,
 - viii. Patient's age or date of birth and gender, and
 - ix. Patient profile maintenance; and
 3. For hospital pharmacy practice sites:
 - a. Medication order procurement and data entry,
 - b. Drug preparation and packaging,
 - c. Outpatient and inpatient drug delivery, and
 - d. Inspection of drug storage and preparation areas and patient care areas.
- A. By complying with this Section, the permittee of a retail, institutional, or limited-service pharmacy may implement a technology-assisted verification of product program that allows a pharmacy technician licensed under R4-23-1102 and qualified under subsection (D) to perform final product verification.
 - B. Written program description required. Before implementing a technology-assisted verification of product program the permittee of a retail, institutional, or limited-service pharmacy shall prepare a written program description that includes the following:
 1. Responsibility of both the pharmacist in charge and permittee to ensure compliance with this Section;
 2. Responsibility of the permittee to design, implement, and monitor a process that ensures the accuracy and safety of the product dispensed;
 3. Duties of a verification technician;
 4. The training necessary to qualify and remain qualified as a verification technician;
 5. The monitoring and evaluation procedures to be used to ensure competency of the verification technician; and
 6. Prohibition of a verification technician performing a final accuracy check of a completed prescription label.
 - C. The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall:
 1. Post the written program description required under subsection (B) in the pharmacy area;
 2. Provide a copy of the written program description to the pharmacist in charge and verification technician;
 3. Obtain the signature of the pharmacist in charge and verification technician on a copy of the written program description and place the signed copy in the personnel file of the pharmacist in charge and verification technician;
 4. Ensure scanning technology used in the technology-assisted verification program captures both product and patient information; and
 5. Update the written program description as needed and repeat subsections (C)(1) through (4) after each update.
 - D. Verification technician training: The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall ensure a pharmacy technician does not perform the duties of a verification technician unless the pharmacy technician has the following qualifications:
 1. Is licensed under R4-23-1102;
 2. Has at least 1,000 hours of pharmacy technician work experience in the same kind of pharmacy practice site in which the technology-assisted verification of product will be performed;
 3. Completes a training program that includes at least the following:
 - a. Role of a verification technician in the dispensing process,
 - b. Legal requirements of a verification technician,
 - c. How to use the technology-assisted verification system,
 - d. Primary causes of medication errors, and
 - e. Identifying and resolving dispensing errors; and

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 19 A.A.R. 102, effective March 10, 2013 (Supp. 13-1). Amended by final rulemaking at 23 A.A.R. 3257, effective January 8, 2018 (Supp. 17-4). Amended by final rulemaking at 28 A.A.R. 994 (May 13, 2022), effective July 2, 2022 (Supp. 22-2).

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4. Completes at least four hours of the continuing education required under R4-23-1106 on patient safety.
- E. The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall ensure the pharmacy practice site has a computer data storage and retrieval system that meets the standards in R4-23-408(B).
- F. The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall ensure a verification technician verifies only the following:
 1. A product with scanning technology that identifies product, or
 2. A robotically prepared unit-dose product.
- G. The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall ensure a verification technician does not verify the following:
 1. A product that involves a combination of drugs resulting from compounding or mixing two or more ingredients or products,
 2. A product that involves or results from an alteration of a drug, or
 3. A DEA schedule II controlled substance.
- H. The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall perform an unannounced evaluation of the competency of a verification technician at least twice a year and take steps to remediate any deficiencies identified including removing verification duties from the technician.
- I. The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall maintain the following records:
 1. Date the pharmacy technician was designated as a verification technician,
 2. Date the pharmacy technician completed the training required under subsection (D)(3),
 3. Dates and results of the evaluations conducted under subsection (H), and
 4. Date and reason for any disciplinary action against the verification technician arising from performing the duties of a verification technician.
- J. A verification technician shall wear identification that includes the title "Verification Technician" while on duty.
- K. As used in this Section, the term "verification technician" means an individual who:
 1. Is qualified under subsection (D),
 2. Uses a combination of scanning technology and visual confirmation to verify a product prepared to be dispensed is the product prescribed and indicated on the prescription label, and
 3. Performs verification of work performed by other pharmacy technicians before a pharmacist or graduate or pharmacy intern working under the supervision of a pharmacist performs the final accuracy check required under R4-23-402(A).

Historical Note

New Section made by final rulemaking at 23 A.A.R. 3257, effective January 8, 2018 (Supp. 17-4).

R4-23-1105. Pharmacy Technician Trainee Training Program, Pharmacy Technician Drug Compounding Training Program, and Alternative Pharmacy Technician Training

- A. Nothing in this Section prevents additional offsite training of a pharmacy technician.
- B. Pharmacy technician trainee training program.
 1. A pharmacy permittee or pharmacist-in-charge shall develop, implement, review, revise in the same manner described in R4-23-653(A), and comply with a pharmacy technician trainee training program based on the needs of the individual pharmacy.
 2. A pharmacy permittee or pharmacist-in-charge shall ensure the pharmacy technician trainee training program includes training guidelines that:
 - a. Define the specific tasks a pharmacy technician trainee is expected to perform,
 - b. Specify how and when the pharmacist-in-charge will assess the pharmacy technician trainee's competency, and
 - c. Address the policies and procedures specified in R4-23-1104(G) and the permissible activities specified in R4-23-1104(A).
 3. A pharmacist-in-charge shall:
 - a. Document the date a pharmacy technician trainee successfully completed the training program, and
 - b. Maintain the documentation required in this subsection for inspection by the Board or its designee.
 4. A pharmacy technician trainee shall perform only those tasks, listed in R4-23-1104(A), for which training and competency has been demonstrated.
- C. Pharmacy technician drug compounding training program.
 1. A pharmacy permittee or pharmacist-in-charge shall develop, implement, review, revise in the same manner described in R4-23-653(A), and comply with a pharmacy technician drug compounding training program based on the needs of the individual pharmacy;
 2. A pharmacy permittee or pharmacist-in-charge shall ensure the pharmacy technician drug compounding training program includes training guidelines that:
 - a. Define the specific tasks a pharmacy technician is expected to perform,
 - b. Specify how and when the pharmacist-in-charge will assess the pharmacy technician's competency, and
 - c. Address the following procedures and tasks:
 - i. Area preparation,
 - ii. Component preparation,
 - iii. Aseptic technique and product preparation,
 - iv. Packaging and labeling, and
 - v. Area cleanup;
 3. A pharmacist-in-charge shall:
 - a. Document the date a pharmacy technician successfully completed the pharmacy technician drug compounding training program, and

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CHAPTER 23. BOARD OF PHARMACY

- b. Maintain the documentation required in this subsection for inspection by the Board or its designee.
- D. Alternative pharmacy technician training.**
1. An individual who has passed the required Board-approved pharmacy technician examination, but has not followed the normal path to pharmacy technician licensure by obtaining a pharmacy technician trainee license and working while completing a pharmacy technician trainee training program as specified in subsection (B), may obtain a pharmacy technician license, if the individual has employment in pharmacy and completes an on-the-job training program as part of the individual's employment orientation that includes: reading and discussing with the pharmacist-in-charge of the pharmacy where employed, the Board rules concerning pharmacy technicians and pharmacy technician trainees, the pharmacy technician and pharmacy technician trainee job description, and the policies and procedures manual of that pharmacy.
 2. An individual who has completed a pharmacy technician certificate program and has passed the required Board-approved pharmacy technician examination, but has not followed the normal path to pharmacy technician licensure by obtaining a pharmacy technician trainee license and working while completing a pharmacy technician trainee training program as specified in subsection (B), may obtain a pharmacy technician license, if the individual has employment in pharmacy and completes an on-the-job training program as part of the individual's employment orientation that includes: reading and discussing with the pharmacist-in-charge of the pharmacy where employed, the Board rules concerning pharmacy technicians and pharmacy technician trainees, the pharmacy technician and pharmacy technician trainee job description, and the policies and procedures manual of that pharmacy.
 3. A pharmacist-in-charge shall:
 - a. Document the date an individual licensed under subsection (D)(1) or (2) successfully completed the on-the-job training program as part of the individual's employment orientation as required under subsection (D)(1) or (2), and
 - b. Maintain the documentation required in this subsection for inspection by the Board or its designee.
- E.** A pharmacy technician shall perform only those tasks, listed in R4-23-1104(B), for which training and competency has been demonstrated.
- F.** If a pharmacy technician leaves a training program described under subsection (B), (C), or (D) before successfully completing the training program, the pharmacist-in-charge shall provide the pharmacy technician with written documentation of the hours of training completed and the tasks for which competence was demonstrated by the pharmacy technician.

Historical Note

New Section made by final rulemaking at 10 A.A.R.

1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 19 A.A.R. 102, effective March 10, 2013 (Supp. 13-1). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).

EMERGENCY RULEMAKING**R4-23-1106. Continuing Education Requirements**

- A.** General. According to A.R.S. § 32-1925(H), the Board shall not renew a pharmacy technician license unless the licensee has during the two years preceding the application for renewal:
1. Participated in 20 contact hours or two CEUs of continuing education activity sponsored by an Approved Provider, as defined in R4-23-110, and
 2. A pharmacy technician licensee is exempt from the continuing education requirement in subsection (A)(1) between the time of initial licensure and first renewal.
- B.** Special continuing education requirement. During each license renewal period, a pharmacy technician shall not administer a vaccine under R4-23-1104(B)(5) unless the pharmacy technician has participated in at least two contact hours of continuing education activity approved by the Accreditation Council for Pharmacy Education and related to administration of vaccines.
- C.** Valid CEUs. The Board shall:
1. Accept CEUs for continuing education activities sponsored only by an Approved Provider;
 2. Accept CEUs accrued during only the two-year period immediately before licensure renewal;
 3. Not allow CEUs accrued in a biennial renewal period to be carried forward to the succeeding biennial renewal period;
 4. Allow a pharmacy technician who leads, instructs, or lectures to a group of health professionals on pharmacy-related topics in a continuing education activity sponsored by an Approved Provider to receive CEUs for a presentation by following the same attendance procedures as any other attendee of the continuing education activity; and
 5. Not accept as a CEU a pharmacy technician's normal teaching duties within a learning institution if the pharmacy technician's primary responsibility is the education of health professionals.
- D.** Continuing education records and reporting CEUs. A pharmacy technician shall:
1. Maintain continuing education records that:
 - a. Verify the continuing education activities the pharmacy technician participated in during the preceding five years; and
 - b. Consist of a statement of credit or a certificate issued by an Approved Provider at the conclusion of a continuing education activity;
 2. At the time of licensure renewal, attest to the number of CEUs the pharmacy technician participated in during the renewal period on the biennial renewal form; and
 3. When requested by the Board office, submit proof of continuing education participation within 20 days of the request.

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- E. The Board shall deem a pharmacy technician's failure to comply with the continuing education participation, recording, or reporting requirements of this Section as unprofessional conduct and grounds for disciplinary action by the Board under A.R.S. § 32-1927.01.
- F. A pharmacy technician who is aggrieved by any decision of the Board concerning continuing education units may request a hearing before the Board.

Historical Note

Section made by emergency rulemaking at 29 A.A.R. 1196 (May 26, 2023), with an immediate effective date of May 4, 2023; effective for 180 days (Supp. 23-2).

R4-23-1106. Continuing Education Requirements

- A. General. According to A.R.S. § 32-1925(H), the Board shall not renew a pharmacy technician license unless the licensee has during the two years preceding the application for renewal:
1. Participated in 20 contact hours or two CEUs of continuing education activity sponsored by an Approved Provider, as defined in R4-23-110, and
 2. A pharmacy technician licensee is exempt from the continuing education requirement in subsection (A)(1) between the time of initial licensure and first renewal.
- B. Valid CEUs. The Board shall:
1. Accept CEUs for continuing education activities sponsored only by an Approved Provider;
 2. Accept CEUs accrued during only the two-year period immediately before licensure renewal;
 3. Not allow CEUs accrued in a biennial renewal period to be carried forward to the succeeding biennial renewal period;
 4. Allow a pharmacy technician who leads, instructs, or lectures to a group of health professionals on pharmacy-related topics in a continuing education activity sponsored by an Approved Provider to receive CEUs for a presentation by following the same attendance procedures as any other attendee of the continuing education activity; and
 5. Not accept as a CEU a pharmacy technician's normal teaching duties within a learning institution if the pharmacy technician's primary responsibility is the education of health professionals.
- C. Continuing education records and reporting CEUs. A pharmacy technician shall:
1. Maintain continuing education records that:
 - a. Verify the continuing education activities the pharmacy technician participated in during the preceding five years; and
 - b. Consist of a statement of credit or a certificate issued by an Approved Provider at the conclusion of a continuing education activity;
 2. At the time of licensure renewal, attest to the number of CEUs the pharmacy technician participated in during the renewal period on the biennial renewal form; and
 3. When requested by the Board office, submit proof of continuing education participation within 20 days of the request.
- D. The Board shall deem a pharmacy technician's failure to comply with the continuing education participation, recording,

or reporting requirements of this Section as unprofessional conduct and grounds for disciplinary action by the Board under A.R.S. § 32-1927.01.

- E. A pharmacy technician who is aggrieved by any decision of the Board concerning continuing education units may request a hearing before the Board.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 1105, effective April 30, 2005 (Supp. 05-1). Amended by final rulemaking at 26 A.A.R. 223, effective March 14, 2020 (Supp. 20-1).

ARTICLE 12. DONATED MEDICINE PROGRAM**R4-23-1201. Repealed****Historical Note**

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4). Repealed by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).

R4-23-1202. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4). Repealed by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).

R4-23-1203. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4). Repealed by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).

R4-23-1204. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4). Repealed by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).

R4-23-1205. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4). Repealed by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).

R4-23-1206. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4). Repealed by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).

R4-23-1207. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R.

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4320, effective January 3, 2009 (Supp. 08-4). Repealed by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).

R4-23-1208. Handling Fee

- A. The definitions at A.R.S. § 32-1909(U) apply to this Section.
- B. As specified under A.R.S. § 32-1909(N), an authorized recipient shall not sell a medicine received from a donor.
- C. An authorized recipient may charge a fee to an eligible patient to whom a donated medicine is dispensed. The authorized recipient shall ensure any fee charged to an eligible patient:
 - 1. Does not exceed the reasonable cost of receiving, handling, and dispensing the donated medicine; and
 - 2. Is consistent with the purpose of the donated medicine program. A fee consistent with the purpose of the donated medicine program includes an adjustment for the quantity and retail cost of the medicine dispensed.
- D. An authorized recipient may charge a fee to a donor or other authorized recipient for usual and customary expenses incurred in receiving and handling donated medicine.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4). Amended

by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).

R4-23-1209. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4). Repealed by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).

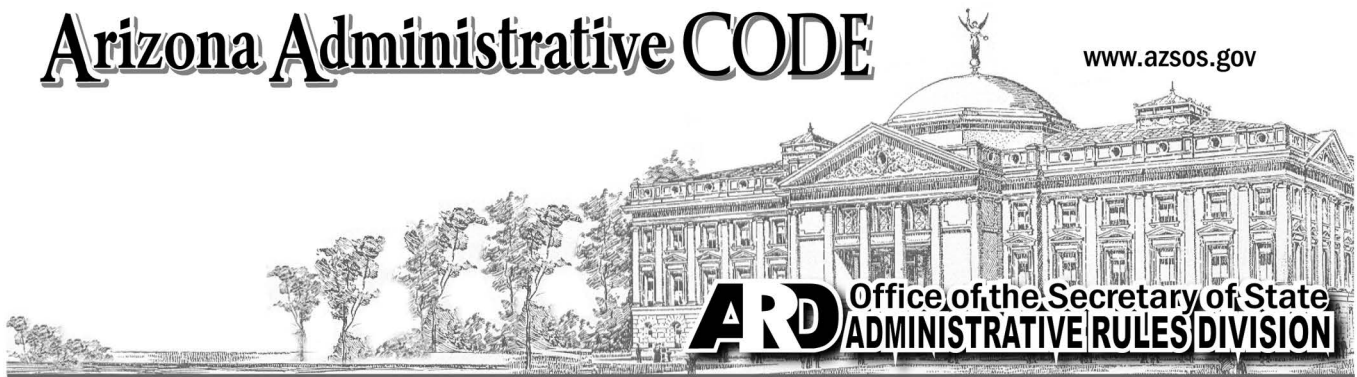
R4-23-1210. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4). Repealed by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).

R4-23-1211. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4). Repealed by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).

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4 A.A.C. 25

Supp. 23-2

TITLE 4. PROFESSIONS AND OCCUPATIONS CHAPTER 25. BOARD OF PODIATRY EXAMINERS

The table of contents on page one contains links to the referenced page numbers in this Chapter.
Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
April 1, 2023 through June 30, 2023

The fee in Section R4-25-103(10) as published in the Register and in the proposed rulemaking corrected to \$50 as submitted in final rulemaking in file R23-116. The official version of supplement 23-2 has the authentication date of August 17, 2023.

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Questions about these rules? Contact:

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The release of this Chapter in Supp. 23-2 replaces Supp. 20-3, 1-9 pages.

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

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

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

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

ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

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

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

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

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

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

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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**Administrative Rules Division**

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TITLE 4. PROFESSIONS AND OCCUPATIONS**CHAPTER 25. BOARD OF PODIATRY EXAMINERS**

Authority: A.R.S. § 32-801 et seq.

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Former Chapter 25, consisting of Sections R4-25-01 through R4-25-04, R4-25-20, R4-25-30 through R4-25-33, R4-25-40, and R4-25-50 through R4-25-53, renumbered and amended effective November 18, 1986.

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TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 25. BOARD OF PODIATRY EXAMINERS

ARTICLE 1. GENERAL PROVISIONS

R4-25-101. Definitions

The following definitions apply in this Chapter unless otherwise specified:

1. "Administer" has the same meaning as in A.R.S. § 32-1901.
2. "Comity" means the procedure for granting an Arizona license to an applicant who is licensed as a podiatrist in another state of the United States.
3. "Controlled substance" has the same meaning as in A.R.S. § 32-1901.
4. "Council" means the Council of Podiatric Medical Education, an organization approved by the American Podiatric Medical Association to govern podiatric education.
5. "Credit hour" means 60 minutes of participation in continuing education.
6. "Day" means calendar day.
7. "DEA" means The Drug Enforcement Administration in the Department of Justice.
8. "DEA Registration" means the DEA Controlled Substance Registration required and permitted by 21 U.S.C. 823 of the Controlled Substances Act.
9. "Device" has the same meaning as in A.R.S. § 32-1901 and includes a prescription-only device defined in A.R.S. § 32-1901.
10. "Directly supervise" has the same meaning as "direct supervision" in A.R.S. § 32-871(D).
11. "Dispense" has the same meaning as in A.R.S. § 32-871(F).
12. "Distributor" has the same meaning as in A.R.S. § 32-1901.
13. "Drug" has the same meaning as in A.R.S. § 32-1901 and includes a controlled substance, a narcotic drug defined in A.R.S. § 32-1901, a prescription medication, and a prescription-only drug.
14. "Informed consent" means a document signed by a patient or patient's representative that authorizes treatment to the patient after the treating podiatrist informs the patient or the patient's representative of the following:
 - a. A description of the treatment;
 - b. A description of the expected benefits of the treatment;
 - c. Alternatives to the treatment;
 - d. Associated risks of the treatment, including potential side effects and complications; and
 - e. The patient's right to withdraw authorization for the treatment at any time.
15. "Party" has the same meaning as in A.R.S. § 41-1001.
16. "Patient" means an individual receiving treatment from a podiatrist.
17. "Prescription medication" has the same meaning as in A.R.S. § 32-1901.
18. "Prescription-only device" has the same meaning as in A.R.S. § 32-1901.
19. "Prescription-only drug" has the same meaning as in A.R.S. § 32-1901.
20. "Prescription order" has the same meaning as in A.R.S. § 32-1901.
21. "Regular podiatry license" means a license issued pursuant to the provisions of A.R.S. § 32-826(A).
22. "Representative" means a legal guardian, an individual acting on behalf of another individual under written authorization from the individual, or a surrogate according to A.R.S. § 36-3201.

23. "Treatment" means podiatric medical, surgical, mechanical, manipulative, or electrical treatment according to A.R.S. § 32-801.

Historical Note

Former Section R4-25-06 renumbered and amended as Section R4-25-01 effective August 30, 1978 (Supp. 78-4). Amended effective April 3, 1980 (Supp. 80-2). Former Section R4-25-01 renumbered and amended as Section R4-25-101 effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2). Amended by final rulemaking at 26 A.A.R. 1501, effective September 6, 2020 (Supp. 20-3). Amended by final rulemaking at 29 A.A.R. 1551 (July 14, 2023), effective August 18, 2023 (Supp. 23-2).

R4-25-102. Postdoctoral, or Residency Program Approval

- A. For purposes of satisfying the requirements of A.R.S. § 32-826(A), a postdoctoral or residency program approved by the Council is approved by the Board.
- B. A postdoctoral or residency program provisionally approved or placed on probation by the Council is approved by the Board until the Council makes a final adverse determination of the status of the postdoctoral or residency program.

Historical Note

Adopted effective March 16, 1981 (Supp. 81-2). Former Section R4-25-02 renumbered and amended as Section R4-25-102 effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2). Amended by final rulemaking at 26 A.A.R. 1501, effective September 6, 2020 (Supp. 20-3).

R4-25-103. Fees

The Board shall charge the following fees, which are not refundable unless A.R.S. § 41-1077 applies:

1. Application for license according to A.R.S. §§ 32-822(A) and 32-825, \$450.00.
2. Application for license according to A.R.S. § 32-827, \$450.00.
3. License issuance, \$225.00.
4. Annual renewal, \$275.00.
5. Penalty fee for late renewal after July 30, \$150.00 in addition to the regular renewal fee.
6. Certification of a licensee to authorities of another state or country, \$10.00.
7. For initial registration to dispense drugs and devices, \$200.00.
8. For annual renewal of registration to dispense drugs and devices, \$100.00.
9. Application for temporary license and issuance of license, \$100.00.
10. Application for telehealth registration and issuance of registration, \$50.00.

Historical Note

Former Rule 3; Repealed effective August 30, 1978 (Supp. 78-4). Adopted as an emergency effective December 29, 1980, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 80-6). Former emergency adoption now adopted effective April 9, 1981 (Supp. 81-2). Former Section R4-25-03 repealed, new Section R4-25-03 adopted effective April 18, 1984 (Supp. 84-2). Former

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Section R4-25-03 renumbered without change as Section R4-25-103 effective November 18, 1986 (Supp. 86-6). Amended effective May 7, 1990 (Supp. 90-2). Amended effective July 27, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2). Amended by final rulemaking at 12 A.A.R. 479, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 26 A.A.R. 1501, effective September 6, 2020 (Supp. 20-3). Amended by final rulemaking at 29 A.A.R. 1551 (July 14, 2023), effective August 18, 2023 (Supp. 23-2). Fee in subsection (10) as published in the *Register* and in the proposed rulemaking corrected to \$50 as submitted in final rulemaking in file R23-116.

R4-25-104. Time-frames for Approvals

- A. The overall time-frame described in A.R.S. § 41-1072(2) for each type of approval granted by the Board is set forth in Table 1. The applicant and the Executive Director of the Board may agree in writing to extend the overall time-frame. The substantive review time-frame may not be extended by more than 25% of the overall time-frame.
- B. The administrative completeness review time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Board is set forth in Table 1.
 1. The administrative completeness review time-frame begins:
 - a. For approval of a podiatry license, when the Board receives the application packet required in R4-25-303;
 - b. For approval of a registration to dispense drugs, when the Board receives the application packet required in R4-25-602;
 - c. For approval of an application for renewal of a license or dispensing registration, when a licensee submits an application packet to the Board; or
 - d. For approval of continuing education, when the Board receives a request for approval.
 2. If the application packet is incomplete, the Board shall send to the applicant a written notice specifying the missing document or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the postmark date of the notice until the date the Board receives a complete application packet from the applicant.
 3. If an application packet is complete, the Board shall send a written notice of administrative completeness to the applicant.
 4. If the Board grants a license or approval during the time provided to assess administrative completeness, the Board shall not issue a separate written notice of administrative completeness.
- C. The substantive review time-frame described in A.R.S. § 41-1072(3) is set forth in Table 1 and begins on the postmark date of the notice of administrative completeness.
 1. During the substantive review time-frame, the Board may make one comprehensive written request for additional information or documentation. The time-frame for the

Board to complete the substantive review is suspended from the postmark date of the comprehensive written request for additional information or documentation until the Board receives the additional information or documentation.

2. The Board shall send a written notice of approval to an applicant who meets the qualifications and requirements in A.R.S. Title 4, Chapter 7 and this Chapter.
3. The Board shall send a written notice of denial to an applicant who fails to meet the qualifications and requirements in A.R.S. Title 4, Chapter 7 and this Chapter.
- D. The Board shall consider an application withdrawn if, within 365 days from the application submission date, the applicant fails to supply the missing information under subsection (B)(2) or (C)(1).
- E. An applicant who does not wish an application withdrawn may request a denial in writing within 365 days from the application submission date.
- F. If a time-frame's last day falls on a Saturday, Sunday, or an official state holiday, the Board considers the next business day the time-frame's last day.

Historical Note

Former Rule 4; Repealed effective August 30, 1978 (Supp. 78-4). Adopted effective March 13, 1986 (Supp. 86-2). Former Section R4-25-04 renumbered without change as Section R4-25-104 effective November 18, 1986 (Supp. 86-6). Section repealed effective July 27, 1995 (Supp. 95-3). New Section adopted by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2). Amended by final rulemaking at 26 A.A.R. 1501, effective September 6, 2020 (Supp. 20-3).

R4-25-105. Repealed

Historical Note

Former Rule 5; Repealed effective August 30, 1978 (Supp. 78-4). Former Section R4-25-05 renumbered without change as Section R4-25-105 effective November 18, 1986 (Supp. 86-6).

R4-25-106. Renumbered

Historical Note

Former Rule 6; Former Section R4-25-06 renumbered and amended as Section R4-25-01 effective August 30, 1978 (Supp. 78-4). Former Section R4-25-06 renumbered without change as Section R4-25-106 effective November 18, 1986 (Supp. 86-6).

R4-25-107. Repealed

Historical Note

Former Rule 7; Repealed effective August 30, 1978 (Supp. 78-4). Former Section R4-25-07 renumbered without change as Section R4-25-107 effective November 18, 1986 (Supp. 86-6).

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Table 1. Time-frames (in days)

Type of Approval	Statutory Authority	Overall Time-frame	Administrative Completeness Time-frame	Substantive Review Time-frame
Regular Podiatry License (R4-25-301)	A.R.S. § 32-826	60	30	30
License by Comity (R4-25-302)	A.R.S. § 32-827	60	30	30
Dispensing Registration (R4-25-602)	A.R.S. § 32-871	60	30	30
License Renewal (R4-25-306)	A.R.S. § 32-829	60	15	45
Registration Renewal (R4-25-605)	A.R.S. § 32-871	60	30	30
Continuing Education Approval (R4-25-502)	A.R.S. § 32-829	60	15	45

Historical Note

New Table 1 adopted by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2). Amended by final rulemaking at 26 A.A.R. 1501, effective September 6, 2020 (Supp. 20-3).

ARTICLE 2. EXAMINATIONS**R4-25-201. Examination of Applicants**

- A.** An applicant who does not meet the requirements in A.R.S. § 32-827 for licensure by comity shall pass the National Board Written Examinations with a grade of 75% or more.
- B.** An applicant licensed to practice podiatry in a state other than Arizona who is applying to the Board for a license by comity and who passed The National Board Written Examinations in a state other than Arizona with a score of 75% or more within five years of the application submission date meets the examination requirements of A.R.S. § 32-823.

Historical Note

Adopted as an emergency effective April 21, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-2). Adopted effective August 30, 1978 (Supp. 78-4). Amended subsection (A) effective March 16, 1981 (Supp. 81-2). Former Section R4-25-20 renumbered and amended as Section R4-25-201 effective November 18, 1986 (Supp. 86-6). Section repealed, new Section adopted effective July 27, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2). Amended by final rulemaking at 26 A.A.R. 1501, effective September 6, 2020 (Supp. 20-3).

R4-25-202. Repealed**Historical Note**

Adopted effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3). Section repealed by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1).

R4-25-203. Repealed**Historical Note**

Adopted effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2). Repealed by final rulemaking at 26 A.A.R. 1501, effective September 6, 2020 (Supp. 20-3).

ARTICLE 3. LICENSES**R4-25-301. Application for a Regular Podiatry License**

- A.** An applicant for a regular license shall submit:
1. An application form approved by the Board, signed and dated by the applicant that contains questions approved by the Board.
 2. Two passport-type photographs of the applicant taken not more than six months before the date of application;
 3. A photocopy of the diploma issued to the applicant upon completion of podiatric school;
 4. A photocopy of the residency certificate issued to the applicant upon completion of residency; and
 5. The fee required in R4-25-103.
- B.** An applicant shall arrange to have a transcript of examination scores of a national board examination in podiatry sent directly to the Board office by the professional examination service preparing the examination.

Historical Note

Adopted effective August 30, 1978 (Supp. 78-4). Amended effective April 3, 1980 (Supp. 80-2). Former Section R4-25-30 renumbered without change as Section R4-25-301 effective November 18, 1986 (Supp. 86-6). Section repealed effective July 27, 1995 (Supp. 95-3). New Section adopted by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1). Amended by final rulemaking at 26 A.A.R. 1501, effective September 6, 2020 (Supp. 20-3). Amended by final rulemaking at 29 A.A.R. 1551 (July 14, 2023), effective August 18, 2023 (Supp. 23-2).

R4-25-302. Application for a Podiatrist's License by Comity

- A.** Under A.R.S. § 32-827, an applicant for a podiatrist's license by comity shall submit to the Board, an application form approved by the Board, signed and dated by the applicant that contains questions approved by the Board and the following:
1. A photocopy of a current podiatric license in good standing issued in another state or jurisdiction;
 2. Written documentation of having been engaged in the practice of podiatric medicine for five of seven years immediately preceding the application;
 3. Two passport-type photographs of the applicant taken not more than six months before the date of application;
 4. The fee required in R4-25-103.
- B.** An applicant shall arrange to have a transcript of examination scores of a national board examination in podiatry sent directly

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to the Board office by the professional examination service preparing the examination.

Historical Note

Adopted effective August 30, 1978 (Supp. 78-4). Former Section R4-25-31 renumbered and amended as Section R4-25-302 effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1). Amended by final rulemaking at 26 A.A.R. 1501, effective September 6, 2020 (Supp. 20-3). Amended by final rulemaking at 29 A.A.R. 1551 (July 14, 2023), effective August 18, 2023 (Supp. 23-2).

R4-25-303. Expired

Historical Note

Adopted effective August 30, 1978 (Supp. 78-4). Amended effective February 5, 1979 (Supp. 79-1). Former Section R4-25-32 renumbered and amended as Section R4-25-303 effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3). former Section R4-25-303 renumbered to R4-25-305, new Section R4-25-303 adopted by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 727, effective November 28, 2013 (Supp. 14-1).

R4-25-304. Repealed

Historical Note

Adopted effective August 30, 1978 (Supp. 78-4). Former Section R4-25-33 renumbered without change as Section R4-25-304 effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3). Section repealed by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1).

R4-25-305. Expired

Historical Note

Adopted effective August 30, 1978 (Supp. 78-4). Amended effective February 5, 1979 (Supp. 79-1). Section R4-25-305 renumbered from R4-25-303 by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 727, effective November 28, 2013 (Supp. 14-1).

R4-25-306. License Renewal

On or before June 30 of each year, a licensee shall submit the renewal fee required in R4-25-103, and

1. A renewal application approved by the Board that contains questions approved by the Board.
2. The written report required in R4-25-503 for continuing education, including an attestation of attendance signed by the licensee.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2). Amended by final rulemaking at 29 A.A.R. 1551 (July 14, 2023), effective August 18, 2023 (Supp. 23-2).

ARTICLE 4. REHEARING OR REVIEW

R4-25-401. Rehearing or Review

- A. Except as provided in subsection (G), a party who is aggrieved by a decision issued by the Board may file with the Board no later than 30 days after service of the decision, a written motion for rehearing or review of the decision specifying the grounds for rehearing or review. For purposes of this Section, a decision is considered to have been served when personally delivered to the party's last known home or business address or five days after the decision is mailed by certified mail to the party or the party's attorney.
- B. A party filing a motion for rehearing or review may amend the motion at any time before it is ruled upon by the Board. Other parties may file a response within 15 days after the date the motion or amended motion by any other party for rehearing or review is filed. The Board may require a party to file a supplemental memorandum explaining the issues raised in the motion or response and may permit oral argument.
- C. The Board may grant a rehearing or review of the decision for any of the following reasons materially affecting the moving party's rights:
 1. Irregularity in the Board's administrative proceedings or an abuse of discretion that deprived the party of a fair hearing,
 2. Misconduct of the Board or the prevailing party,
 3. Accident or surprise that could not have been prevented by ordinary prudence,
 4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing,
 5. Excessive or insufficient penalties,
 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing, or
 7. That the decision is not supported by the evidence or is contrary to law.
- D. The Board may affirm or modify the decision or grant a rehearing or review on all or part of the issues for any of the reasons in subsection (C). An order granting a rehearing or review shall specify the ground for the rehearing or review.
- E. No later than 30 days after a decision is issued by the Board, the Board may, on its own initiative, grant a rehearing or review of its decision for any reason in subsection (C). An order granting a rehearing or review shall specify the grounds for the rehearing or review.
- F. When a motion for rehearing or review is based upon affidavits, a party shall serve the affidavits with the motion. An opposing party may, within 10 days after service, serve opposing affidavits. The Board may extend the time for serving opposing affidavits for no more than 20 days for good cause or by written stipulation of the parties. The Board may permit reply affidavits.
- G. If the Board makes specific findings that the immediate effectiveness of a decision is necessary to preserve the public health and safety and determines that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the Board may issue the decision as a final decision without an opportunity for rehearing or review. If a decision is issued as a final decision without an opportunity for a rehearing or review, an aggrieved party that makes an application for judicial review of the decision shall make the application within the time limits permitted for an application for judicial review of the Board's final decision at A.R.S. § 12-904.

Historical Note

Adopted effective August 30, 1978 (Supp. 78-4). Former Section R4-25-40 renumbered and amended as Section

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R4-25-401 effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2).

ARTICLE 5. CONTINUING EDUCATION

R4-25-501. Continuing Education Hours Required

- A. Unless a licensee obtains a waiver according to R4-25-505, the licensee shall complete 25 hours or more of continuing education credit hours every fiscal year.
- B. A licensee who has been licensed for less than 12 months before license renewal shall complete two continuing education credit hours for each month of licensure.
- C. For a licensee authorized to prescribe schedule II controlled substances and who has a valid DEA registration, at least three hours of the 25 hours required in subsection (A) shall be obtained in the area of opioid-related, substance use disorder-related or addiction-related continuing education.

Historical Note

Adopted effective August 30, 1978 (Supp. 78-4). Former Section R4-25-50 renumbered and amended as Section R4-25-501 effective November 18, 1986 (Supp. 86-6). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2). Amended by final rulemaking at 26 A.A.R. 1501, effective September 6, 2020 (Supp. 20-3).

R4-25-502. Approval of Continuing Education

- A. A licensee may submit a written request to the Board for approval of continuing education before submission of a renewal application.
- B. A request under subsection (A) shall contain:
 1. A brief summary of the continuing education;
 2. The educational objectives of the continuing education;
 3. The date, time, and place of the provision of the continuing education;
 4. The name of the individual providing the continuing education, if available; and
 5. The name of the organization providing the continuing education, if applicable.
- C. In determining whether to approve continuing education, the Board shall consider whether the continuing education:
 1. Is designed to provide current developments, skills, procedures, or treatments related to the practice of podiatry;
 2. Is developed and provided by an individual with knowledge and experience in the subject area; and
 3. Contributes directly to the professional competence of a licensee.
- D. The Board may accept a maximum of 10 continuing education credit hours or less for the following:
 1. Teaching a graduate level course approved by the American Podiatry Medical Association,
 2. Self-study which can include the following:
 - a. Reading educational literature that relates to the practice of podiatry.
 - b. A work or study group that relates to the practice of podiatry.
 - c. Having authored or co-authored a book, book chapter, or article in a peer-reviewed journal that was published within the last year and that relates to the practice of podiatry.
 3. Serving as a Board member or Complaint consultant for the Board.

- E. The Board shall approve or deny a request for approval according to the time-frames set forth in R4-25-104 and Table 1.
- F. According to A.R.S. § 32-829(E), if approval of a continuing education request is denied, a licensee has 60 days from the date of the denial to meet the continuing education requirements.
- G. Any opioid-related course that is approved by the Arizona State Board of Podiatry Examiners, Arizona State Board of Pharmacy, Arizona Board of Osteopathic Examiners, Arizona Medical Board or the Arizona State Board of Nursing is approved by the Board.

Historical Note

Adopted effective August 30, 1978 (Supp. 78-4). Amended effective April 3, 1980 (Supp. 80-2). Former Section R4-25-51 renumbered and amended as Section R4-25-502 effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2). Amended by final rulemaking at 26 A.A.R. 1501, effective September 6, 2020 (Supp. 20-3).

R4-25-503. Documentation

- A. A licensee shall submit a written report of completed continuing education with a renewal application that includes:
 1. The name of the licensee,
 2. The title of each continuing education,
 3. A description of the continuing education's content and educational objectives,
 4. The date of completion of each continuing education,
 5. The number of credit hours of each continuing education, and
 6. A statement signed by the licensee verifying the information in the report.
- B. The Board may audit continuing education reports every 12 months for conformance with A.R.S. § 32-829 and this Article:
 1. Randomly; or
 2. Selectively for licensees who previously submitted reports that did not conform with the requirements in A.R.S. § 32-829 or this Article.

Historical Note

Adopted effective August 30, 1978 (Supp. 78-4). Former Section R4-25-52 renumbered and amended as Section R4-25-503 effective November 18, 1986 (Supp. 86-6). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2).

R4-25-504. Repealed

Historical Note

Adopted effective August 30, 1978 (Supp. 78-4). Former Section R4-25-53 renumbered and amended as Section R4-25-504 effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3). Section repealed by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2).

R4-25-505. Waiver of Continuing Education

- A. A licensee who is unable to complete 25 hours of continuing education for any of the reasons in A.R.S. § 32-829(C) may submit a written request for a waiver to the Board by August 31 that contains:
 1. The name, address, and telephone number of the licensee;
 2. The report required in R4-25-503;

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3. An explanation of why the licensee was unable to meet the Board's continuing education requirements that includes one of the reasons in A.R.S. § 32-829(C); and
 4. The signature of the licensee.
- B.** The Board shall send written notice of approval or denial of the request for waiver within seven days of receipt of the request.
- C.** If the Board denies a request for a waiver, a licensee has 60 days from the date of the denial to meet the requirements for continuing education.

Historical Note

Adopted effective November 18, 1986 (Supp. 86-6).
Amended effective July 27, 1995 (Supp. 95-3). Amended
by final rulemaking at 9 A.A.R. 1846, effective July 19,
2003 (Supp. 03-2).

ARTICLE 6. DISPENSING DRUGS AND DEVICES

R4-25-601. Reserved

R4-25-602. Registration Requirements

An individual currently licensed as a podiatrist in this state who wishes to dispense drugs and devices shall register with the Board by submitting all of the following:

1. The podiatrist's current Drug Enforcement Administration Certificate of Registration issued by the Department of Justice under 21 U.S.C. 801 et seq.;
2. The fee required in R4-25-103; and
3. An application form provided by the Board, signed and dated by the podiatrist, that contains questions approved by the Board.

Historical Note

Adopted effective July 27, 1995 (Supp. 95-3). Amended
by final rulemaking at 5 A.A.R. 1000, effective March
16, 1999 (Supp. 99-1). Amended by final rulemaking at 9
A.A.R. 1846, effective July 19, 2003 (Supp. 03-2).
Amended by final rulemaking at 29 A.A.R. 1551 (July
14, 2023), effective August 18, 2023 (Supp. 23-2).

R4-25-603. Prescribing and Dispensing Requirements

A podiatrist shall:

1. Not dispense schedule II controlled substances that are opioids.
2. Not dispense a drug unless the drug is obtained from a manufacturer or distributor licensed in any state or jurisdiction;
3. Ensure that a drug or device is dispensed only to a patient being treated by the podiatrist;
4. Before dispensing a drug, provide a patient with a written prescription order that:
 - a. Contains the following statement in bold type: "This prescription may be filled by the prescribing podiatrist or by a pharmacy of your choice," and
 - b. Is signed by the podiatrist;
5. Directly supervise each individual involved in preparing a drug that is dispensed;
6. Ensure that a drug is:
 - a. Dispensed in a prepackaged container or in a light resistant container with a consumer safety cap; and
 - b. Labeled with the following information:
 - i. The podiatrist's name, address, and telephone number;
 - ii. The date the drug is dispensed;
 - iii. The patient's name; and

- iv. The name, strength of the drug, and directions for the drug's use;
7. Ensure that the original prescription order for a drug is countersigned and dated by the individual who prepared the drug for dispensing;
 8. Before a drug or device is dispensed to a patient:
 - a. Review the drug or device to ensure compliance with the prescription order;
 - b. Ensure the patient is informed of the following:
 - i. The name of the drug or device,
 - ii. Directions for taking the drug or using the device,
 - iii. Precautions for the drug or device, and
 - iv. Directions for storing the drug or device;
 9. Document in the medical record the following for each patient:
 - a. Name of the drug or device dispensed,
 - b. Strength of the drug dispensed,
 - c. Date the drug or device is dispensed, and
 - d. Therapeutic reasons for dispensing the drug or device;
 10. Maintain an inventory record for each drug that contains:
 - a. Name of the drug,
 - b. Strength of the drug,
 - c. Date the drug was received by the podiatrist,
 - d. Amount of the drug received by the podiatrist,
 - e. Name of the manufacturer and distributor of the drug, and
 - f. A unique identifying number provided by the manufacturer or distributor of the drug;
 11. Store a drug in a locked cabinet or room and:
 - a. Establish a written policy for access to the locked cabinet or room, and
 - b. Make the written policy available to the Board or its authorized agent within 72 hours of a Board request;
 12. Ensure that a drug is stored at temperatures recommended by the manufacturer of the drug; and
 13. Maintain a dispensing log, separate from the inventory record for each drug dispensed that includes the:
 - a. Name of the drug,
 - b. Strength of the drug,
 - c. Amount of the drug,
 - d. Patient's name,
 - e. Date the drug was dispensed, and
 - f. The name and signature of the podiatrist who dispensed the drug.

Historical Note

Adopted effective July 27, 1995 (Supp. 95-3). Amended
by final rulemaking at 9 A.A.R. 1846, effective July 19,
2003 (Supp. 03-2). Amended by final rulemaking at 26
A.A.R. 1501, effective September 6, 2020 (Supp. 20-3).

R4-25-604. Recordkeeping and Reporting Shortages

- A.** A prescription order written by a podiatrist for a drug shall:
1. Contain the:
 - a. Name of the patient,
 - b. Date the prescription order is written, and
 - c. Name and signature of the podiatrist;
 2. Be numbered consecutively; and
 3. Be maintained separately from a medical record.

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- B. A podiatrist shall maintain an invoice of a drug purchased from a manufacturer or distributor for three years from the date purchased.
- C. A podiatrist shall maintain the inventory record in R4-25-603(9) and the dispensing log in R4-25-603(12) for seven years from the date of entry.
- D. A podiatrist who discovers that a drug identified in the podiatrist's inventory record cannot be accounted for shall:
 1. Within 48 hours of discovery or the next business day if a weekend or holiday, whichever is later, notify the appropriate law enforcement agency and the federal Drug Enforcement Administration; and
 2. Provide written notification to the Board within seven days from the date of the discovery, including the name of the law enforcement agency notified.
- E. A podiatrist shall report controlled substances dispensing as required per A.R.S. § 36-2608.

Historical Note

Adopted effective July 27, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2). Amended by final rulemaking at 26 A.A.R. 1501, effective September 6, 2020 (Supp. 20-3).

R4-25-605. Registration Renewal

- A. A podiatrist shall renew a registration no later than June 30 of each year by submitting to the Board:
 1. An application form provided by the Board, signed and dated by the podiatrist, that contains questions approved by the Board.
 2. The fee required in R4-25-103.
- B. If a podiatrist fails to submit the information required in subsection (A) and the registration renewal fee required in R4-25-103 by June 30, the podiatrist's registration expires. If a registration expires, the podiatrist shall:
 1. Immediately cease dispensing drugs or devices, and
 2. Register pursuant to R4-25-602 before dispensing drugs and devices.

Historical Note

Adopted effective July 27, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2). Amended by final rulemaking at 29 A.A.R. 1551 (July 14, 2023), effective August 18, 2023 (Supp. 23-2).

ARTICLE 7. PODIATRIC MEDICAL ASSISTANTS

R4-25-701. Approval of Podiatric Medical Assistant Clinical

Certification and Radiology Certification

- A. For purposes of this Section, a Board-approved clinical certification program is a program accredited by the American Society of Podiatric Medical Assistants.
- B. For purposes of this Section, a Board-approved radiology certification program is a program accredited by the American Society of Podiatric Medical Assistants.

Historical Note

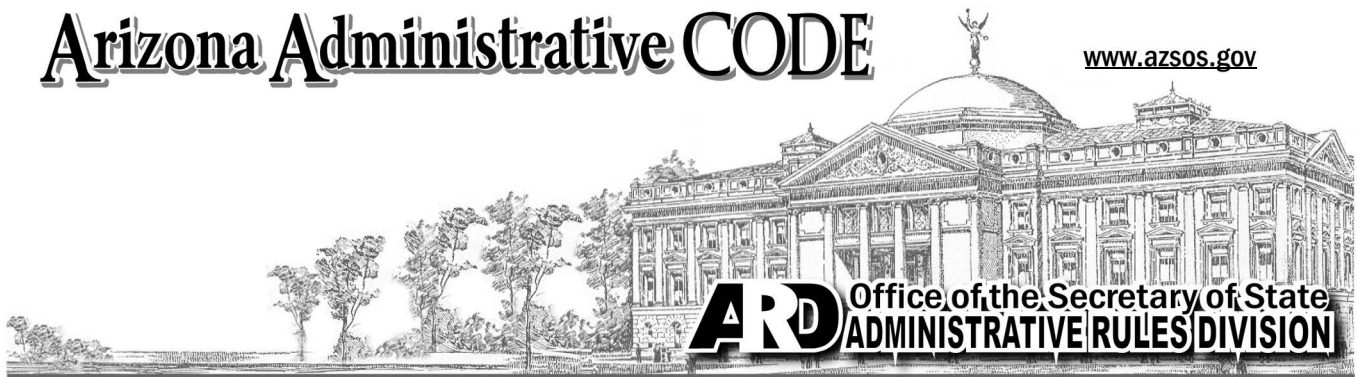
New Section made by final rulemaking at 29 A.A.R. 1551 (July 14, 2023), effective August 18, 2023 (Supp. 23-2).

R4-25-702. Podiatric Medical Assistants – Authorized Procedures

- A. A podiatric medical assistant not working under the direct supervision of a licensed podiatric physician may:
 1. Order supplies, store supplies, stock treatment rooms;
 2. Clean treatment rooms;
 3. Answer phones;
 4. Schedule appointments;
 5. Check patients in.
- B. A podiatric medical assistant working under the direct supervision of a licensed podiatric physician may:
 1. Obtain medical history from a patient;
 2. Obtain and record vital signs of a patient;
 3. Explain treatment procedures to a patient;
 4. Take off a patient's shoes and put the patient's shoes back on;
 5. Clip toenails on a patient;
 6. Apply bandages to the feet of a patient;
 7. Prepare a patient for a procedure;
 8. Take x-rays if the podiatric medical assistant is certified in radiology as described in R4-25-701(B). A podiatric medical assistant shall not take x-rays if the podiatric medical assistant does not meet the requirement of R4-25-701(B);
 9. The supervising licensed podiatric physician shall ensure that the podiatric medical assistant is properly trained and shall be responsible for all acts or missions of a podiatric medical assistant.

Historical Note

New Section made by final rulemaking at 29 A.A.R. 1551 (July 14, 2023), effective August 18, 2023 (Supp. 23-2).



4 A.A.C. 33

Supp. 23-2

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 33. BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS

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Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
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Questions about these rules? Contact:

Board: Board of Examiners for Nursing Care Administrators and Assisted Living Facility Managers

Address: 1740 W. Adams St., Suite 2490
Phoenix, AZ 85007

Website: www.nciaboard.az.gov

Name: John Confer, Executive Director

Telephone: (602) 364-2374

Email: john.confer@aznciaboard.us

The release of this Chapter in Supp. 23-2 replaces Supp. 23-1, 1-40 pages.

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

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

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

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

ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

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

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

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

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

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

PERSONAL USE/COMMERCIAL USE

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

Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division

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TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 33. BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS

Authority: A.R.S. § 36-446.03(A)

Supp. 23-2

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Chapter heading amended from “Board of Examiners for Nursing Care Institution Administrators and Assisted Living Facility Managers” to “Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers” to be consistent with A.R.S. § 36-446.02 (Supp. 11-4).

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Article 2, consisting of Sections R4-33-201 through R4-33-216, renumbered by emergency action from R4-33-115 through R4-33-130 effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3).

Article 2, consisting of Sections R4-33-201 through R4-33-216, renumbered by emergency action from R4-33-115 through R4-

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CHAPTER 33. BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS AND ASSISTED LIVING

ARTICLE 1. GENERAL**R4-33-101. Definitions**

The definitions in A.R.S. § 36-446 apply to this Chapter. Additionally, in this Chapter, unless otherwise specified:

“Accredited” means approved by the North Central Association of Colleges and Secondary Schools, New England Association of Schools and Colleges, Middle States Association of Colleges and Secondary Schools, North-west Association of Schools and Colleges, Southern Association of Colleges and Schools, or Western Association of Schools and Colleges.

“ACHCA” means the American College of Health Care Administrators.

“Administrator” has the meaning prescribed at A.R.S. § 36-446 and means an individual licensed under this Chapter.

“Administrator in training” or “AIT” means an individual who is taking an AIT program to be licensed as an administrator for a nursing care institution.

“AIT program” means a training that the Board approves after determining that the training meets the standards at R4-33-302.

“Applicant” means an individual who applies to the Board to be licensed as an administrator of a nursing care institution, to be certified as a manager of an assisted living facility, or for approval of a continuing education.

“Application package” means the forms, documents, and fees that the Board requires an applicant to submit or have submitted on the applicant’s behalf.

“Arizona examination” means a measure of an applicant’s knowledge of Arizona statutes and rules regarding nursing care institution administration or assisted living facility management.

“Biennial period” means:

For an administrator, the period until 30 days after the licensee’s birthday in an even-numbered year; and

For a manager, the period until 30 days after the certificate holder’s birthday in an odd-numbered year.

“Contact hour” means an hour during which an administrator or manager is physically present at a continuing education or a manager is physically present at a required initial training.

“Continuing education” means a planned educational course or program that the Board approves under R4-33-502.

“Good standing” means an individual licensed by the state is not subject to any disciplinary action or consent order, and not currently under investigation for alleged unprofessional conduct.

“Health care institution” means every place, institution, building or agency, whether organized for profit or not, that provides facilities with medical services, nursing services, behavioral health services, health screening services, other health-related services, supervisory care services, personal care services or directed care services and includes home health agencies as defined in A.R.S. §

36-151, outdoor behavioral health care programs and hospice services agencies. A.R.S. § 36-401.

“Manager” means an assisted living facility manager, as defined at A.R.S. § 36-446, who is certified under this Chapter.

“NAB” means the National Association of Long Term Care Administrator Boards.

“Party” has the same meaning as prescribed in A.R.S. § 41-1001.

“Preceptor” means a practicing nursing care institution administrator who helps to develop a new professional in the field of long-term care administration by tutoring the new professional.

“Qualified instructor” means a person who meets one or more of the following criteria:

A registered nurse, licensed under A.R.S. Title 32, Chapter 15;

An instructor employed by an accredited college or university, or health care institution to teach a health-care related course; or

A person or entity that has sufficient education and training to be qualified to teach a health-care related course.

“Work experience in a health-related field” means employment in a health care institution or in the professional fields of medicine, nursing, social work, gerontology, or other closely related field.

Historical Note

Section R4-33-101 renumbered from R4-33-112 and amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1). Amended by final rulemaking at 21 A.A.R. 543, effective June 6, 2015 (Supp. 15-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3). Amended by final rulemaking at 29 A.A.R. 642 (March 3, 2023), with an immediate effective date of February 13, 2023 (Supp. 23-1).

R4-33-102. Board Officers

- A. At its first annual meeting, the Board shall elect a president and vice-president.
- B. The functions, duties, and limitations of these officers are as follows:
 1. President. The president shall call and preside at all Board meetings. The president shall act as chief officer of the Board, appoint committees, and delegate authority to other members of the Board as needed.
 2. Vice-president. The vice-president shall preside at Board meetings in the absence of the president and may exercise all the powers and duties of the president in the absence of the president.
- C. Board officers serve for one year. A Board officer shall not serve more than two consecutive years in the same position.

Historical Note

Section R4-33-102 renumbered from R4-33-113 and amended by final rulemaking at 5 A.A.R. 423, effective

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January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1).

R4-33-103. Time Frames for Licenses, Certifications, and Approvals

- A.** For each type of license, certification, or approval issued by the Board, the overall time frame described in A.R.S. § 41-1072(2) is listed in Table 1.
- B.** For each type of license, certification, or approval issued by the Board, the administrative completeness review time frame described in A.R.S. § 41-1072(1) is listed in Table 1 and begins on the date the Board receives an application package.
1. If an application package is not administratively complete, the Board shall send a deficiency notice to the applicant that specifies each piece of information or document needed to complete the application package. Within the time provided in Table 1 for response to a deficiency notice, beginning on the mailing date of the deficiency notice, the applicant shall submit to the Board the missing information or document specified in the deficiency notice. The time frame for the Board to finish the administrative completeness review is suspended from the date the Board mails the deficiency notice to the applicant until the date the Board receives the missing information or document.
 2. If an application package is administratively complete, the Board shall send a written notice of administrative completeness to the applicant.
 3. If an application package is not completed within the time provided to respond to the deficiency notice, the Board shall send a written notice to the applicant informing the applicant that the application is deemed withdrawn.
- C.** For each type of license, certification, or approval issued by the Board, the substantive review time frame described in A.R.S. § 41-1072(3) is listed in Table 1 and begins on the date the Board sends written notice of administrative completeness to the applicant.
1. During the substantive review time frame, the Board may make one comprehensive written request for additional information. Within the time provided in Table 1 for response to a comprehensive written request for additional information, beginning on the mailing date of the comprehensive written request for additional information, the applicant shall submit to the Board the requested additional information. The time frame for the Board to finish the substantive review is suspended from the date the Board mails the comprehensive written request for additional information to the applicant until the Board receives the requested additional information.
 2. The Board shall issue a written notice informing the applicant that the application is deemed withdrawn if the applicant does not submit the requested additional information within the time provided in Table 1.
- D.** Within the overall time frame listed in Table 1, the Board shall:
1. Deny a license, certificate, or approval to an applicant if the Board determines the applicant does not meet all of the substantive criteria required by statute and this Chapter; or
 2. Grant a license, certificate, or approval to an applicant if the Board determines the applicant meets all of the substantive criteria required by statute and this Chapter.
- E.** If the Board denies a license, certificate, or approval under subsection (D)(1), the Board shall provide a written notice of denial to the applicant that explains:
1. The reason for the denial, with citations to supporting statutes or rules;
 2. The applicant's right to seek a fair hearing to challenge the denial; and
 3. The time for appealing the denial.
- F.** In computing any period of time prescribed in this Section, the day of the act, event, or default after which the designated period of time begins to run is not included. The last day of the period is included unless it is Saturday, Sunday, or a state holiday, in which event the period runs until the end of the next day that is not Saturday, Sunday, or a state holiday. The computation includes intermediate Saturdays, Sundays, and state holidays. The time begins on the date of personal service, date shown as received on a certified mail receipt, or postmark date.

Historical Note

Section R4-33-103 adopted by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

Table 1. Time Frames (in days)

Type of License	Overall Time Frame	Administrative Review Time Frame	Time to Respond to Deficiency Notice	Substantive Review Time Frame	Time to Respond to Request for Additional Information
Initial License R4-33-201 and R4-33-202 A.R.S. §§ 36-446.04(A) and 36-446.05	135	30	90	105	60
Renewal of License R4-33-206 A.R.S. § 36-446.07(E)	75	30	15	45	15
Temporary License R4-33-203 A.R.S. § 36-446.06	135	30	90	105	60

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Type of License	Overall Time Frame	Administrative Review Time Frame	Time to Respond to Deficiency Notice	Substantive Review Time Frame	Time to Respond to Request for Additional Information
Continuing Education Program Approval R4-33-502 A.R.S. § 36-446.07(E) and (F)	60	15	30	45	15
Administrator-in-Training Program Approval R4-33-301 A.R.S. § 36-446.04	60	15	30	45	15
Initial Certification R4-33-401 A.R.S. § 36-446.04(B)	135	30	90	105	60
Renewal of Certification R4-33-405 A.R.S. § 36-446.07(F)	75	30	15	45	15
Temporary Certification R4-33-402 A.R.S. § 36-446.06	135	30	90	105	60
Initial Approval of an Assisted Living Facility Manager or Caregiver Training Program R4-33-604, R4-33-704, R4-33-704.1, A.R.S. § 36-446.03(O)	120	60	60	60	60
Renewal Approval of an Assisted Living Facility Manager or Caregiver Training Program R4-33-605, R4-33-705, R4-33-705.1, A.R.S. § 36-446.03(O)	120	60	30	60	30

Historical Note

Table 1 adopted by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

R4-33-104. Fees

A. Under the authority provided at A.R.S. § 36-446.12(A), the Board establishes and shall collect the following fees related to nursing care institution administrators. The fees are nonrefundable unless A.R.S. § 41-1077 applies:

1. Initial application, \$150;
2. Arizona examination, \$500;
3. Re-administer Arizona examination, \$150;
4. Issuance of a license, \$400 or \$17 for each month remaining in the biennial period, whichever is less;
5. Duplicate license, \$75;
6. Biennial active license renewal, \$400;
7. Biennial inactive license renewal, \$200;
8. Late renewal, \$100;
9. Temporary license, \$300;
10. Certify licensure status, \$15;
11. Review sponsorship of a continuing education, \$10 per credit hour;
12. Review a licensed administrator's request for continuing education credit, \$5 per credit hour.

B. Under the authority provided at A.R.S. § 36-446.03(B), the Board establishes and shall collect the following fees related to assisted living facility managers. The fees are nonrefundable unless A.R.S. § 41-1077 applies:

1. Initial application, \$150;
2. Arizona examination, \$150;
3. Re-administer Arizona examination, \$150;
4. Issuance of a certificate, \$150 or \$7 for each month remaining in the biennial period, whichever is less;

5. Duplicate certificate, \$75;
6. Biennial active certificate renewal, \$150;
7. Biennial inactive certificate renewal, \$100;
8. Late renewal, \$75;
9. Temporary certificate, \$100;
10. Review sponsorship of a continuing education, \$10 per credit hour;
11. Review a certified manager's request for continuing education credit, \$5 per credit hour.

C. Under the authority provided at A.R.S. § 36-446.03(B), the Board establishes and shall collect the following fees related to approval of an assisted living facility manager training program. The fees are nonrefundable unless A.R.S. § 41-1077 applies:

1. Initial approval, \$1,000; and
2. Renewal approval, \$600.

D. Under the authority provided at A.R.S. § 36-446.03(B), the Board establishes and shall collect the following fees related to approval of an assisted living facility caregiver training program. The fees are nonrefundable unless A.R.S. § 41-1077 applies:

1. Initial approval, \$1,500; and
2. Renewal approval, \$1,300.

E. Under the authority provided at A.R.S. § 36-446.03(B), the Board establishes and shall collect the following fees related to approval of an assisted living facility caregiver medication management training program. The fees are nonrefundable unless A.R.S. § 41-1077 applies:

1. Initial approval, \$300; and

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2. Renewal approval, \$250.

- F. The Board shall ensure that fees established under this subsection are not increased by more than 25 percent above the amounts previously prescribed by the Board.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 805, effective April 13, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 15 A.A.R. 1975, effective November 3, 2009 (Supp. 09-4). Amended by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

R4-33-105. Repealed**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Repealed by final rulemaking at 27 A.A.R. 233, effective April 4, 2021 (Supp. 21-1).

R4-33-106. Rehearing or Review of Decision

- A. The Board shall provide for a rehearing and review of its decisions under A.R.S. Title 41, Chapter 6, Article 10 and the rules established by the Office of Administrative Hearings.
- B. Except as provided in subsection (I), a party is required to file a motion for rehearing or review of a decision of the Board to exhaust the party's administrative remedies.
- C. A party may amend a motion for rehearing or review at any time before the Board rules on the motion.
- D. The Board may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
1. Irregularity in the proceedings of the Board or any order or abuse of discretion that deprived the moving party of a fair hearing;
 2. Misconduct of the Board, its staff, or an administrative law judge;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
 5. Excessive or insufficient penalty;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings; and
 7. The findings of fact or decision is not justified by the evidence or is contrary to law.
- E. The Board may affirm or modify a decision or grant a rehearing or review to all or some of the parties on all or some of the issues for any of the reasons listed in subsection (D). An order modifying a decision or granting a rehearing or review shall specify with particularity the grounds for the order. If a rehearing or review is granted, the rehearing or review shall cover only the matters specified in the order.
- F. Not later than 30 days after the date of a decision and after giving the parties notice and an opportunity to be heard, the Board may, on its own initiative, order a rehearing or review of its decision for any reason it might have granted a rehearing or review on motion of a party. The Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion. An order granting a rehearing or review shall spec-

ify with particularity the grounds on which the rehearing or review is granted.

- G. When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. This period may be extended by the Board for a maximum of 20 days for good cause as described in subsection (H) or by written stipulation of the parties. Reply affidavits may be permitted.
- H. The Board may extend all time limits listed in this Section upon a showing of good cause. A party demonstrates good cause by showing that the grounds for the party's motion or other action could not have been known in time, using reasonable diligence, and a ruling on the motion will:
1. Further administrative convenience, expedition, or economy; or
 2. Avoid undue prejudice to any party.
- I. If, in a particular decision, the Board makes a specific finding that the immediate effectiveness of the decision is necessary for immediate preservation of the public health, safety, or welfare and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If an application for judicial review of the decision is made, it shall be made under A.R.S. § 12-901 et seq.

Historical Note

Section R4-33-106 renumbered from R4-33-209 and amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

R4-33-107. Change of Name or Address

- A. The Board shall communicate with an administrator or manager using the name and address in the Board's records. To ensure timely communication from the Board, an administrator or manager shall inform the Board in writing of any change in name or address.
- B. An administrator or manager shall include in a notice of change in name or address either the new and former name or new and former address.
- C. An administrator or manager shall attach to a notice of change in name a copy of the legal document changing the name.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

R4-33-108. Display of License or Certificate

- A. An administrator shall display the administrator's original license and current renewal receipt in a conspicuous place in the nursing care institution at which the administrator is appointed.
- B. A manager shall display the manager's original certificate and current renewal receipt in a conspicuous place in the assisted care facility at which the manager is appointed.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 21 A.A.R. 543, effective June 6, 2015 (Supp. 15-2).

R4-33-109. Fingerprint Clearance Card Requirement

Under A.R.S. § 36-446.04, an administrator or manager is required to maintain a valid fingerprint clearance card during the biennial

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period. Within 10 days after the referenced action, an administrator or manager shall:

1. Submit to the Board a photocopy of the front and back of a new fingerprint clearance card issued to the administrator or manager during the biennial period, or
2. Provide written notice to the Board if:
 - a. The fingerprint clearance card of the administrator or manager is suspended or revoked, or
 - b. The administrator or manager is denied a new fingerprint clearance card.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1).

R4-33-110. Reserved**R4-33-111. Repealed****Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-11 renumbered as Section R4-33-111 (Supp. 82-1). Emergency amendment effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Emergency expired. Emergency repeal adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency repeal adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency repeal adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency repeal adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency expired. Section repealed by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

R4-33-112. Renumbered**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Amended effective July 24, 1978 (Supp. 78-4). Former Section R4-33-12 renumbered and amended as Section R4-33-112 (Supp. 82-1). Emergency amendments effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Emergency expired. Amended effective August 6, 1991 (Supp. 91-3). Emergency amendments effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency amendments adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency amendments adopted again with changes effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency amendments adopted again with changes effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Amended with changes effective November 25, 1992 (Supp. 92-4). Final Section R4-33-112 renumbered to R4-33-101 at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

R4-33-113. Renumbered**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Former Section R4-33-13 renumbered as Section R4-33-113

(Supp. 82-1). Final Section R4-33-113 renumbered to R4-33-102 at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

R4-33-114. Repealed**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-14 renumbered and amended as Section R4-33-114 (Supp. 82-1). Section R4-33-114 renumbered by emergency action to R4-33-201 effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Repealed effective August 6, 1991 (Supp. 91-3).

R4-33-115. Renumbered**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-15 renumbered and amended as Section R4-33-115 (Supp. 82-1). Section R4-33-115 renumbered to R4-33-202 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Amended effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-115 renumbered to R4-33-201 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-115 renumbered to R4-33-201 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-115 renumbered to R4-33-201 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-115 renumbered to R4-33-201 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-115 renumbered to R4-33-201 effective November 25, 1992 (Supp. 92-4).

R4-33-116. Renumbered**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-16 renumbered as Section R4-33-116 (Supp. 82-1). Section R4-33-116 renumbered to R4-33-203 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Amended effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-116 renumbered to R4-33-202 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-116 renumbered to R4-33-202 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-116 renumbered to R4-33-202 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-116 renumbered to R4-33-202 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-116 renumbered to R4-33-202 effective November 25, 1992 (Supp. 92-4).

R4-33-117. Renumbered**Historical Note**

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Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-17 renumbered and amended as Section R4-33-117 (Supp. 82-1). Section R4-33-117 renumbered to R4-33-204 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Amended effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-117 renumbered to R4-33-203 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-117 renumbered to R4-33-203 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-117 renumbered to R4-33-203 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-117 renumbered to R4-33-203 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-117 renumbered to R4-33-203 effective November 25, 1992 (Supp. 92-4).

R4-33-118. Renumbered**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-18 renumbered as Section R4-33-118 and repealed effective February 10, 1982 (Supp. 82-1). Section R4-33-118 renumbered to R4-33-205 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). New Section R4-33-118 adopted effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-118 renumbered to R4-33-205 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Section R4-33-118 renumbered to R4-33-204 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-118 renumbered to R4-33-204 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-118 renumbered to R4-33-204 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-118 renumbered to R4-33-204 effective November 25, 1992 (Supp. 92-4).

R4-33-119. Renumbered**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Amended effective July 24, 1978 (Supp. 78-4). Former Section R4-33-19 renumbered as Section R4-33-119 and repealed, new Section R4-33-119 adopted effective February 10, 1982 (Supp. 82-1). Amended effective May 2, 1984 (Supp. 84-3). Amended as an emergency effective October 2, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-4). Emergency expired. Emergency amendments readopted without change effective January 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-1). Emergency amendments readopted without change effective April 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days; amended effective June 14, 1990 (Supp. 90-2). Section R4-33-119 renumbered to R4-33-206 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for

only 90 days (Supp. 91-2). Amended effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-119 renumbered to R4-33-206 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-119 renumbered to R4-33-205 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-119 renumbered to R4-33-205 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-119 renumbered to R4-33-205 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-119 renumbered to R4-33-205 effective November 25, 1992 (Supp. 92-4).

R4-33-120. Renumbered**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Amended effective July 24, 1978 (Supp. 78-4). Former Section R4-33-20 renumbered and amended as Section R4-33-120 (Supp. 82-1). Amended effective August 6, 1991 (Supp. 91-3). Section R4-33-120 renumbered to R4-33-207 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Amended effective August 6, 1991 (Supp. 91-3). Section R4-33-120 renumbered to R4-33-207 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-120 renumbered to R4-33-206 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-120 renumbered to R4-33-206 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-120 renumbered to R4-33-206 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-120 renumbered to R4-33-206 effective November 25, 1992 (Supp. 92-4).

R4-33-121. Renumbered**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-21 renumbered and amended as Section R4-33-121 (Supp. 82-1). Section R4-33-121 renumbered to R4-33-208 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-121 renumbered to R4-33-208 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-121 renumbered to R4-33-207 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-121 renumbered to R4-33-207 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-121 renumbered to R4-33-207 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-121 renumbered to R4-33-207 effective November 25, 1992 (Supp. 92-4).

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R4-33-122. Renumbered**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Former Section R4-33-22 renumbered as Section R4-33-122 (Supp. 82-1). Section R4-33-122 renumbered to R4-33-209 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-122 renumbered to R4-33-209 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-122 renumbered to R4-33-208 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-122 renumbered to R4-33-208 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-122 renumbered to R4-33-208 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-122 renumbered to R4-33-208 effective November 25, 1992 (Supp. 92-4).

R4-33-123. Renumbered**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-23 renumbered as Section R4-33-123 (Supp. 82-1). Section R4-33-123 renumbered to R4-33-210 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-123 renumbered to R4-33-210 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-123 renumbered to R4-33-209 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-123 renumbered to R4-33-209 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-123 renumbered to R4-33-209 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-123 renumbered to R4-33-209 effective November 25, 1992 (Supp. 92-4).

R4-33-124. Renumbered**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-24 renumbered as Section R4-33-124 (Supp. 82-1). Section R4-33-124 renumbered to R4-33-211 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-124 renumbered to R4-33-211 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-124 renumbered to R4-33-210 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-124 renumbered to R4-33-210 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-124 renumbered to R4-33-210 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90

days (Supp. 92-3). Section R4-33-124 renumbered to R4-33-210 effective November 25, 1992 (Supp. 92-4).

R4-33-125. Renumbered**Historical Note**

Section R4-33-125 renumbered to R4-33-211 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-125 renumbered to R4-33-211 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-125 renumbered to R4-33-211 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-125 renumbered to R4-33-211 effective November 25, 1992 (Supp. 92-4).

R4-33-126. Renumbered**Historical Note**

Adopted effective August 6, 1991 (Supp. 91-3). Former Section R4-33-126 renumbered to R4-33-212 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-126 renumbered to R4-33-212 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-126 renumbered to R4-33-212 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-126 renumbered to R4-33-212 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-126 renumbered to R4-33-212 effective November 25, 1992 (Supp. 92-4).

R4-33-127. Renumbered**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-27 renumbered and amended as Section R4-33-127 (Supp. 82-1). Section R4-33-127 renumbered to R4-33-212 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Repealed effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-127 renumbered to R4-33-213 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-127 renumbered to R4-33-213 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-127 renumbered to R4-33-213 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-127 renumbered to R4-33-213 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-127 renumbered to R4-33-213 effective November 25, 1992 (Supp. 92-4).

R4-33-128. Renumbered**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-28 renumbered as Section R4-33-128 (Supp. 82-1). Section R4-33-128 renumbered to R4-33-

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213 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-128 renumbered to R4-33-214 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-128 renumbered to R4-33-214 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-128 renumbered to R4-33-214 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-128 renumbered to R4-33-214 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-128 renumbered to R4-33-214 effective November 25, 1992 (Supp. 92-4).

R4-33-129. Renumbered**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-29 renumbered as Section R4-33-129 and repealed effective February 10, 1982 (Supp. 82-1). Section R4-33-129 renumbered to R4-33-214 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-129 renumbered to R4-33-215 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-129 renumbered to R4-33-215 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-129 renumbered to R4-33-215 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-129 renumbered to R4-33-215 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-129 renumbered to R4-33-215 effective November 25, 1992 (Supp. 92-4).

R4-33-130. Renumbered**Historical Note**

Adopted effective July 24, 1989 (Supp. 78-4). Former Section R4-33-30 renumbered as Section R4-33-130 and repealed, new Section R4-33-130 adopted effective February 10, 1982 (Supp. 82-1). Amended effective August 6, 1991 (Supp. 91-3). Section R4-33-130 renumbered to R4-33-215 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Amended effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-130 renumbered to R4-33-216 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-130 renumbered to R4-33-216 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-130 renumbered to R4-33-216 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-130 renumbered to R4-33-216 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-130 renum-

bered to R4-33-216 effective November 25, 1992 (Supp. 92-4).

ARTICLE 2. NURSING CARE INSTITUTION ADMINISTRATOR LICENSING

Article 2, consisting of Sections R4-33-201 through R4-33-207 and R4-33-209 through R4-33-215, renumbered from R4-33-115 through R4-33-124 and R4-33-127 through R4-33-130 effective November 25, 1992 (Supp. 92-3).

Article 2, consisting of Sections R4-33-201 through R4-33-207 and R4-33-209 through R4-33-215, renumbered by emergency action from R4-33-115 through R4-33-124 and R4-33-127 through R4-33-130 effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2).

Article 2, consisting of Sections R4-33-201 through R4-33-215, renumbered by emergency action from R4-33-114 through R4-33-124 and R4-33-127 through R4-33-130 effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2).

R4-33-201. Requirements for Initial License by Examination

To be eligible to receive an initial license by examination as a nursing care institution administrator, an individual shall:

1. Education and training.
 - a. Hold a minimum of a baccalaureate degree from an accredited college or university and successfully complete an AIT program;
 - b. Hold a minimum of a master's degree in either a health-related field or business administration from an accredited college or university; or
 - c. Hold a minimum of an associate of arts degree in nursing from an accredited college or university and:
 - i. Be currently licensed as a registered nurse under A.R.S. § 32-1632,
 - ii. Have worked as a registered nurse for five of the last seven years, and
 - iii. Successfully complete an AIT program.
2. Examination.
 - a. Obtain the scaled passing scores on both the NAB core of knowledge and line of service examinations or qualify with NAB as a Health Services Executive, and
 - b. Obtain a score of at least 80 percent on the Arizona examination; and
3. Application. Submit all applicable information required under R4-33-204.

Historical Note

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-15 renumbered and amended as Section R4-33-115 (Supp. 82-1). Section R4-33-202 renumbered from R4-33-115 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Amended effective August 6, 1991 (Supp. 91-3). Emergency expired. New Section R4-33-201 renumbered from R4-33-115 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). New Section R4-33-201 renumbered from R4-33-115 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). New Section R4-33-201 renumbered from R4-33-115 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. New Section R4-33-201 renumbered from

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R4-33-115 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-201 renumbered from R4-33-115 effective November 25, 1992 (Supp. 92-4). Text corrected to include amendments adopted effective August 6, 1991, which were inadvertently omitted (Supp. 95-2). Amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Former R4-33-201 renumbered to R4-33-204; new R4-33-201 renumbered from R4-33-204 and amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3). Amended by final rulemaking at 29 A.A.R. 642 (March 3, 2023), with an immediate effective date of February 13, 2023 (Supp. 23-1).

R4-33-202. Requirements for Initial License by Reciprocity

To be eligible for an initial license by reciprocity as a nursing care institution administrator, an individual shall:

1. Substantially equivalent educational requirement.
 - a. Hold a minimum of a baccalaureate degree from an accredited college or university, or
 - b. Hold ACHCA certification;
2. Substantially equivalent examination requirement.
 - a. Hold a valid and current license as a nursing care institution administrator:
 - i. Issued at least two years ago,
 - ii. Issued by a state or territory, and
 - iii. Obtained by passing the NAB examination; or
 - b. Have evidence of qualification by NAB as a Health Services Executive; and
 - c. Obtain a score of at least 80 percent on the Arizona examination;
3. Never have had a nursing care administrator license suspended, revoked, or otherwise restricted by any state or territory; and
4. Application.
 - a. Submit all applicable information required under R4-33-204,
 - b. Have submitted directly to the Board a certified copy of the valid and current license issued by a state or territory, and
 - c. Have submitted directly to the Board by NAB:
 - i. The examination score referenced under subsection (2)(a), or
 - ii. Evidence of qualification as a Health Services Executive.

Historical Note

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-16 renumbered as Section R4-33-116 (Supp. 82-1). Section R4-33-203 renumbered from R4-33-116 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Amended as Section R4-33-116 effective August 6, 1991 (Supp. 91-3). Section R4-33-202 renumbered from R4-33-116 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-202 renumbered from R4-33-116 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-202 renumbered from R4-33-116 by emergency action

effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-202 renumbered from R4-33-116 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-202 renumbered from R4-33-116 effective November 25, 1992 (Supp. 92-4). Text corrected to include amendments adopted effective August 6, 1991, which were inadvertently omitted (Supp. 95-2). Amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Former R4-33-202 renumbered to R4-33-205; new R4-33-202 renumbered from R4-33-203 and amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3). Amended by final rulemaking at 25 A.A.R. 3709, effective February 1, 2020 (Supp. 19-4). Amended by final rulemaking at 29 A.A.R. 642 (March 3, 2023), with an immediate effective date of February 13, 2023 (Supp. 23-1).

R4-33-203. Requirements for Temporary License

A. To be eligible for a temporary license as a nursing care institution administrator, an individual shall:

1. Meet the requirements specified in R4-33-201 or R4-33-202 except for the requirement at R4-33-201(2) or R4-33-202(2)(c);
2. Have the owner of a nursing care institution that intends to appoint the applicant as administrator if the applicant is successful in obtaining a temporary license submit to the Board a Letter of Intent to Appoint on a form that is available from the Board. The owner of the nursing care institution shall include the following in the Letter of Intent to Appoint:
 - a. Name of the owner of the nursing care institution,
 - b. Name and address of the nursing care institution,
 - c. Name of the applicant,
 - d. An affirmation of intent to appoint the applicant,
 - e. Reason for requesting a temporary license for the applicant,
 - f. License number of the nursing care institution, and
 - g. Signature of the owner of the nursing care institution affirming the information provided is true and complete;
3. Not have held an Arizona temporary license as a nursing care institution administrator within the past three years; and
4. Not have failed the Arizona or NAB examination before applying for a temporary license.

B. At the Board's request, an applicant for a temporary license shall appear or be available by telephone for an interview with the Board.

C. A temporary license is valid for 150 days and is not renewable. Before expiration of the temporary license, the temporary licensee shall become licensed under A.R.S. § 36-446.04 and this Article or discontinue as administrator of the nursing care institution.

D. If a temporary licensee fails the Arizona or NAB examination during the term of the temporary license, the temporary license is automatically revoked and the former licensee shall discontinue as administrator of the nursing care institution.

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Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-17 renumbered and amended as Section R4-33-117 (Supp. 82-1). Section R4-33-204 renumbered from R4-33-117 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Amended as Section R4-33-117 effective August 6, 1991 (Supp. 91-3). Section R4-33-203 renumbered from R4-33-117 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-203 renumbered from R4-33-117 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-203 renumbered from R4-33-117 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-203 renumbered from R4-33-117 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-203 renumbered from R4-33-117 effective November 25, 1992 (Supp. 92-4). Text corrected to include amendments adopted effective August 6, 1991, which were inadvertently omitted (Supp. 95-2). Amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Former R4-33-203 renumbered to R4-33-202; new R4-33-203 renumbered from R4-33-212 and amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 21 A.A.R. 543, effective June 6, 2015 (Supp. 15-2). Amended by final rulemaking at 25 A.A.R. 3709, effective February 1, 2020 (Supp. 19-4).

R4-33-204. Initial Application

A. An individual who desires to be licensed as a nursing care institution administrator shall submit the following information to the Board on an application form, which is available from the Board:

1. Full name of the applicant;
2. Other names that the applicant has used;
3. Mailing address of the applicant;
4. Email address of the applicant;
5. Home, work, and mobile telephone numbers of the applicant;
6. Applicant's date and place of birth;
7. Applicant's Social Security number;
8. Address of every residence at which the applicant has lived in the last five years;
9. Name and address of every accredited college or university attended, dates of attendance, date of graduation, and degree or certificate received;
10. Information regarding professional licenses or certifications currently or previously held by the applicant, including:
 - a. Name of issuing agency;
 - b. License or certificate number;
 - c. Issuing jurisdiction;
 - d. Date on which the license or certificate was first issued;
 - e. Whether the license or certificate is current; and
 - f. Whether the license or certificate is in good standing and if not, an explanation;
11. Information regarding the applicant's employment record for the last five years, including:

- a. Name, address, and telephone number of each employer;
 - b. Title of position held by the applicant;
 - c. Name of applicant's supervisor;
 - d. Dates of employment; and
 - e. Reason for employment termination;
12. Whether the applicant was ever denied a professional license or certificate and if so, the kind of license or certificate denied, licensing authority making the denial, and date;
 13. Whether the applicant ever voluntarily surrendered a professional license or certificate and if so, the kind of license or certificate surrendered, licensing authority, date, and reason for the surrender;
 14. Whether the applicant ever allowed a professional license or certificate to lapse and if so, the kind of license or certificate that lapsed, licensing authority, date, reason for lapse, and whether the license or certificate was reinstated;
 15. Whether the applicant ever had a limitation imposed on a professional license or certificate and if so, the kind of license or certificate limited, licensing authority, date, nature of limitation, reason for limitation, and whether the limitation was removed;
 16. Whether the applicant ever had a professional license or certificate suspended or revoked and if so, the kind of license or certificate suspended or revoked, licensing authority, date, and reason for the suspension or revocation;
 17. Whether the applicant ever was subject to disciplinary action with regard to a professional license or certificate and if so, the kind of license or certificate involved, licensing authority, date, and reason for and nature of the disciplinary action;
 18. Whether any unresolved complaint against the applicant is pending with a licensing authority, professional association, health care facility, or nursing care institution and if so, the nature of and where the complaint is pending;
 19. Whether the applicant ever was charged with or convicted of a felony or a misdemeanor, other than a minor traffic violation, in any court and if so, the nature of the offense, jurisdiction, and date of discharge; and
 20. Whether the applicant ever was pardoned from or had expunged the record of a felony conviction and if so, the nature of the offense, jurisdiction, and date of pardon or expunging.
- B.** In addition to the application form required under subsection (A), an applicant shall have the following submitted directly to the Board on the applicant's behalf:
1. Official transcript submitted by each accredited college or university attended by the applicant;
 2. Verification of license that is signed, authenticated by seal or notarization, and submitted by each agency that ever issued a professional license to the applicant;
 3. "Character Certification" form submitted by two individuals who have known the applicant for at least three years and are not related to, employed by, or employing the applicant; and
 4. If the applicant is certified by ACHCA, verification of certification submitted by ACHCA;
- C.** In addition to complying with subsections (A) and (B), an applicant shall submit:
1. If the applicant completed an AIT program, a photocopy of the certificate issued upon completion;

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2. For every felony or misdemeanor charge listed under subsection (A)(19), a copy of documents from the appropriate court showing the disposition of each charge;
 3. For every felony or misdemeanor conviction listed under subsection (A)(19), a copy of documents from the appropriate court showing whether the applicant met all judicially imposed sentencing terms;
 4. Full-face photograph of the applicant taken within the last six months;
 5. Fingerprint clearance card.
 - a. Photocopy of the front and back of the applicant's fingerprint clearance card and has not been convicted of a felony involving violence or financial fraud,
 - b. Proof of submission of an application for a fingerprint clearance card and has not been convicted of a felony involving violence or financial fraud, or
 - c. If denied a fingerprint clearance card, proof the applicant qualifies for a good-cause exception hearing under A.R.S. § 41-619.55 and has not been convicted of a felony involving violence or financial fraud;
 6. A full set of fingerprints taken by a law enforcement agency or other authority acceptable to the Board and in a format acceptable to the Arizona Department of Public Safety and the Federal Bureau of Investigation and the amount charged by the Arizona Department of Public Safety to process the fingerprints for a state and federal criminal history records check;
 7. Documentation, as described in A.R.S. § 41-1080(A), of U.S. citizenship or alien status indicating presence in the U.S. is authorized under federal law;
 8. Affirm the information provided in the application is true and complete and authorize others to release information regarding the applicant to the Board; and
 9. Fees required under R4-33-104(A)(1) and (A)(2).
- D.** If required by the Board under A.R.S. § 36-446.03(D), an applicant shall appear before the Board.
- E.** When the information required under subsections (A) through (C) is received and following an appearance before the Board required under subsection (D), the Board shall provide notice regarding whether the applicant may take the licensing examinations required under R4-33-201 or R4-33-202.
- F.** Because of the time required for the Board to perform an administrative completeness review under R4-33-103, an applicant shall ensure the information required under subsections (A) through (C) is submitted at least 30 days before the applicant expects to take the Arizona examination.

Historical Note

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-18 renumbered as Section R4-33-118 and repealed effective February 10, 1982 (Supp. 82-1). Section R4-33-205 renumbered from R4-33-118 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-204 renumbered from R4-33-118 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-204 renumbered from R4-33-118 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-204 renumbered from R4-33-118 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days

(Supp. 92-2). Emergency expired. Section R4-33-204 renumbered from R4-33-118 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-204 renumbered from R4-33-118 effective November 25, 1992 (Supp. 92-4). Final amendment at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Former R4-33-204 renumbered to R4-33-201; new R4-33-204 renumbered from R4-33-201 and amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3). Amended by final rulemaking at 25 A.A.R. 3709, effective February 1, 2020 (Supp. 19-4). Amended by final rulemaking at 29 A.A.R. 642 (March 3, 2023), with an immediate effective date of February 13, 2023 (Supp. 23-1).

R4-33-205. Administration of Examinations; License Issuance

- A.** The Board shall administer the Arizona examination at least twice each year at times and places specified by the Board.
- B.** An applicant shall make arrangements directly with NAB to take the NAB examination.
- C.** The Board shall provide written notice to an applicant regarding whether the applicant passed a required examination.
- D.** An applicant for licensure under R4-33-201 is not required to take or pass both examinations at the same time. An applicant who passes one of the examinations listed in R4-33-201(2) but fails the other is required to retake only the examination failed.
- E.** When an applicant passes the examinations required under R4-33-201 or R4-33-202, the Board shall send the applicant a written notice that the Board will issue a license to the applicant when the applicant submits to the Board the fee required under R4-33-104(A)(4). If the applicant fails to submit the fee within six months of the Board's notice, the Board shall administratively close the applicant's file. An individual whose file is administratively closed may receive further consideration only by submitting a new application under R4-33-201 or R4-33-202.

Historical Note

Adopted effective October 12, 1976 (Supp. 76-5). Amended effective July 24, 1978 (Supp. 78-4). Former Section R4-33-19 renumbered as Section R4-33-119 and repealed, new Section R4-33-119 adopted effective February 10, 1982 (Supp. 82-1). Amended effective May 2, 1984 (Supp. 84-3). Amended as an emergency effective October 2, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-4). Emergency expired. Emergency amendments readopted without change effective January 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-1). Emergency amendments adopted again without change effective April 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days; amended effective June 14, 1990 (Supp. 90-2). Section R4-33-206 renumbered from R4-33-119 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Amended as R4-33-119 effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-206 renumbered from R4-33-119 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-205 renumbered from

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R4-33-119 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-205 renumbered from R4-33-119 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-205 renumbered from R4-33-119 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-205 renumbered from R4-33-119 effective November 25, 1992 (Supp. 92-4). Text corrected to include amendments adopted effective August 6, 1991, which were inadvertently omitted (Supp. 95-2). Amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section repealed by final rulemaking at 10 A.A.R. 805, effective April 13, 2004 (Supp. 04-1). Section R4-33-205 renumbered from R4-33-202 and amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

R4-33-206. Renewal Application

- A.** The Board shall provide a licensee with notice of the need for license renewal. Failure to receive notice of the need for license renewal does not excuse a licensee's failure to renew timely.
- B.** An administrator license expires at midnight 30 days after the administrator's birthday in each even-numbered year.
- C.** To renew an administrator license, the licensee shall submit the following information to the Board, before expiration of the biennial period, on a renewal application, which is available from the Board:
 1. Current address;
 2. Current email address;
 3. Current home and business telephone numbers;
 4. Whether within the last 24 months the licensee was convicted of or pled guilty or no contest to a criminal offense, other than a minor traffic violation, in any court and if so, attach a copy of the original arrest record and final court judgment;
 5. Whether within the last 24 months the licensee was denied a professional license or had a professional license revoked, suspended, placed on probation, limited, or restricted in any way by a state or federal regulatory authority and if so, the kind of license, license number, issuing authority, nature of the regulatory action, and date;
 6. An affirmation that the number of hours of continuing education required under R4-33-501 has been completed; and
 7. The licensee's dated signature affirming the information provided is true and complete.
- D.** In addition to the renewal application required under subsection (C), a licensee shall submit:
 1. A photocopy of the front and back of the licensee's fingerprint clearance card;
 2. Documentation described in A.R.S. § 41-1080(A) unless the documentation previously submitted under R4-33-204(C)(7) established U.S. citizenship or was a non-expiring work authorization issued by the federal government; and
 3. The license renewal fee required under R4-33-104.
- E.** An individual whose license expires because of failure to renew timely may apply for renewal by complying with subsections (C) and (D) if:
 1. The individual pays the late renewal fee prescribed under R4-33-104,
 2. The individual affirms the individual has not acted as a nursing care institution administrator since the license expired, and
 3. The individual's license has not been surrendered, suspended, or revoked.
- F.** An individual whose license expires because of failure to renew timely and who does not comply with subsection (E) may become licensed as a nursing care institution administrator only by complying with R4-33-201 or R4-33-202.

Historical Note

Adopted effective October 12, 1976 (Supp. 76-5). Amended effective July 24, 1978 (Supp. 78-4). Former Section R4-33-20 renumbered and amended as Section R4-33-120 (Supp. 82-1). Section R4-33-207 renumbered from R4-33-120 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Amended as R4-33-120 effective August 6, 1991 (Supp. 91-3). Section R4-33-207 renumbered from R4-33-120 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-207 renumbered from R4-33-120 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-207 renumbered from R4-33-120 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-207 renumbered from R4-33-120 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-206 renumbered from R4-33-120 effective November 25, 1992 (Supp. 92-4). Text corrected to include amendments adopted effective August 6, 1991, which were inadvertently omitted (Supp. 95-2). Amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1). Amended by final rulemaking at 15 A.A.R. 1975, effective November 3, 2009 (Supp. 09-4). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3). Amended by final rulemaking at 25 A.A.R. 3709, effective February 1, 2020 (Supp. 19-4). Amended by final rulemaking at 29 A.A.R. 642 (March 3, 2023), with an immediate effective date of February 13, 2023 (Supp. 23-1).

R4-33-207. Inactive Status

- A.** The Board shall place an administrator's license on inactive status if the administrator:
 1. Is in good standing in Arizona,
 2. Submits a written request to the Board to be placed on inactive status, and
 3. Submits evidence that complies with R4-33-501(D) showing that the administrator completed two hours of continuing education for each month in the current biennial period before the request to be placed on inactive status.
- B.** Within seven days after receiving a request to be placed on inactive status, the Board shall provide the administrator written confirmation of inactive status.

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- C. An administrator whose license is on inactive status is not required to comply with R4-33-501.
- D. An inactive license expires under R4-33-206 unless the administrator timely submits a renewal application and the fee required under R4-33-104(A)(7).
- E. To resume active licensure status, an administrator shall:
 1. Submit evidence that complies with R4-33-501(D) showing that the administrator completed 25 hours of continuing education within the six months before requesting to resume active licensure status, and
 2. Submit a written request to the Board to resume active licensure status.
- F. The Board shall grant a request to resume active licensure status if the requirements of subsection (E) are met. Within seven days after receiving the written request to resume active licensure status, the Board shall send written notice to the administrator granting or denying active status.

Historical Note

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-21 renumbered and amended as Section R4-33-121 (Supp. 82-1). Section R4-33-208 renumbered from R4-33-121 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-208 renumbered from R4-33-121 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-208 renumbered from R4-33-121 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-208 renumbered from R4-33-121 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired.

Section R4-33-208 renumbered from R4-33-121 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-207 renumbered from R4-33-121 effective November 25, 1992 (Supp. 92-4). Section R4-33-207 renumbered to R4-33-208, new Section adopted by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

R4-33-208. Standards of Conduct; Disciplinary Action

- A. An administrator shall know and comply with all federal and state laws applicable to operation of a nursing care institution.
- B. An administrator shall not:
 1. Engage in unprofessional conduct as defined at A.R.S. § 36-446;
 2. Be addicted to or dependent on the use of narcotics or other drugs, including alcohol;
 3. Directly or indirectly permit an owner, officer, or employee of a nursing care institution to solicit, offer, or receive any premium, rebate, or other valuable consideration in connection with furnishing goods or services to patients of the institution unless the resulting economic benefit is directly passed to the patients;
 4. Directly or indirectly permit an owner, officer, or employee of a nursing care institution to solicit, offer, or receive any premium, rebate, or other valuable consideration for referring a patient to another person or place unless the resulting economic benefit is directly passed to the patient;

5. Willfully permit the unauthorized disclosure of information relating to a patient or a patient's records;
 6. Discriminate against a patient or employee on the basis of race, sex, age, religion, disability, or national origin;
 7. Misrepresent the administrator's qualifications, education, or experience;
 8. Aid or abet another person to misrepresent that person's qualifications, education, or experience;
 9. Defend, support, or ignore unethical conduct of an employee, owner, or other administrator;
 10. Engage in any conduct or practice contrary to recognized community standards or ethics of a nursing care institution administrator;
 11. Engage in any conduct or practice that is or might constitute incompetence, gross negligence, repeated negligence, or negligence that might constitute a danger to the health, welfare, or safety of a patient or the public;
 12. Procure or attempt to procure by fraud or misrepresentation a license or renewal of a license as a nursing care institution administrator;
 13. Violate a formal order, condition of probation, or stipulation issued by the Board;
 14. Commit an act of sexual abuse, misconduct, harassment, or exploitation;
 15. Retaliate against any person who reports in good faith to the Board alleged incompetence or illegal or unethical conduct of any administrator; or
 16. Accept an appointment as administrator of a nursing care institution in violation of R4-33-212.
- C. The Board shall consider a final judgment or conviction for a felony, an offense involving moral turpitude, or direct or indirect elder abuse as grounds for disciplinary action under A.R.S. § 36-446.07 including denial of a license or license renewal.
 - D. An administrator who violates any provision of A.R.S. Title 36, Chapter 4, Article 6 or this Chapter is subject to discipline under A.R.S. § 36-446.07.

Historical Note

Adopted effective July 24, 1978 (Supp. 78-4). Former Section R4-33-22 renumbered as Section R4-33-122 (Supp. 82-1). Section R4-33-209 renumbered from R4-33-122 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-209 renumbered from R4-33-122 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-209 renumbered from R4-33-122 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-209 renumbered from R4-33-122 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-209 renumbered from R4-33-122 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-208 renumbered from R4-33-122 effective November 25, 1992 (Supp. 92-4). Section R4-33-208 renumbered to R4-33-209, new Section R4-33-208 renumbered from R4-33-207 and amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 21 A.A.R. 543, effective June 6, 2015 (Supp. 15-2).

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R4-33-209. Renumbered**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-23 renumbered as Section R4-33-123 (Supp. 82-1). Section R4-33-210 renumbered from R4-33-123 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-210 renumbered from R4-33-123 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-210 renumbered from R4-33-123 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-210 renumbered from R4-33-123 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-210 renumbered from R4-33-123 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-209 renumbered from R4-33-123 effective November 25, 1992 (Supp. 92-4). Section R4-33-209 renumbered to R4-33-210, new Section R4-33-209 renumbered from R4-33-208 and amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section R4-33-209 renumbered to R4-33-106 by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

R4-33-210. Licensure Following Revocation

An individual who wishes to be licensed after the individual's license as a nursing care institution administrator is revoked shall:

1. Not apply for licensure until at least 12 months have passed since the revocation; and
2. Apply for licensure under R4-33-201 or R4-33-202.

Historical Note

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-24 renumbered as Section R4-33-124 (Supp. 82-1). Section R4-33-211 renumbered from R4-33-124 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-212 renumbered from R4-33-124 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-210 renumbered from R4-33-124 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-210 renumbered from R4-33-124 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-210 renumbered from R4-33-124 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-210 renumbered from R4-33-124 effective November 25, 1992 (Supp. 92-4). Section R4-33-210 renumbered to R4-33-211, new Section R4-33-210 renumbered from R4-33-209 and amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

R4-33-211. Notice of Appointment

- A. An administrator shall provide written notice to the Board, within 30 days, of being appointed administrator of a nursing care institution or terminating an appointment.
- B. An administrator shall include the following, as applicable, in a notice regarding the administrator's appointment:
 1. Administrator's name,
 2. Administrator's license number,
 3. Name and address of the nursing care institution to which the administrator is appointed,
 4. Date of appointment,
 5. Name and address of the nursing care institution at which the administrator's appointment is terminated, and
 6. Date of termination.

Historical Note

Section R4-33-211 renumbered from R4-33-125 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-211 renumbered from R4-33-125 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-211 renumbered from R4-33-125 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-211 renumbered from R4-33-125 effective November 25, 1992 (Supp. 92-4). New Section R4-33-211 renumbered from R4-33-210 and amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

R4-33-212. Appointment as Administrator of Multiple Nursing Care Institutions

- A. Except as provided in subsection (B), an individual licensed under R4-33-201 or R4-33-202 shall not be appointed as administrator of more than one nursing care institution.
- B. An individual licensed under R4-33-201 or R4-33-202 may be appointed as administrator of a second nursing care institution if:
 1. Neither nursing care institution is operating under a provisional license;
 2. The two nursing care institutions are no more than 25 miles apart; and
 3. The appointment at the second institution is for no more than 90 days.
- C. A licensed administrator who is appointed as administrator of a second nursing care institution under subsection (B) shall:
 1. For both nursing care institutions, designate in writing an individual who is on the nursing care institution premises and accountable for the services provided at the nursing care institution when the licensed administrator is not on the nursing care institution premises. The designated individual shall:
 - a. Be at least 21 years old;
 - b. Be qualified through education and experience to fulfill the responsibilities of a nursing care institution administrator; and
 - c. Never have had licensure or certification suspended or revoked by the Board;
 2. Ensure that the name of the designated individual is conspicuously displayed at all times in a manner that informs those seeking assistance who is accountable for the services provided;

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3. Place the written notice of designation required under subsection (C)(1) in the personnel file of the individual designated; and
4. Be available to the individual designated under subsection (C)(1) by telephone or electronically within 60 minutes.

Historical Note

Adopted effective August 6, 1991 (Supp. 91-3). Section R4-33-211 renumbered from R4-33-126 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-212 renumbered from R4-33-126 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-212 renumbered from R4-33-126 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-212 renumbered from R4-33-126 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-212 renumbered from R4-33-126 effective November 25, 1992 (Supp. 92-4). Section R4-33-212 amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section R4-33-212 renumbered to R4-33-203 by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). New Section made by final rulemaking at 21 A.A.R. 543, effective June 6, 2015 (Supp. 15-2).

R4-33-213. Repealed**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-27 renumbered and amended as Section R4-33-127 (Supp. 82-1). Section R4-33-212 renumbered from R4-33-127 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Repealed as R4-33-127 effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-213 renumbered from R4-33-127 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-213 renumbered from R4-33-127 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-213 renumbered from R4-33-127 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-213 renumbered from R4-33-127 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-213 renumbered from R4-33-127 effective November 25, 1992 (Supp. 92-4). Section R4-33-213 renumbered from R4-33-214 and amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section repealed by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

R4-33-214. Repealed**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-28 renumbered as Section R4-33-128 (Supp. 82-1). Section R4-33-213 renumbered from R4-33-128 by emergency action effective June 19, 1991, pur-

suant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-214 renumbered from R4-33-128 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-214 renumbered from R4-33-128 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-214 renumbered from R4-33-128 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-214 renumbered from R4-33-128 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-214 renumbered from R4-33-128 effective November 25, 1992 (Supp. 92-4). Section R4-33-214 renumbered from R4-33-216 and amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section repealed by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

R4-33-215. Renumbered**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-29 renumbered as Section R4-33-129 and repealed effective February 10, 1982 (Supp. 82-1). Section R4-33-214 renumbered from R4-33-129 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-214 renumbered from R4-33-129 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-215 renumbered from R4-33-129 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-215 renumbered from R4-33-129 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-215 renumbered from R4-33-129 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-215 renumbered from R4-33-129 effective November 25, 1992 (Supp. 92-4).

R4-33-216. Renumbered**Historical Note**

Adopted effective July 24, 1989 (Supp. 78-4). Former Section R4-33-30 renumbered as Section R4-33-130 and repealed, new Section R4-33-130 adopted effective February 10, 1982 (Supp. 82-1). Section R4-33-215 renumbered from R4-33-130 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Amended as R4-33-130 effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-216 renumbered from R4-33-130 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-216 renumbered from R4-33-130 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-216 renumbered from R4-33-130 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2).

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Emergency expired. Section R4-33-216 renumbered from R4-33-130 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-216 renumbered from R4-33-130 effective November 25, 1992 (Supp. 92-4). Text corrected to include amendments adopted effective August 6, 1991, which were inadvertently omitted (Supp. 95-2). Section R4-33-216 renumbered to R4-33-214 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

ARTICLE 3. ADMINISTRATOR-IN-TRAINING PROGRAM**R4-33-301. Approval of an AIT Program**

- A. The Board approves an AIT internship provided at an educational institution with a NAB-accredited program.
- B. The provider of an AIT program that does not meet the standard in subsection (A) may apply to the Board for approval of the AIT program. To apply for approval of an AIT program, the provider of the program shall submit to the Board:
 1. A letter on official letterhead providing the following information:
 - a. Name, address, email address, and telephone and fax numbers of the provider; and
 - b. Name, telephone number, and email address of an individual who can be contacted regarding the information provided;
 2. A description of the procedure required under R4-33-302(2)(d) to measure the success of an AIT and a copy of any materials used to measure the success of an AIT,
 3. A copy of the AIT program monitoring procedure required under R4-33-302(3) and any forms that are used in the monitoring,
 4. A copy of the certificate of completion required under R4-33-302(2)(e),
 5. A detailed outline of the training course required under R4-33-302(4)(d),
 6. A copy of the policy and procedures manual required under R4-33-302(5), and
 7. The signature of an authorized representative of the provider:
 - a. Affirming that the information provided is true and complete, and
 - b. Authorizing the Board to monitor the program's compliance with the standards in R4-33-302.
- C. The Board shall approve an AIT program that the Board determines meets the standards in R4-33-302. The Board's approval of an AIT program is valid for one year if the program remains in compliance with the standards in R4-33-302.
- D. To maintain approval of an AIT program, the provider of the AIT program shall, before the approval expires, submit:
 1. The information required under subsection (B), or
 2. The letter required under subsection (B)(1) and the signature of an authorized representative of the provider affirming the materials previously submitted under subsections (B)(2) through (B)(6) continue to be true and complete and authorizing the Board to monitor the program's compliance with the standards in R4-33-302.

Historical Note

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted again with changes effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emer-

gency rule adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-301 renumbered as a permanent rule to R4-33-302; new rule R4-33-301 adopted effective November 25, 1992 (Supp. 92-4). Former Section R4-33-301 renumbered to R4-33-401, new Section R4-33-301 adopted by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

R4-33-302. Standards for an AIT Program

For an AIT program to be approved by the Board, the provider of the AIT program:

1. Shall be:
 - a. An accredited college or university,
 - b. An institution licensed by the Board of Private Post-secondary Education under A.R.S. § 32-3001 et seq.,
 - c. ACHCA or the Arizona chapter of ACHCA, or
 - d. Another nationally recognized organization of long-term care administrators;
2. Shall ensure that the AIT program:
 - a. Provides at least 1,000 hours of full-time educational experience to the AIT in not less than six months and not more than 12 months in the following subject areas:
 - i. Federal and state law regarding nursing care institutions,
 - ii. Nursing care institution administration and policy,
 - iii. Health care quality assurance,
 - iv. Communications skills,
 - v. Health economics,
 - vi. Financial management of a nursing care institution,
 - vii. Personnel management,
 - viii. Resident care,
 - ix. Facility operation and management,
 - x. Safety and environmental management, and
 - xi. Community resources;
 - b. Allows the AIT to work only with a preceptor who meets the standards in subsection (4) and is responsible for supervising the AIT while the AIT participates in the program,
 - c. Is implemented at the nursing care institution of which the preceptor is administrator,
 - d. Measures the AIT's success in acquiring the knowledge and skills necessary to be a competent nursing care institution administrator, and
 - e. Provides the AIT with a certificate of completion that indicates:
 - i. The AIT's name,
 - ii. The preceptor's name and license number,
 - iii. The name and address of the facility at which the AIT program was implemented,
 - iv. The beginning and ending dates of the AIT program, and

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- v. The preceptor's signature affirming that the AIT successfully completed the AIT program;
- 3. Shall develop a procedure to monitor the AIT program, assess the AIT's progress through the AIT program, and make adjustments necessary to ensure that the AIT acquires the knowledge and skills necessary to be a competent nursing care institution administrator;
- 4. Shall ensure that an individual who serves as an AIT preceptor:
 - a. Has been licensed by the Board for at least two years,
 - b. Is appointed full-time as a nursing care institution administrator at a facility that the Department determines is in compliance with applicable standards,
 - c. Is in good standing and has no disciplinary actions against the individual's license in the last three years, and
 - d. Completes a training course regarding the role and responsibilities of a preceptor; and
- 5. Shall develop a written policy and procedures manual that includes at least the following:
 - a. Procedure and forms required to apply to be an AIT;
 - b. Procedure and forms required to apply to be a preceptor;
 - c. Procedure for matching an AIT applicant with a preceptor;
 - d. Goals of the AIT program related to each of the subject areas listed in subsection (2)(a);
 - e. Learning experiences to achieve each goal;
 - f. Estimated time to accomplish each goal;
 - g. Responsibilities of a preceptor;
 - h. Responsibilities of an AIT;
 - i. Procedures for deviating from the goals of the AIT program, changing the facility at which the AIT program is implemented, changing preceptor, and extending the AIT program; and
 - j. Procedure for evaluating the preceptor.

Historical Note

R4-33-302 adopted by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted again with changes effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-302 renumbered as a permanent rule to R4-33-303; new R4-33-302 renumbered from emergency rule R4-33-301 and adopted with changes effective November 25, 1992 (Supp. 92-4). Former Section R4-33-302 renumbered to R4-33-402, new Section R4-33-302 adopted by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1). Amended by final rulemaking at 21 A.A.R. 543, effective June 6, 2015 (Supp. 15-2).

R4-33-303. Repealed**Historical Note**

R4-33-303 adopted by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted again with changes effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-303 renumbered as a permanent rule to R4-33-304; new R4-33-303 renumbered from emergency rule R4-33-302 and adopted with changes effective November 25, 1992 (Supp. 92-4). Former Section R4-33-303 renumbered to R4-33-403, new Section R4-33-303 adopted by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section repealed by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1).

R4-33-304. Renumbered**Historical Note**

R4-33-304 adopted by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted again with changes effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-304 renumbered as a permanent rule to R4-33-305, new rule R4-33-304 renumbered from emergency rule R4-33-303 and adopted with changes effective November 25, 1992 (Supp. 92-4). Section R4-33-304 renumbered to R4-33-404 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

R4-33-305. Renumbered**Historical Note**

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted again with changes effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-305 renumbered as a permanent rule to R4-33-306, new R4-33-305 renumbered from emergency rule R4-33-304 and adopted with changes effective November 25, 1992 (Supp. 92-4). Section R4-33-305 renumbered to R4-33-405 by final

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rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

R4-33-306. Renumbered**Historical Note**

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted again with changes effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-306 renumbered as a permanent rule to R4-33-307, new R4-33-306 renumbered from emergency rule R4-33-305 and adopted with changes effective November 25, 1992 (Supp. 92-4). Section R4-33-306 renumbered to R4-33-406 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

R4-33-307. Renumbered**Historical Note**

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted again with changes effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-307 renumbered as a permanent rule to R4-33-308, new R4-33-307 renumbered from emergency rule R4-33-306 and adopted with changes effective November 25, 1992 (Supp. 92-4). Amended effective February 6, 1995 (Supp. 95-1). Section R4-33-307 renumbered to R4-33-407 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

R4-33-308. Renumbered**Historical Note**

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted as R4-33-307 renumbered to R4-33-311 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days; new emergency rule adopted as R4-33-307 renumbered from R4-33-312 and amended by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2).

Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-308 renumbered as a permanent rule to R4-33-309, new R4-33-308 renumbered from emergency rule R4-33-307 and adopted with changes effective November 25, 1992 (Supp. 92-4). Section R4-33-308 renumbered to R4-33-408 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

R4-33-309. Renumbered**Historical Note**

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. New emergency rule adopted as R4-33-308 renumbered from emergency rule R4-33-309 and amended effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-309 renumbered as a permanent rule to R4-33-310, new R4-33-309 renumbered from emergency rule R4-33-308 and adopted without change effective November 25, 1992 (Supp. 92-4). Section R4-33-309 renumbered to R4-33-409 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

R4-33-310. Renumbered**Historical Note**

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted as R4-33-309 renumbered to emergency rule R4-33-308; new emergency rule adopted as R4-33-309 renumbered from emergency rule R4-33-310 and amended effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-310 renumbered as a permanent rule to R4-33-311, new R4-33-310 renumbered from emergency rule R4-33-309 and adopted with changes effective November 25, 1992 (Supp. 92-4). Section R4-33-310 renumbered to R4-33-410 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

R4-33-311. Renumbered**Historical Note**

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted as R4-33-310 renumbered to R4-33-309; new emergency rule R4-33-310 renumbered from emergency rule R4-33-311 and

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amended effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-311 renumbered as a permanent rule to R4-33-312, new R4-33-311 renumbered from emergency rule R4-33-310 and adopted without change effective November 25, 1992 (Supp. 92-4). Section R4-33-311 renumbered to R4-33-411 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

R4-33-312. Renumbered**Historical Note**

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. R4-33-312 renumbered from emergency rule R4-33-311 and adopted with changes effective November 25, 1992 (Supp. 92-4). Section R4-33-312 renumbered to R4-33-412 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

ARTICLE 4. ASSISTED LIVING FACILITY MANAGER CERTIFICATION**R4-33-401. Requirements for Initial Certification by Examination**

- A.** Except as provided in subsection (B), an individual who wishes to receive an initial certificate by examination as an assisted living facility manager shall:
1. Education:
 - a. Earn a high school diploma or G.E.D. or hold a license in good standing issued under A.R.S. Title 32, Chapters 13, 15, or 17 or 4 A.A.C. 33, Article 2;
 - b. Complete an assisted living facility caregiver training program that is approved by the Board under Article 7; and
 - c. Complete an assisted living facility manager training program that is approved by the Board under or Article 6;
 2. Work experience. Complete at least 2,080 hours of paid work experience in a health-related field within the five years before application;
 3. Examination. Obtain a score of at least 75 percent on the Arizona examination;
 4. Training. Complete an adult cardiopulmonary resuscitation and basic first-aid training program; and
 5. Submit all applicable information required under R4-33-403.
- B.** An individual who holds a license in good standing issued under A.R.S. Title 32, Chapter 13, 15, or 17 or 4 A.A.C. 33, Article 2 is exempt from the requirements specified in subsections (A)(1)(b) and (4).

Historical Note

Section R4-33-401 renumbered from R4-33-301 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 3897, effective July 31, 2004 (Supp. 04-3). Section R4-33-401 renumbered from R4-33-402 and

amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1). Amended by final rulemaking at 21 A.A.R. 543, effective June 6, 2015 (Supp. 15-2). Amended by final rulemaking at 25 A.A.R. 3709, effective February 1, 2020 (Supp. 19-4). Amended by final rulemaking at 29 A.A.R. 642 (March 3, 2023), with an immediate effective date of February 13, 2023 (Supp. 23-1).

R4-33-402. Requirements for a Temporary Certificate

- A.** To be eligible for a temporary certificate as an assisted living facility manager, an individual shall:
1. Meet the requirements under R4-33-401 except for the requirement at R4-33-401(3);
 2. Have the owner of an assisted living facility that intends to appoint the applicant as manager if the applicant is successful in obtaining a temporary certificate submit to the Board a Letter of Intent to Appoint on a form that is available from the Board. The owner of the assisted living facility shall include the following in the Letter of Intent to Appoint:
 - a. Name of the owner of the assisted living facility;
 - b. Name and address of the assisted living facility;
 - c. Name of the applicant;
 - d. An affirmation of intent to appoint the applicant;
 - e. Reason for requesting a temporary certificate for the applicant;
 - f. License number of the assisted living facility; and
 - g. Signature of the owner of the assisted living facility affirming the information provided is true and complete;
 3. Not have held an Arizona temporary certificate as an assisted living facility manager within the past three years; and
 4. Not have failed the Arizona examination before applying for the temporary certificate.
- B.** At the Board's request, an applicant for a temporary certificate shall appear or be available by telephone for an interview with the Board.
- C.** A temporary certificate is valid for 150 days and is not renewable. Before expiration of the temporary certificate, the temporary certificate holder shall obtain a certificate under A.R.S. § 36-446.04 and this Article or discontinue as manager of the assisted living facility.
- D.** If a temporary certificate holder fails the Arizona examination during the term of the temporary certificate, the temporary certificate is automatically revoked and the former temporary certificate holder shall discontinue as manager of the assisted living facility.

Historical Note

Section R4-33-402 renumbered from R4-33-302 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Former R4-33-402 renumbered to R4-33-401; new R4-33-402 renumbered from R4-33-410 and amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). R4-33-402(A)(1) citation to R4-33-401(A)(3) corrected to R4-33-401(3) at the request of the Department, see Office File No. M10-416 filed October 18, 2010 (Supp. 09-4). Amended by final rulemaking at 21 A.A.R. 543, effective June 6, 2015 (Supp. 15-2). Amended by final rulemaking at 25 A.A.R. 3709, effective February 1, 2020 (Supp. 19-4).

R4-33-403. Initial Application

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- A.** An individual who desires to be certified as a manager of an assisted living facility shall submit the following information to the Board on an application form, which is available from the Board:
1. Full name of the applicant;
 2. Other names that the applicant has used;
 3. Mailing address of the applicant;
 4. Home, work, and mobile telephone numbers of the applicant;
 5. Applicant's date and place of birth;
 6. Applicant's Social Security number;
 7. Address of every residence at which the applicant has lived in the last five years;
 8. Education information regarding the applicant, including:
 - a. Name and location of last high school attended;
 - b. Date of high school graduation or date on which a G.E.D. was earned; and
 - c. Name and address of every accredited college or university attended, dates of attendance, date of graduation, and degree or certificate earned;
 9. Information regarding professional licenses or certifications currently or previously held by the applicant, including:
 - a. Name of issuing agency;
 - b. License or certificate number;
 - c. Issuing jurisdiction;
 - d. Date on which the license or certificate was first issued;
 - e. Whether the license or certificate is current; and
 - f. Whether the license or certificate is in good standing and if not, an explanation;
 10. Information regarding the applicant's employment record for the last five years, including:
 - a. Name, address, and telephone number of each employer;
 - b. Title of position held by the applicant;
 - c. Name of applicant's supervisor;
 - d. Dates of employment;
 - e. Number of hours worked each week;
 - f. Whether the employment was full or part time; and
 - g. Reason for termination;
 11. Whether the applicant was ever denied a professional license or certificate and if so, the kind of license or certificate denied; licensing authority making the denial, and date;
 12. Whether the applicant ever voluntarily surrendered a professional license or certificate and if so, the kind of license or certificate surrendered, licensing authority, date, and reason for the surrender;
 13. Whether the applicant ever allowed a professional license or certificate to lapse and if so, the kind of license or certificate that lapsed, licensing authority, date, reason for lapse, and whether the license or certificate was reinstated;
 14. Whether the applicant ever had a limitation imposed on a professional license or certificate and if so, the kind of license or certificate limited, licensing authority, date, nature of limitation, reason for limitation, and whether the limitation was removed;
 15. Whether the applicant ever had a professional license or certificate suspended or revoked and if so, the kind of license or certificate suspended or revoked, licensing authority, date, and reason for suspension or revocation;
 16. Whether the applicant ever was subject to disciplinary action with regard to a professional license or certificate and if so, the kind of license or certificate involved, licensing authority, date, and reason for and nature of the disciplinary action;
 17. Whether any unresolved complaint against the applicant is pending with a licensing authority, professional association, health care facility, or assisted living facility and if so, the nature of and where the complaint is pending;
 18. Whether the applicant ever was charged with or convicted of a felony or a misdemeanor, other than a minor traffic violation, in any court and if so, the nature of the offense, jurisdiction, and date of discharge; and
 19. Whether the applicant ever was pardoned from or had the record expunged of a felony conviction and if so, the nature of the offense, jurisdiction, and date of pardon or expunging.
- B.** In addition to the application form required under subsection (A), an applicant shall submit or have submitted on the applicant's behalf:
1. Education:
 - a. Copy of the applicant's high school diploma or G.E.D. and certificates of completion issued from the training courses described under R4-33-401(A)(1)(b) and (c); or
 - b. Copy of the applicant's license issued under A.R.S. Title 32, Chapter 13, 15, or 17 or 4 A.A.C. 33, Article 2, and certificate of completion issued from the training course described under R4-33-401(A)(1)(c);
 2. Documentation of 2,080 hours of paid work experience in a health-related field;
 3. Copy of current certification in adult cardiopulmonary resuscitation and first aid;
 4. Verification of license that is signed, authenticated by seal or notarization, and submitted directly to the Board by each agency that ever issued a professional license to the applicant;
 5. "Character Certification" form submitted directly to the Board by two individuals who have known the applicant for at least three years and are not related to, employed by, or employing the applicant;
 6. For every felony or misdemeanor charge listed under subsection (A)(18), a copy of documents from the appropriate court showing the disposition of each charge;
 7. For every felony or misdemeanor conviction listed under subsection (A)(18), a copy of documents from the appropriate court showing whether the applicant met all judicially imposed sentencing terms;
 8. Full-faced photograph of the applicant taken within the last six months;
 9. Fingerprint clearance card.
 - a. Photocopy of the front and back of the applicant's fingerprint clearance card and has not been convicted of a felony involving violence or financial fraud;
 - b. Proof of submission of an application for a fingerprint clearance card and has not been convicted of a felony involving violence or financial fraud; or
 - c. If denied a fingerprint clearance card, proof that the applicant qualifies for a good-cause exception hearing under A.R.S. § 41-619.55 and has not been convicted of a felony involving violence or financial fraud;

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10. A full set of fingerprints taken by a law enforcement agency or other authority acceptable to the Board and in a format acceptable to the Arizona Department of Public Safety and the Federal Bureau of Investigation and the amount charged by the Arizona Department of Public Safety to process the fingerprints for a state and federal criminal history records check;
 11. Documentation, as described in A.R.S. § 41-1080(A), of U.S. citizenship or alien status indicating presence in the U.S. is authorized under federal law;
 12. Affirm the information provided in the application is true and complete and authorize others to release information regarding the applicant to the Board; and
 13. Fees required under R4-33-104(B)(1) and (B)(2).
- C.** If required by the Board under A.R.S. § 36-446.03(D), an applicant shall appear before the Board.
- D.** When the information required under subsections (A) and (B) is received and following an appearance before the Board required under subsection (C), the Board shall provide notice regarding whether the applicant may take the Arizona examination required under R4-33-401(3).
- E.** Because of the time required for the Board to perform an administrative completeness review under R4-33-103, an applicant shall submit the information required under subsections (A) and (B) at least 30 days before the applicant expects to take the Arizona examination.

Historical Note

Section R4-33-403 renumbered from R4-33-303 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1). Amended by final rulemaking at 25 A.A.R. 3709, effective February 1, 2020 (Supp. 19-4). Amended by final rulemaking at 29 A.A.R. 642 (March 3, 2023), with an immediate effective date of February 13, 2023 (Supp. 23-1).

R4-33-404. Administration of Examination; Certificate Issuance

- A.** The Board shall administer the Arizona examination at least twice each year at times and places specified by the Board.
- B.** The Board shall provide written notice to an applicant regarding whether the applicant passed the Arizona examination.
- C.** When an applicant passes the Arizona examination, the Board shall send the applicant a written notice that the Board will issue a certificate to the applicant when the applicant submits to the Board the fee required under R4-33-104(B)(4). If the applicant fails to submit the fee within six months of the Board's notice, the Board shall administratively close the applicant's file. An individual whose file is administratively closed may receive further consideration only by submitting a new application under R4-33-401.

Historical Note

Section R4-33-404 renumbered from R4-33-304 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). R4-33-404 corrected by adding a subsection (C) at the request of the Department, Office File No. M10-416 filed October 18, 2010 (Supp. 09-4).

R4-33-405. Renewal Application

- A.** The Board shall provide a certificate holder with notice of the need for certificate renewal. Failure to receive notice of the need for certificate renewal does not excuse a certificate holder's failure to renew timely.
- B.** A manager certificate expires at midnight 30 days after the manager's birthday in each odd-numbered year.
- C.** To renew a manager certificate, the certificate holder shall submit the following information to the Board, on or before expiration of the biennial period, on a renewal application, which is available from the Board:
1. Current address;
 2. Current home and business telephone numbers;
 3. Whether within the last 24 months the certificate holder was convicted of or pled guilty or no contest to a criminal offense, other than a minor traffic violation, in any court and if so, attach a copy of the original arrest record and final court judgment;
 4. Whether within the last 24 months the certificate holder was denied a professional license or had a professional license revoked, suspended, placed on probation, limited, or restricted in any way by a state or federal regulatory authority and if so, the kind of license, license number, issuing authority, nature of the regulatory action, and date;
 5. An affirmation that the number of hours of continuing education required under R4-33-501 has been completed;
 6. An affirmation that the certificate holder complies with the disclosure requirements under R4-33-408; and
 7. The certificate holder's dated signature affirming the information provided is true and complete.
- D.** In addition to the renewal application required under subsection (C), a certificate holder shall submit:
1. A photocopy of the front and back of the certificate holder's fingerprint clearance card;
 2. Documentation described in A.R.S. § 41-1080(A) unless the documentation previously submitted under R4-33-403(B)(11) established U.S. citizenship or was a non-expiring work authorization issued by the federal government; and
 3. The renewal fee required under R4-33-104.
- E.** An individual whose certificate expires because of failure to renew timely may apply for renewal by complying with subsections (C) and (D) if:
1. The individual pays the late renewal fee prescribed under R4-33-104,
 2. The individual affirms that the individual has not acted as an assisted living facility manager since the certificate expired, and
 3. The individual's certificate has not been surrendered, suspended, or revoked.
- F.** An individual whose certificate expires because of failure to renew timely and who does not comply with subsection (E) may obtain a manager certificate only by complying with R4-33-401.

Historical Note

Section R4-33-405 renumbered from R4-33-305 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section repealed by final rulemaking at 10 A.A.R. 805, effective April 13, 2004 (Supp. 04-1). Section R4-33-405 renumbered from R4-33-406 and amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1). Amended by final rulemaking at 15 A.A.R.

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1975, effective November 3, 2009 (Supp. 09-4). Amended by final rulemaking at 25 A.A.R. 3709, effective February 1, 2020 (Supp. 19-4). Amended by final rulemaking at 29 A.A.R. 642 (March 3, 2023), with an immediate effective date of February 13, 2023 (Supp. 23-1).

R4-33-406. Inactive Status

- A. The Board shall place a manager's certificate on inactive status if the manager:
1. Is in good standing in Arizona,
 2. Submits a written request to the Board to be placed on inactive status, and
 3. Submits evidence that complies with R4-33-501(D) showing that the manager completed one hour of continuing education for each month in the current biennial period before the request to be placed on inactive status.
- B. Within seven days after receiving a request to be placed on inactive status, the Board shall provide the manager written confirmation of inactive status.
- C. A manager whose certificate is on inactive status is not required to comply with R4-33-501.
- D. An inactive certificate expires under R4-33-405 unless the manager timely submits a renewal application and the fee required under R4-33-104(B)(7).
- E. To resume active certificate status, a manager shall:
1. Submit evidence that complies with R4-33-501(D) showing that the manager completed 12 hours of continuing education within the six months before requesting to resume active certificate status,
 2. Submit a written request to the Board to resume active certificate status, and
 3. Submit the fee required under R4-33-104(B)(4).
- F. The Board shall grant a request to resume active certificate status if the requirements of subsection (E) are met. Within seven days after receiving the written request to resume active certificate status, the Board shall send written notice to the manager granting or denying active status.

Historical Note

New Section R4-33-406 renumbered from R4-33-306 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Former R4-33-406 renumbered to R4-33-405; new R4-33-406 made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

R4-33-407. Standards of Conduct; Disciplinary Action

- A. A manager shall know and comply with all federal and state laws applicable to the operation of an assisted living facility.
- B. A manager shall not:
1. Engage in unprofessional conduct as defined at A.R.S. § 36-446;
 2. Be addicted to or dependent on the use of narcotics or other drugs, including alcohol;
 3. Directly or indirectly permit an owner, officer, or employee of an assisted living facility to solicit, offer, or receive any premium, rebate, or other valuable consideration in connection with furnishing goods or services to residents unless the resulting economic benefit is directly passed to the residents;
 4. Directly or indirectly permit an owner, officer, or employee of an assisted living facility to solicit, offer, or receive any premium, rebate, or other valuable consideration for referring a resident to another person or place unless the resulting economic benefit is directly passed to the resident;

5. Willfully permit the unauthorized disclosure of information relating to a resident or a resident's records;
 6. Discriminate against a resident or employee on the basis of race, sex, age, religion, disability, or national origin;
 7. Misrepresent the manager's qualifications, education, or experience;
 8. Aid or abet another person to misrepresent that person's qualifications, education, or experience;
 9. Defend, support, or ignore unethical conduct of an employee, owner, or other manager;
 10. Engage in any conduct or practice contrary to recognized community standards or ethics of an assisted living facility manager;
 11. Engage in any conduct or practice that is or might constitute incompetence, gross negligence, repeated negligence, or negligence that might constitute a danger to the health, welfare, or safety of a resident or the public;
 12. Procure or attempt to procure by fraud or misrepresentation a certificate or renewal of a certificate as an assisted living facility manager;
 13. Violate a formal order, condition of probation, or stipulation issued by the Board;
 14. Commit an act of sexual abuse, misconduct, harassment, or exploitation;
 15. Retaliate against any person who reports in good faith to the Board alleged incompetence or illegal or unethical conduct of any manager;
 16. Allow the manager's certificate to be displayed as required under R4-33-108(B) unless the manager has been appointed as specified in R4-33-410; or
 17. Manage an assisted living facility in violation of R4-33-411.
- C. The Board shall consider a final judgment or conviction for a felony, an offense involving moral turpitude, or direct or indirect elder abuse as grounds for disciplinary action under A.R.S. § 36-446.07, including denial of a certificate or certificate renewal.
- D. A manager who violates any provision of A.R.S. Title 36, Chapter 4, Article 6 or this Chapter is subject to discipline under A.R.S. § 36-446.07.

Historical Note

Section R4-33-407 renumbered from R4-33-307 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 21 A.A.R. 543, effective June 6, 2015 (Supp. 15-2).

R4-33-408. Referral Requirements

- A. A manager who is appointed by an assisted living facility that pays a fee to an individual or entity for referral of a resident to the assisted living facility shall ensure that the assisted living facility:
1. Has on file a contract with the individual or entity making the referral;
 2. Maintains a file of the names of the residents referred by the individual or entity; and
 3. Obtains at the time of admission and maintains a statement, signed by the resident or the resident's representative or legal guardian, which discloses that:
 - a. A fee was paid for referring the resident to the assisted living facility;
 - b. The resident or the resident's representative or legal guardian was informed of the fee arrangement; and

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- c. The resident or the resident's representative or legal guardian was informed of any ownership interest between the assisted living facility and the individual or entity making the referral.
- B. A manager shall maintain the records required under subsection (A)(1) for five years and shall maintain the records required under subsections (A)(2) and (A)(3) for five years after the resident ceases to reside in the assisted living facility.
- C. A manager shall make the records required under this Section available for review upon request by the Board.

Historical Note

Section R4-33-408 renumbered from R4-33-308 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 21 A.A.R. 543, effective June 6, 2015 (Supp. 15-2).

R4-33-409. Certification Following Revocation

An individual who wishes to be certified after the individual's certificate as an assisted living facility manager is revoked shall:

- 1. Not apply for certification until at least 12 months have passed since the revocation, and
- 2. Apply for certification under R4-33-401.

Historical Note

Section R4-33-409 renumbered from R4-33-309 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section repealed by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). New Section made by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1).

R4-33-410. Notice of Appointment

- A. A manager shall provide written notice to the Board, within 30 days, of being appointed manager of an assisted living facility or terminating an appointment.
- B. A manager shall include the following, as applicable, in a notice regarding the manager's appointment:
 - 1. Manager's name,
 - 2. Manager's certificate number,
 - 3. Name and address of the assisted living facility to which the manager is appointed,
 - 4. Date of appointment,
 - 5. Name and address of the assisted living facility at which the manager's appointment is terminated, and
 - 6. Date of termination.

Historical Note

Section R4-33-410 renumbered from R4-33-310 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section R4-33-410 renumbered to R4-33-402 by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). New Section made by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1).

R4-33-411. Appointment as Manager of Multiple Assisted Living Facilities

- A. An individual certified under R4-33-401 shall not be appointed to manage more than two assisted living facilities at one time.
- B. A individual certified under R4-33-401 who is appointed to manage two assisted living facilities shall:
 - 1. Ensure that the two assisted living facilities are no more than 25 miles apart;

- 2. Designate in writing one or more individuals who are on the assisted living facility premises and accountable for the services provided at the assisted living facility when the appointed certified manager is not on the assisted living facility premises. A designated individual shall:
 - a. Be at least 21 years old;
 - b. Be a caregiver with at least three years' experience as a caregiver or hold a temporary certificate issued under R4-33-402; and
 - c. Never have had licensure or certification suspended or revoked by the Board;
- 3. Ensure that the name of the designated individual is conspicuously displayed at all times in a manner that informs those seeking assistance who is accountable for the services provided;
- 4. Place the written notice of designation required under subsection (B)(2) in the personnel file of the individual designated; and
- 5. Be available to the individual designated under subsection (B)(2) by telephone or electronically within 60 minutes.

Historical Note

Section R4-33-411 renumbered from R4-33-311 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section repealed by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). New Section made by final rulemaking at 21 A.A.R. 543, effective June 6, 2015 (Supp. 15-2).

R4-33-412. Repealed**Historical Note**

Section R4-33-412 renumbered from R4-33-312 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section repealed by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

ARTICLE 5. CONTINUING EDUCATION**R4-33-501. Continuing Education Requirement; Extension of Time**

- A. Continuing education is a prerequisite of license or certificate renewal.
 - 1. A licensed administrator shall obtain 50 credit hours of Board-approved continuing education during each biennial period. During the biennial period in which an administrator is initially licensed, the administrator shall obtain two credit hours of Board-approved continuing education for each month or part of a month remaining in the biennial period.
 - 2. A certified manager shall obtain 24 credit hours of Board-approved continuing education during each biennial period. During the biennial period in which a manager is initially certified, the manager shall obtain one credit hour of Board-approved continuing education for each month or part of a month remaining in the biennial period.
- B. The Board shall award credit hours in an approved continuing education as follows:
 - 1. Seminar or workshop. One credit hour of continuing education for each contact hour;
 - 2. Course at an accredited educational institution. Fifteen credit hours of continuing education for each course hour;
 - 3. Attendance at a business meeting of a national health care organization or of a state association affiliated with a

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national health care organization. One-half credit hour of continuing education for each business meeting attended;

4. Self-study, online, or correspondence course. Approved credit hours of continuing education requested by the course provider;
 5. Serving as a preceptor. Two credit hours of continuing education for each month that an administrator serves as an AIT preceptor; and
 6. Teaching a Board-approved continuing education. One credit hour of continuing education for each hour taught.
- C. The Board shall limit the number of credit hours of Board-approved continuing education awarded as follows:
1. No more than 40 percent of the required credit hours may be obtained using self-study, online, or correspondence courses;
 2. No more than 50 percent of the required credit hours may be obtained from serving as an AIT preceptor;
 3. Hours may be obtained for teaching a particular continuing education only once during each biennial period; and
 4. Hours that exceed the minimum required for a biennial period may not be carried over to a subsequent biennial period.
- D. An administrator or manager shall obtain a certificate or other evidence of attendance from the provider of each continuing education attended that includes the following:
1. Name of the administrator or manager;
 2. License or certificate number of the administrator or manager;
 3. Name of the continuing education;
 4. Name of the continuing education provider;
 5. Date, time, and location of the continuing education; and
 6. Number of credit hours in the continuing education.
- E. An administrator or manager shall maintain the evidence of attendance described in subsection (D) for three years and make the evidence available to the Board under R4-33-503 and as otherwise required under this Chapter.
- F. To obtain an extension of time under A.R.S. § 36-446.07(G) to complete the continuing education requirement, an administrator or manager shall submit to the Board a written request that includes the following:
1. Ending date of the requested extension,
 2. Continuing education completed during the current biennial period and the documentation required under subsection (D),
 3. Proof of registration for additional continuing education that is sufficient to enable the administrator or manager to fulfill the continuing education requirement before the end of the requested extension, and
 4. Administrator's or manager's attestation that the continuing education obtained under the extension will be reported only to fulfill the current renewal requirement and will not be reported on a subsequent renewal application.
- G. The Board shall grant an extension of time within seven days after receiving a request for an extension of time if the request:
1. Specifies an ending date no later than October 31,
 2. Includes the required documentation and attestation,
 3. Is submitted no sooner than April 30, and
 4. Will facilitate the safe and professional regulation of nursing care institutions or assisted living facilities in this state.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

Amended by final rulemaking at 15 A.A.R. 1975, effective November 3, 2009 (Supp. 09-4). Amended by final rulemaking at 27 A.A.R. 233, effective April 4, 2021 (Supp. 21-1).

R4-33-502. Approval of Continuing Education

- A. The Board shall approve any continuing education approved by NAB or the ACHCA.
- B. The Board shall approve a continuing education only if it is taught by a qualified instructor and addresses at least one of the following subject areas:
1. Laws regarding environmental health and safety,
 2. Principles of management,
 3. Psychology and principles of patient or resident care,
 4. Personal and social care,
 5. Therapeutic and supportive care and services in long-term or assisted care,
 6. Community health and social resources,
 7. Quality assurance,
 8. Ethics, and
 9. Recordkeeping.
- C. To obtain the Board's approval of a continuing education, an administrator, manager, or continuing education provider shall:
1. Submit a form, which is available from the Board, containing the following information:
 - a. Title of the continuing education;
 - b. Name and address of the continuing education provider;
 - c. Name, telephone and fax numbers, and email address of a contact person for the continuing education provider;
 - d. Date, time, and place at which the continuing education will be taught;
 - e. Whether the continuing education is intended for administrators or managers;
 - f. Subject matter of the continuing education;
 - g. Teaching methods and learning activities that will be used;
 - h. Learning objectives;
 - i. Description of how learning objectives will be evaluated;
 - j. Whether an examination will be given;
 - k. Number of continuing education hours requested; and
 - l. Signature of the person requesting approval of the continuing education.
 2. Submit the following documents:
 - a. Copy of any examination that will be given to those who attend the continuing education;
 - b. Curriculum vitae of each instructor;
 - c. Agenda of the continuing education showing the hours of instruction;
 - d. Certificate of attendance that meets the requirements in R4-33-501(D);
 - e. Copy of any brochure prepared regarding the continuing education; and
 - f. Fee required under R4-33-104.
- D. The Board's approval of a continuing education is valid for one year unless there is a change in subject matter, instructor, or hours of instruction. At the end of one year or when there is a change in subject matter, instructor, or hours of instruction, the continuing education provider shall apply again for approval.

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Historical Note

New Section made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

R4-33-503. Audit of Compliance and Sanction for Noncompliance with Continuing Education Requirement

- A. The Board may audit a licensee or certificate holder for compliance with the continuing education requirement at any time.
- B. When notice of the need to renew a license or certificate is provided, the Board shall also provide notice of an audit of continuing education records to a random sample of administrators or managers. An administrator or manager subject to a continuing education audit shall submit the documentation required under R4-33-501(D) at the same time that the administrator or manager submits the renewal application required under R4-33-206 or R4-33-405. If an administrator or manager fails to submit the required documentation with the renewal application on or before June 30, the license or certificate expires unless the administrator or manager obtains an extension of time in which to complete the continuing education requirement.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).
Amended by final rulemaking at 27 A.A.R. 233, effective April 4, 2021 (Supp. 21-1).

R4-33-504. Repealed**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Repealed by final rulemaking at 27 A.A.R. 233, effective April 4, 2021 (Supp. 21-1).

ARTICLE 6. ASSISTED LIVING FACILITY MANAGER TRAINING PROGRAMS**R4-33-601. Definitions**

“Owner” means the person responsible for ensuring an assisted living facility training program complies with this Article.

“Instruction,” as used in this Article, means the act of teaching knowledge and skills in a classroom or through the use of technology.

“Resident” means an individual who lives in an assisted living facility.

“Student cohort” means a group of individuals who begin participation in an assisted living facility training program at the same time.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 29 A.A.R. 1556 (July 14, 2023), with an immediate effective date of June 15, 2023 (Supp. 23-2).

R4-33-602. Minimum Standards for Assisted Living Facility Manager Training Program

- A. Organization and administration. The owner of an assisted living facility manager training program shall:
 1. Provide the Board with a written description of the training program that includes:
 - a. Length of the training program in hours and days, and
 - b. Educational goals that demonstrate the training program is consistent with state requirements;

2. Execute a written agreement with each assisted living facility at which students enrolled in the training program receive training that includes the following information:
 - a. The rights and responsibilities of both the facility and the training program,
 - b. The role and authority of the governing bodies of both the facility and the training program, and
 - c. A termination clause that provides time for students enrolled in the training program to complete training at the facility upon termination of the agreement;
3. Develop and adhere to written policies and procedures regarding:
 - a. Attendance. Ensure that a student receives at least 40 hours of instruction;
 - b. Grading. Require a student to attain at least 75 percent on each theoretical examination or 75 percent on a comprehensive theoretical examination;
 - c. Reexamination. Inform students that a reexamination:
 - i. Addresses the same competencies examined in the original examination,
 - ii. Contains items different from those on the original examination, and
 - iii. Is documented in the student’s record;
 - d. Student records. Include the following information:
 - i. Records maintained,
 - ii. Retention period for each record,
 - iii. Location of records,
 - iv. Documents required under subsections (E)(1) and (E)(2), and
 - v. Procedure for accessing records and who is authorized to access records;
 - e. Student fees and financial aid, if any;
 - f. Withdrawal and dismissal;
 - g. Student grievances including a chain of command for disputing a grade;
 - h. Admission requirements including any criminal background or drug testing required;
 - i. Criteria for training program completion; and
 - j. Procedure for documenting that a student has received notice of Board requirements for certification, including the fingerprint clearance card requirement, before the student is enrolled;
4. Date each policy and procedure developed under subsection (A)(3), review within one year from the date made and every year thereafter, update if necessary, and date the policy or procedure at the time of each review;
5. Provide each student who completes the training program with evidence of completion, within 15 days of completion, which includes the following:
 - a. Name of the student;
 - b. Name and location of the training program;
 - c. Number of instruction hours in the training program;
 - d. Date on which the training program was completed;
 - e. Board’s approval number of the training program; and
 - f. Signature of the training program owner, administrator, or instructor;

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6. Provide the Board, within 15 days of completion, the following information regarding each student who completed the training program:
 - a. Student's name, date of birth, Social Security number, address, and telephone number;
 - b. Student's examination scores as provided by the examining entity;
 - c. Name and location of the training program;
 - d. Number of instruction hours in the training program;
 - e. Date on which the training program was completed; and
 - f. Board's approval number of the training program; and
 7. Execute and maintain under subsections (E)(1) and (E)(2) the following documents for each student:
 - a. A skills checklist containing documentation the student achieved competency in the assisted living facility manager skills listed in R4-33-603(C), and
 - b. An evaluation form containing the student's responses to questions about the quality of the instructional experiences provided by the training program.
- B.** Program administrator responsibilities. The owner of an assisted living facility manager training program shall ensure that a program administrator performs the following responsibilities:
1. Supervises and evaluates the training program,
 2. Uses only instructors who are qualified under subsection (C), and
 3. Makes the written policies and procedures required under subsection (A)(3) available to each student on or before the first day of the training program;
- C.** The owner of an assisted living facility manager training program shall ensure that a program instructor:
1. Is a certified assisted living facility manager who:
 - a. Holds an assisted living facility manager certificate that is in good standing and issued under A.R.S. Title 36, Chapter 4;
 - b. Has held the assisted living facility manager certificate referenced in subsection (C)(1)(a) for at least five years;
 - c. Has not been subject to any disciplinary action against the assisted living facility manager certificate during the last five years; and
 - d. Has at least three years' experience within the last five years as an assisted living facility manager of record immediately before becoming a training program instructor;
 2. Performs the following responsibilities:
 - a. Plans each learning experience,
 - b. Accomplishes educational goals of the training program and lesson objectives,
 - c. Enforces a grading policy that meets the requirement specified in subsection (A)(3)(b),
 - d. Requires satisfactory performance of all critical elements of each assisted living facility manager skill specified under R4-33-603(C),
 - e. Prevents a student from performing an activity unless the student has received instruction and been found able to perform the activity competently,
 - f. Is present during all instruction,
 - g. Supervises health-care professionals who assist in providing training program instruction, and
 - h. Ensures that a health-care professional who assists in providing training program instruction:
 - i. Is licensed or certified as a health-care professional,
 - ii. Has at least one year of experience in the field of licensure or certification, and
 - iii. Teaches only a learning activity that is within the scope of practice of the field of licensure or certification.
- D.** Instructional and educational resources. The owner of an assisted living facility manager training program shall provide or provide access to the following instructional and educational resources adequate to implement the training program for all students and staff:
1. Current reference materials related to the level of the curriculum;
 2. Equipment, including computers, in good working condition to simulate facility management;
 3. Audio-visual equipment and media; and
 4. Designated space that provides a clean, distraction-free, learning environment for accomplishing educational goals of the training program;
- E.** The owner of an assisted living facility manager training program shall:
1. Maintain the following training program records for three years:
 - a. Curriculum and course schedule for each student cohort;
 - b. Results of state-approved written and manual skills testing;
 - c. Evaluation forms completed by students, a summary of the evaluation forms for each student cohort, and measures taken, if any, to improve the training program based on student evaluations; and
 - d. Copy of all Board reports, applications, or correspondence related to the training program; and
 2. Maintain the following student records for three years:
 - a. Name, date of birth, and Social Security number;
 - b. Completed skills checklist;
 - c. Attendance record including a record of any make-up class sessions;
 - d. Score on each test, quiz, and examination and, if applicable, whether a test, quiz, or examination was retaken; and
 - e. Copy of the certificate of completion issued to the student as required under subsection (A)(5);
- F.** Examination and evaluation requirements. The owner of an assisted living facility manager training program shall ensure that each student in the training program:
1. Takes an examination that covers each of the subjects listed in R4-33-603(C) and passes each examination using the standard specified in subsection (A)(3)(b);
 2. Is evaluated and determined to possess the practical skills listed in R4-33-603(C);
 3. Passes, using the standard specified in subsection (A)(3)(b), a final examination approved by the Board and given by a Board-approved provider; and
 4. Does not take the final examination referenced in subsection (F)(3) more than two times. If a student fails the final examination referenced in subsection (F)(3) two times, the student is able to obtain evidence of completion only by taking the assisted living facility manager training program again;

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- G.** Periodic evaluation. The owner of an assisted living facility manager training program shall allow a representative of the Board or a state agency designated by the Board to conduct:
1. An onsite scheduled evaluation:
 - a. Before initial approval of the training program as specified under R4-33-604(D),
 - b. Before renewal of the training program approval as specified under R4-33-605, and
 - c. During a time of correction as specified under R4-33-606(B); and
 2. An onsite unscheduled evaluation of the training program if the evaluation is in response to a complaint or reasonable cause, as determined by the Board; and
- H.** Notice of change. The owner of an assisted living facility manager training program shall provide the documentation and information specified regarding the following changes within 10 days after making the change:
1. New training program administrator. Name and license number;
 2. New instructor. Name, license number, and evidence of being qualified under subsection (C)(1);
 3. Decrease in number of training program hours. Description of and reason for the change, a revised curriculum outline, and revised course schedule;
 4. Change in location at which instruction is provided. Address and description of new location; and
 5. For a training program that is based within an assisted living facility:
 - a. Change in name of the facility. Former and new name of the assisted living facility; and
 - b. Change in ownership of the facility. Names of the former and current owners of the assisted living facility.
- Historical Note**
- New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 29 A.A.R. 642 (March 3, 2023), with an immediate effective date of February 13, 2023 (Supp. 23-1). Amended by final rulemaking at 29 A.A.R. 1556 (July 14, 2023), with an immediate effective date of June 15, 2023 (Supp. 23-2).
- R4-33-603. Curriculum for Assisted Living Facility Manager Training Program**
- A.** The owner of an assisted living facility manager training program shall ensure that the training program consists of at least 40 hours of instruction.
- B.** The owner of an assisted living facility manager training program shall provide a written curriculum plan to each student that includes overall educational goals and for each required subject:
1. Measurable learner-centered objectives,
 2. Outline of the material to be taught,
 3. Time allotted to each unit of instruction, and
 4. Learning activities or reading assignments.
- C.** The owner of an assisted living facility manager training program shall ensure that the training program includes instruction regarding each of the following subjects:
1. Resident services management. Developing policies and procedures regarding:
 - a. Resident rights and confidentiality;
 - b. Developing, implementing, and updating resident service plans;
 - c. Resident agreements;
 - d. Providing social and recreational services;
 - e. Maintaining resident records and managing documentation systems;
 - f. Managing ancillary services;
 - g. Responding to and reporting specific incidents, accidents, and emergencies involving residents;
 - h. Managing dining services to meet resident needs;
 - i. Preventing abuse, neglect, and exploitation;
 - j. Accepting and retaining residents; and
 - k. Developing systems for managing residents with dementia, Alzheimer's disease, or difficult behaviors;
2. Personnel management.
- a. Complying with federal, state and local laws relating to hiring personnel;
 - b. Developing and implementing systems related to qualifying, orienting, training, and other recurring personnel requirements; and
 - c. Evaluating personnel;
3. Medication management.
- a. Developing and evaluating policies and procedures for:
 - i. Medication management including medical restraints; and
 - ii. Non-medication intervention; and
 - b. Developing systems for:
 - i. Receiving and documenting doctors' orders;
 - ii. Ordering, refilling, and storing medications; and
 - iii. Recordkeeping related to receipt and administration of medication; and
4. Legal management.
- a. Board-prescribed requirements for certification and re-certification,
 - b. Delegation,
 - c. Ethics,
 - d. Advanced directives and do-not-resuscitate orders,
 - e. Standards of conduct under R4-33-407,
 - f. Department of Health Services compliance and complaint inspections:
 - i. Statement of deficiencies,
 - ii. Plan for correction, and
 - iii. Enforcement action; and
 - g. Risk management and quality improvement;
5. Financial management.
- a. Developing and implementing policies, procedures, and practices that comply with:
 - i. State and local laws; and
 - ii. Generally accepted accounting principles regarding accounts receivable, accounts payable, payroll, resident funds, and refunds;
 - b. Developing, implementing, and evaluating facility budgeting including revenues, expenses, capital expenditures, and long-term projections; and
 - c. Maintaining appropriate insurance coverage; and
6. Physical environment management.
- a. Complying with federal, state, and local laws regarding:
 - i. Occupational Safety and Health Administration,
 - ii. Americans with Disabilities Act, and
 - iii. Fire and safety requirements for assisted living facilities;

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- b. Preparedness for and prevention of fire, emergencies, and disasters;
 - c. Resident safety and security including evacuation, relocation, and transportation; and
 - d. Daily and preventative maintenance plans for buildings, equipment, and grounds.
- D. The owner of an assisted living facility manager training program shall ensure that the training program provides a student with at least:
 - 1. Eight hours of instruction and skills practice in each of the subjects identified in subsections (C)(1) through (4), and
 - 2. Four hours of instruction and skills practice in each of the subjects identified in subsections (C)(5) and (C)(6).
- E. The owner of an assisted living facility manager training program shall ensure that the training program uses textbooks that are relevant to the subjects being taught and have been published within the last five years.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 29 A.A.R. 1556 (July 14, 2023), with an immediate effective date of June 15, 2023 (Supp. 23-2).

R4-33-604. Application for Approval of an Assisted Living Facility Manager Training Program

- A. The owner of an assisted living facility manager training program shall ensure that no training is provided until the program is approved by the Board.
- B. To obtain approval of an assisted living facility manager training program, the owner of the training program shall submit to the Board an application packet that contains the following:
 - 1. Name, address, telephone number, and email address of the owner;
 - 2. Name, address, telephone and fax numbers, and web site of the training program;
 - 3. Form of business organization under which the training program is operated and a copy of the establishing documents and organizational chart;
 - 4. A statement of whether the training program is based within an assisted living facility or other location;
 - 5. Name, telephone number, and license or certificate number of the program administrator required under R4-33-602(B);
 - 6. Name, telephone number, and certificate number of each program instructor and evidence that each program instructor is qualified under R4-33-602(C);
 - 7. A statement of whether the training program is accredited and if so, name of the accrediting body and date of last review;
 - 8. For all assisted living facilities at which the training program will provide instruction:
 - a. Name, address, and telephone number of the assisted living facility;
 - b. Name and telephone number of a contact person at the assisted living facility;
 - c. License number of the assisted living facility issued by the Department of Health Services;
 - d. A statement of whether the license of the assisted living facility is in good standing; and
 - e. Date and results of the most recent compliance inspection conducted by the Department of Health Services;

- 9. Evidence of compliance with R4-33-602 and R4-33-603, including the following:
 - a. Written training program description, consistent with R4-33-602(A)(1), and an implementation plan that includes timelines;
 - b. Description of instructional facilities, equipment, and tools available, consistent with R4-33-602(D);
 - c. Written curriculum, consistent with R4-33-603(B);
 - d. Skills checklist used to verify whether a student has acquired the necessary assisted living facility manager skills, consistent with R4-33-602(A)(7)(a);
 - e. Evaluation form required under R4-33-602(A)(7)(b) to enable students to assess the quality of the instructional experience provided by the training program;
 - f. Evidence of completion issued to a student under R4-33-602(A)(5);
 - g. Name of textbook used, author, publication date, and publisher;
 - h. Name of any technology-based materials used, producer of the material, and date produced; and
 - i. Copy of written policies and procedures required under R4-33-602(A)(3);
 - 10. Signature of the owner of the training program; and
 - 11. The fee prescribed under R4-33-104(C)(1).
- C. The owner of an assisted living facility manager training program shall ensure that the application materials submitted under subsection (B) are printed on only one side of white, letter-sized paper, and are not bound in any manner.
- D. After review of the materials submitted under subsection (B), the Board shall schedule an onsite evaluation of the training program and take one of the following actions:
 - 1. If requirements are met, approve the training program for one year; or
 - 2. If requirements are not met, deny approval of the training program.
- E. The owner of an assisted living facility manager training program that is denied approval by the Board may request a hearing regarding the denial by filing a written request with the Board within 30 days after service of the Board's order denying approval of the training program. The Board shall conduct hearings under A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 29 A.A.R. 1556 (July 14, 2023), with an immediate effective date of June 15, 2023 (Supp. 23-2).

R4-33-605. Renewal of Approval of an Assisted Living Facility Manager Training Program

- A. The approval of an assisted living facility manager training program expires one year from the date of approval. If the approval of an assisted living facility manager training program expires, the owner of the training program shall immediately stop all training program activity.
- B. To renew approval of an assisted living facility manager training program, the owner of the training program shall submit to the Board, no fewer than 60 and no more than 120 days before expiration of the current approval, an application packet that contains the following:
 - 1. Name, address, email, and telephone number of the owner;
 - 2. Name, address, telephone and fax numbers, and website of the training program;

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3. Name, telephone number, and license number of the program administrator required under R4-33-602(B);
 4. Name, telephone number, and license number of each program instructor and evidence that each program instructor is qualified under R4-33-602(C);
 5. Written training program description, consistent with R4-33-602(A)(1);
 6. Written curriculum, consistent with R4-33-603(B);
 7. Since the time the training program was last approved:
 - a. Number of student-cohort classes to which training was provided,
 - b. Number of students who completed the training program,
 - c. Results obtained on the Board-approved written and skills examinations for each student, and
 - d. Percentage of students who passed the examinations on the first attempt;
 8. For an assisted living facility at which the training program has started to provide instruction since the training program was last approved, the information required under R4-33-604(B)(8);
 9. Evaluation form required under R4-33-602(A)(7)(b) to enable students to assess the quality of the instructional experience provided by the training program;
 10. Summary of evaluations for each student cohort, required under R4-33-602(E)(1)(c), and measures taken, if any, to improve the training program based on student evaluations;
 11. Evidence of completion issued to a student under R4-33-602(A)(5);
 12. Name of textbook used, author, publication date, and publisher;
 13. Copy of written policies and procedures required under R4-33-602(A)(3);
 14. Signature of the owner of the program; and
 15. The fee prescribed under R4-33-104(C)(2).
- C.** After review of the materials submitted under subsection (B), the Board shall ensure that the training program is evaluated at either an onsite or telephonic meeting. The program owner shall ensure that the program owner, program administrator, and all instructors are available to participate in the evaluation meeting.
- D.** The Board shall ensure that each training program receives an onsite evaluation at least every four years. An onsite evaluation includes visiting each assisted living facility at which the training program provides instruction.
- E.** If the Board approves a training program following an onsite evaluation, no deficiencies were identified during the onsite evaluation, and no complaints are filed with the Board, the Board shall evaluate the training program under subsection (C) using a telephonic meeting for at least two years.
- F.** After conducting the evaluation required under subsection (C), the Board shall:
1. Renew approval of a training program that the Board determines complies with R4-33-602 and R4-33-603, or
 2. Issue a notice of deficiency under R4-33-606 to the owner of a training program that the Board determines does not comply with R4-33-602 or R4-33-603.
- G.** The owner of an assisted living facility manager training program that is issued a notice of deficiency by the Board under subsection (F)(2) may request a hearing regarding the deficiency notice by filing a written request with the Board within 30 days after service of the Board's order. The Board shall conduct hearings under A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 29 A.A.R. 1556 (July 14, 2023), with an immediate effective date of June 15, 2023 (Supp. 23-2).

R4-33-606. Notice of Deficiency; Correction Plan; Disciplinary Action; Voluntary Termination

- A.** Notice of deficiency. If the Board determines that an assisted living facility manager training program does not comply with the requirements in this Article, the Board shall issue a written notice of deficiency to the owner of the training program. The Board shall include the following in the notice of deficiency:
1. Description of each deficiency;
 2. Citation to the requirement in this Article with which the training program is not in compliance; and
 3. The time, to a maximum of three months, allowed by the Board for correction of the deficiencies.
- B.** Correction plan.
1. Within 10 days after service of a notice of deficiency under subsection (A), the owner of the served training program shall submit to the Board a written plan to correct the identified deficiencies;
 2. The Board may conduct onsite or telephonic evaluations during the time for correction to assess progress towards compliance;
 3. The owner of a training program implementing a correction plan shall notify the Board when all corrections have been made; and
 4. After receiving notice under subsection (B)(3) or after the time provided under subsection (A)(3) has expired, the Board shall conduct an onsite evaluation to determine whether all deficiencies listed in the notice under subsection (A) have been corrected.
 - a. If the Board determines that all deficiencies have been corrected, the Board shall renew approval of the training program; or
 - b. If the Board determines that all deficiencies have not been corrected, the Board shall take disciplinary action under subsection (C).
- C.** Disciplinary action.
1. Under A.R.S. § 36-446.03(P), the Board shall issue a civil money penalty, suspend or revoke approval of an assisted living facility manager training program, or place the training program on probation if, following a hearing, the Board determines that the owner of the assisted living facility caregiver training program:
 - a. Failed to submit a plan of correction to the Board under R4-33-606(B) within 10 days after service of a notice of deficiency;
 - b. Failed to comply with R4-33-602 or R4-33-603 within the time set by the Board under R4-33-606(A)(3) for correction of deficiencies;
 - c. Failed to comply with a federal or state requirement;
 - d. Failed to allow the Board to conduct an evaluation under R4-33-602(G);
 - e. Failed to comply with R4-33-602(H);
 - f. Lent or transferred training program approval to another individual or entity or another training program, including one owned by the same owner;
 - g. Conducted an assisted living facility manager training program before obtaining Board approval;
 - h. Conducted an assisted living facility manager training program after expiration of program approval

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- without submitting an application for renewal under R4-33-605;
- i. Falsified an application for assisted living facility manager training program approval under R4-33-604 or R4-33-605;
- j. Violated an order, condition of probation, or stipulation issued by the Board; or
- k. Failed to respond to a complaint filed with the Board.

- 2. The Board shall conduct hearings under A.R.S. Title 41, Chapter 6, Article 10.
- 3. The Board shall include in an order suspending or revoking approval of an assisted living facility manager training program the time and circumstances under which the owner of the suspended or revoked training program may apply again under R4-33-604 for training program approval.

- D. Voluntary termination. If the owner of an approved assisted living facility manager training program decides to terminate the training program, the owner shall:
 - 1. Provide written notice of the planned termination to the Board; and
 - 2. Ensure that the training program, including the instructors, is maintained according to this Article until the last student is transferred or completes the training program.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2).

ARTICLE 7. ASSISTED LIVING FACILITY CAREGIVER TRAINING PROGRAMS

R4-33-701. Definitions

In addition to the definitions in R4-33-601, the following definitions apply in this Article:

- 1. "CMA" means certified medication assistant, an LNA certified by the Arizona Board of Nursing under A.R.S. § 32-1650.02.
- 2. "CNA" means certified nursing assistant, an individual licensed by the Arizona Board of Nursing under A.R.S. § 32-1645.
- 3. "DCW" means direct-care worker, an individual who meets the standards and requirements specified in Section 1240(A) of the Arizona Health Care Cost Containment System policy manual.
- 4. "Instruction," as used in this Article, means the act of teaching knowledge and skills in a classroom or through the use of technology.
- 5. "LNA" means licensed nursing assistant, an individual licensed by the Arizona Board of Nursing under A.R.S. § 32-1645.
- 6. "Skills training" means experiential learning focused on acquiring the ability to provide caregiving services to residents.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3). Amended by final rulemaking at 29 A.A.R. 1556 (July 14, 2023), with an immediate effective date of June 15, 2023 (Supp. 23-2).

R4-33-702. Minimum Standards for Assisted Living Facility Caregiver Training Program

- A. Organization and administration. The owner of an assisted living facility caregiver training program shall:

- 1. Provide the Board with a written description of the training program that includes:
 - a. Length of the training program in hours:
 - i. Number of hours of instruction, and
 - ii. Number of hours of skills training, and
 - b. Educational goals that demonstrate the training program is consistent with state requirements;
- 2. Develop and adhere to written policies and procedures regarding:
 - a. Attendance. Ensure that a student receives at least 62 hours of instruction;
 - b. Grading. Require a student to attain at least 75 percent on each knowledge examination or 75 percent on a comprehensive knowledge examination;
 - c. Reexamination. Inform students that a reexamination:
 - i. Addresses the same competencies examined in the original examination,
 - ii. Contains items different from those on the original examination, and
 - iii. Is documented in the student's record;
 - d. Student records. Include the following information:
 - i. Records maintained,
 - ii. Retention period for each record,
 - iii. Location of records,
 - iv. Documents required under subsections (G)(1) and (G)(2), and
 - v. Procedure for accessing records and who is authorized to access records;
 - e. Student fees and financial aid, if any;
 - f. Withdrawal and dismissal;
 - g. Student grievances including a chain of command for disputing a grade;
 - h. Admission requirements including any criminal background or drug testing required;
 - i. Criteria for training program completion; and
 - j. Procedure for documenting that a student has received notice of the fingerprint clearance card requirement before the student is enrolled;
- 3. Date each policy and procedure developed under subsection (A)(2), review within one year from the date made and every year thereafter, update if necessary, and date the policy or procedure at the time of each review;
- 4. Provide each student who completes the training program with evidence of completion, within 15 days of completion, which includes the following:
 - a. Name of the student;
 - b. Name and instruction location of the training program;
 - c. Total number of hours in the training program devoted to instruction;
 - d. Number of hours in the training program devoted to skills training;
 - e. Date on which the training program was completed;
 - f. Board's approval number of the training program; and
 - g. Signature of the training program owner, administrator, or instructor;
- 5. Provide the Board, within 15 days of completion, the following information regarding each student who completed the training program:

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- a. Student's name, date of birth, Social Security number, address, and telephone number;
 - b. Student's examination score as provided by a Board-approved provider;
 - c. Name and instruction location of the training program;
 - d. Total number of instruction hours in the training program;
 - e. Number of skills training hours in the training program;
 - f. Date on which the training program was completed; and
 - g. Board's approval number of the training program; and
6. Execute and maintain under subsections (G)(1) and (G)(2) the following documents for each student:
- a. A skills checklist containing documentation the student achieved competency in the assisted living facility caregiver skills listed in R4-33-703(C),
 - b. A copy of the current food-handler's card issued to the student by the county in which the student lives, and
 - c. An evaluation form containing the student's responses to questions about the quality of the instructional experiences provided by the training program.
- B.** Program administrator responsibilities. The owner of an assisted living facility caregiver training program shall ensure that a program administrator performs the following responsibilities:
1. Supervises and evaluates the training program,
 2. Uses only instructors who are qualified under subsection (C), and
 3. Makes the written policies and procedures required under subsection (A)(2) available to each student on or before the first day of the training program;
- C.** The owner of an assisted living facility caregiver training program shall ensure that a program instructor is qualified under subsection (C)(1), (C)(2), or (C)(3):
1. Is a certified assisted living facility manager:
 - a. Holds an assisted living facility manager certificate that is in good standing and issued under A.R.S. Title 36, Chapter 4;
 - b. Has held the assisted living facility manager certificate referenced in subsection (C)(1)(a) for at least two years;
 - c. Has not been subject to disciplinary action against the assisted living facility manager certificate during the last two years; and
 - d. Has at least two years' experience within the last five years as an assisted living facility manager of record immediately before becoming a training program instructor;
 2. Is a licensed health professional:
 - a. Holds a license that is in good standing and issued under A.R.S. Title 32, Chapter, 13, 15, 17, or 25;
 - b. Has held the health professional license referenced in subsection (C)(2)(a) for at least two years;
 - c. Has not been subject to disciplinary action against the health professional license during the last two years; and
 - d. Has at least two years' experience within the last five years in management, operation, or training in assisted living immediately before becoming a training program instructor; or
3. Other qualified individual:
- a. Holds at least a baccalaureate degree in a health-related field from an accredited college or university;
 - b. Has not been subject to disciplinary action against any professional or occupational license or certificate during the last two years; and
 - c. Has at least two years' experience within the last five years in management, operation, or training in assisted living immediately before becoming a training program instructor.
- D.** The owner of an assisted living facility caregiver training program shall ensure that a program instructor performs the following responsibilities:
1. Plans each learning experience,
 2. Accomplishes educational goals of the training program and lesson objectives,
 3. Enforces a grading policy that meets the requirement specified in subsection (A)(2)(b),
 4. Requires satisfactory performance of all critical elements of each assisted living facility caregiver skill specified under R4-33-703(C),
 5. Prevents a student from performing an activity unless the student has received instruction and been found able to perform the activity competently,
 6. Is present during all instruction,
 7. Supervises health professionals who assist in providing training program instruction, and
 8. Ensures that a health professional who assists in providing training program instruction:
 - a. Is licensed or certified as a health professional,
 - b. Has at least one year of experience in the field of licensure or certification, and
 - c. Teaches only a learning activity that is within the scope of practice of the field of licensure or certification.
- E.** Skill training requirements. The owner of an assisted living facility caregiver training program shall:
1. Provide each student with at least 12 hours of instructor-supervised skills training, and
 2. Ensure that each student develops skill proficiency in the subjects listed in R4-33-703(C).
- F.** Instructional and educational resources. The owner of an assisted living facility caregiver training program shall provide, or provide access to, the following instructional and educational resources adequate to implement the training program for all students and staff:
1. Current reference materials related to the level of the curriculum;
 2. Equipment in functional condition for simulating resident care, including:
 - a. Patient bed, over-bed table, and nightstand;
 - b. Privacy curtain and call bell;
 - c. Thermometers, stethoscopes, including a teaching stethoscope, blood-pressure cuff, and balance scale;
 - d. Hygiene supplies, elimination equipment, drainage devices, and linens;
 - e. Hand-washing equipment and clean gloves; and
 - f. Wheelchair, gait belt, walker, anti-embolic hose, and cane;
 3. Computer in good working condition;
 4. Audio-visual equipment and media; and

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5. Designated space that provides a clean, distraction-free, learning environment for accomplishing educational goals of the training program;
- G.** Records. The owner of an assisted living facility caregiver training program shall:
 1. Maintain the following training program records for three years:
 - a. Curriculum and course schedule for each student cohort;
 - b. Results of state-approved written examination and skills checklist;
 - c. Evaluation forms completed by students, a summary of the evaluation forms for each student cohort, and measures taken, if any, to improve the training program based on student evaluations; and
 - d. Copy of all Board reports, applications, or correspondence related to the training program; and
 2. Maintain the following student records for three years:
 - a. Name, date of birth, and Social Security number;
 - b. Completed skills checklist;
 - c. Attendance record including a record of any make-up class sessions;
 - d. Score on each test, quiz, and examination and, if applicable, whether a test, quiz, or examination was retaken;
 - e. Documentation from the program instructor indicating the:
 - i. Number of skills training hours completed by the student,
 - ii. Student performance during the skills training, and
 - iii. Verification of total number of instruction hours completed by the student; and
 - f. Copy of the evidence of completion issued to the student as required under subsection (A)(4);
- H.** Examination and evaluation requirements for students. The owner of an assisted living facility caregiver training program shall ensure each student in the training program:
 1. Takes an examination that covers each of the subjects listed in R4-33-703(C) and passes each examination using the standard specified in subsection (A)(2)(b);
 2. Is evaluated and determined to possess the practical skills listed in R4-33-703(C);
 3. Passes, using the standard specified in subsection (A)(2)(b), a final examination approved by the Board and given by a Board-approved provider; and
 4. Does not take the final examination referenced in subsection (H)(3) more than three times. If a student fails the final examination referenced in subsection (H)(3) three times, the student is able to obtain evidence of completion only by taking the assisted living facility caregiver training program again;
- I.** Examination passing standard. The owner of an assisted living facility caregiver training program shall attain an annual first-time passing rate of 70 percent for all students who take the examination specified under subsection (H)(3). The Board may waive this requirement for a program if fewer than 10 students took the examination during the year.
- J.** Periodic evaluation. The owner of an assisted living facility caregiver training program shall allow a representative of the Board or a state agency designated by the Board to conduct:
 1. A scheduled evaluation:
 - a. Before initial approval of the training program as specified under R4-33-704(D),
 - b. Before renewal of the training program approval as specified under R4-33-705(C), and
 - c. During a time of correction as specified under R4-33-706(B); and
 2. An onsite unscheduled evaluation of the training program if the evaluation is in response to a complaint or reasonable cause, as determined by the Board;
- K.** Notice of change. The owner of an assisted living facility caregiver training program shall provide the documentation and information specified regarding the following changes within 10 days after making the change:
 1. New training program administrator. Name and license number;
 2. New instructor. Name, license number, and evidence of being qualified under subsection (C);
 3. Decrease in number of training program hours. Description of and reason for the change, a revised curriculum outline, and revised course schedule;
 4. Change in location at which instruction is provided. Address and description of new location; and
 5. For a training program that is based within an assisted living facility:
 - a. Change in name of the facility. Former and new name of the assisted living facility; and
 - b. Change in ownership of the facility. Names of the former and current owners of the assisted living facility.
- L.** Medication management training program. The owner of an assisted living facility caregiver training program may provide a medication management training program for a student who, at the time of admission, is in good standing and a CNA, LNA, or DCW. The owner shall ensure the medication management training program provides the instruction listed in subsection R4-33-703(C)(14) and meets the standards in R4-33-703.1.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3). Amended Section R4-33-702 made by emergency rulemaking at 26 A.A.R. 1091, with an immediate effective date of May 5, 2020 as established under A.R.S. § 41-1032(A); effective for 180 days under A.R.S. § 41-1032(D). Before the emergency expired this Section was amended by final rulemaking at 26 A.A.R. 1465, effective September 5, 2020 (Supp. 20-3). Amended by final rulemaking at 29 A.A.R. 1556 (July 14, 2023), with an immediate effective date of June 15, 2023 (Supp. 23-2).

R4-33-703. Curriculum for Assisted Living Facility Caregiver Training Program

- A.** The owner of an assisted living facility caregiver training program shall ensure that the training program consists of at least 62 hours including:
 1. Fifty hours of instruction, and
 2. Twelve hours of instructor-supervised skills training.
- B.** The owner of an assisted living facility caregiver training program shall provide a written curriculum plan to each student that includes overall educational goals and for each required subject:
 1. Measurable learner-centered objectives,
 2. Outline of the material to be taught,
 3. Time allotted to each unit of instruction, and
 4. Learning activities or reading assignments.

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- C. The owner of an assisted living facility caregiver training program shall ensure the training program includes instruction and skills training regarding each of the following subjects:
1. Orientation to and overview of the assisted living facility caregiver training program (at least one hour of instruction).
 - a. Levels of care within an assisted living facility, and
 - b. Impact of each level of care on residents;
 2. Legal and ethical issues and resident rights (at least two hours of instruction).
 - a. Confidentiality (HIPAA);
 - b. Ethical principles;
 - c. Resident rights specified in R9-10-710;
 - d. Abuse, neglect, and exploitation;
 - e. Mandatory reporting; and
 - f. Do-not-resuscitate order and advanced directives;
 3. Communication and interpersonal skills (at least two hours of instruction).
 - a. Components of effective communication,
 - b. Styles of communication,
 - c. Attitude in communication,
 - d. Barriers to effective communication:
 - i. Culture,
 - ii. Language, and
 - iii. Physical and mental disabilities, and
 - e. Techniques of communication;
 4. Job management skills (at least one hour of instruction).
 - a. Stress management, and
 - b. Time management;
 5. Service plans (at least two hours of instruction). Developing, using, and maintaining resident service plans;
 6. Infection control (at least three hours of instruction).
 - a. Common types of infectious diseases,
 - b. Preventing infection,
 - c. Controlling infection:
 - i. Washing hands,
 - ii. Using gloves, and
 - iii. Disposing of sharps and other waste;
 7. Nutrition and food preparation (at least two hours of instruction).
 - a. Basic nutrition;
 - b. Menu planning and posting;
 - c. Procuring, handling, and storing food safely; and
 - d. Special diets;
 8. Fire, safety, and emergency procedures (at least two hours of instruction).
 - a. Emergency planning,
 - b. Medical emergencies,
 - c. Environmental emergencies,
 - d. Fire safety,
 - e. Fire drills and evacuations, and
 - f. Fire-code requirements;
 9. Home environment and maintenance (at least two hours of instruction).
 - a. Housekeeping,
 - b. Laundry, and
 - c. Physical plant;
 10. Basic caregiver skills (at least eight hours of instruction).
 - a. Taking vital signs and measuring height and weight;
 - b. Maintaining a resident's environment;
 - c. Observing and reporting pain;
 - d. Assisting with diagnostic tests;
 - e. Providing assistance to residents with drains and tubes;
 - f. Recognizing and reporting abnormal changes to a supervisor;
 - g. Applying clean bandages;
 - h. Providing peri-operative care;
 - i. Assisting ambulation of residents including transferring and using assistive devices;
 - j. Bathing, caring for skin, and dressing;
 - k. Caring for teeth and dentures;
 - l. Shampooing and caring for hair;
 - m. Caring for nails;
 - n. Toileting, caring for perineum, and caring for ostomy;
 - o. Feeding and hydration including proper feeding techniques and use of assistive devices in feeding;
 - p. Preventing pressure sores; and
 - q. Maintaining and treating skin;
 11. Mental health and social service needs (at least three hours of instruction).
 - a. Modifying the caregiver's behavior in response to resident behavior,
 - b. Understanding the developmental tasks associated with the aging process,
 - c. Responding to resident behavior,
 - d. Promoting resident dignity,
 - e. Providing culturally sensitive care,
 - f. Caring for the dying resident, and
 - g. Interacting with the resident's family;
 12. Care of the cognitively impaired resident (at least four hours of instruction).
 - a. Anticipating and addressing the needs and behaviors of residents with dementia or Alzheimer's disease,
 - b. Communicating with cognitively impaired residents,
 - c. Understanding the behavior of cognitively impaired residents, and
 - d. Reducing the effects of cognitive impairment;
 13. Skills for basic restorative services (at least two hours of instruction).
 - a. Understanding body mechanics;
 - b. Assisting resident self-care;
 - c. Using assistive devices for transferring, walking, eating, and dressing;
 - d. Assisting with range-of-motion exercises;
 - e. Providing bowel and bladder training;
 - f. Assisting with care for and use of prosthetic and orthotic devices; and
 - g. Facilitating family and group activities; and
 14. Medication management (at least 16 hours of instruction).
 - a. Determining whether a resident needs assistance with medication administration and if so, the nature of the assistance;
 - b. Assisting a resident to self-administer medication;
 - c. Observing, documenting, and reporting changes in resident condition before and after medication is administered;
 - d. Knowing the rights of a resident regarding medication administration;
 - e. Knowing classifications of and responses to medications;
 - f. Taking, reading, and implementing a physician's medication and treatment orders;
 - g. Storing medication properly and securely;
 - h. Documenting medication and treatment services;

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- i. Maintaining records of medication and treatment services;
 - j. Using medication organizers properly;
 - k. Storing and documenting use of narcotic drugs and controlled substances;
 - l. Understanding how metabolism and physical conditions affect medication absorption;
 - m. Knowing the proper administration of all forms of medication;
 - n. Using drug-reference guides (Physician's Desk Reference); and
 - o. Preventing, identifying, documenting, reporting, and responding to medication errors.
- D. The owner of an assisted living facility caregiver training program shall ensure that the training program provides a student with at least the number of:
 - 1. Hours of instruction specified in subsection (C); and
 - 2. Instructor-supervised skills training hours specified in subsection (A).
- E. The owner of an assisted living facility caregiver training program shall ensure that the training program uses textbooks that are relevant to the subjects being taught and have been published within the last five years.
- F. The owner of an assisted living facility caregiver training program shall ensure that any distance learning provided uses materials that are relevant to the subjects being taught and have been produced within the last five years.
- 2. Is taught by a health professional who holds a license in good standing and issued under A.R.S. Title 32, Chapter 13, 15, 17, 18, or 25; and
- 3. Requires passing an examination regarding assisted living facility caregiver medication management, using the standard specified in R4-33-702(A)(2)(b), that is approved by the Board and given by a Board-approved provider. An individual under subsection (B) shall pass the required examination in no more than three attempts. After failing three times, the individual may take the assisted living facility caregiver medication management program again.
- D. In addition to complying with subsection (C), a person under subsection (A) shall ensure each individual under subsection (B) who participates in an assisted living facility caregiver medication management training program:
 - 1. Receives notice, before participating in the training program, of:
 - a. The fingerprint clearance card requirement, and
 - b. The need to obtain a food-handler's card from the county in which the individual lives.
 - 2. Provides written documentation, which is dated and signed, indicating the person under subsection (A) complied with subsection (D)(1). The person under subsection (A) shall maintain the written documentation under R4-33-702(G)(2).
- E. In addition to complying with subsection (C), a person under subsection (A) that offers an assisted living facility caregiver medication management training program to individuals specified under subsection (B) shall comply with the following subsections of R4-33-702:
 - 1. (A)(4)(a), (b), and (d) through (f);
 - 2. (A)(5)(a) through (d), (g), and (h);
 - 3. (A)(6)(b) and (c);
 - 4. (G)(1)(b) through (d);
 - 5. (G)(2)(a), (c), (d), and (f);
 - 6. (I) and
 - 7. (J).

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3). Amended by final rulemaking at 29 A.A.R. 1556 (July 14, 2023), with an immediate effective date of June 15, 2023 (Supp. 23-2).

R4-33-703.1. Minimum Standards and Curriculum for an Assisted Living Facility Caregiver Medication Management Training Program

- A. An assisted living facility caregiver medication management training program may be established by:
 - 1. The owner or manager of an assisted living facility, or
 - 2. The owner of an assisted living facility caregiver training program.
- B. A person under subsection (A) may offer an assisted living facility caregiver medication management training program to:
 - 1. A CNA who is in good standing and whose certification by the Arizona Board of Nursing under A.R.S. § 32-1645 is verified;
 - 2. An LNA who is in good standing and whose licensure by the Arizona Board of Nursing under A.R.S. § 32-1645 is verified; and
 - 3. A DCW who is in good standing and whose training, including training about caregiving fundamentals and aging and physical disabilities, and testing record is verified through the AHCCCS online database.
- C. A person under subsection (A) that offers an assisted living facility caregiver medication management training program to individuals specified under subsection (B) shall ensure the assisted living facility caregiver medication management training program:
 - 1. Consists of at least the 16 hours of instruction specified under R4-33-703(C)(14);

Historical Note

New Section made by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3). Amended Section R4-33-703.1 made by emergency rulemaking at 26 A.A.R. 1091, with an immediate effective date of May 5, 2020 as established under A.R.S. § 41-1032(A); effective for 180 days under A.R.S. § 41-1032(D). Before the emergency expired this Section was amended by final rulemaking at 26 A.A.R. 1465, effective September 5, 2020 (Supp. 20-3). Amended by final rulemaking at 29 A.A.R. 1556 (July 14, 2023), with an immediate effective date of June 15, 2023 (Supp. 23-2).

R4-33-704. Application for Approval of an Assisted Living Facility Caregiver Training Program

- A. The owner of an assisted living facility caregiver training program shall ensure no training is provided until the program is approved by the Board.
- B. To obtain approval of an assisted living facility caregiver training program, the owner of the training program shall submit to the Board an application packet that contains the following:
 - 1. Name, address, telephone number, and email address of the owner;
 - 2. Name, address, telephone and fax numbers, and website of the training program;

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3. Form of business organization under which the training program is operated and a copy of the establishing documents and organizational chart;
 4. A statement of whether the training program is based within an assisted living facility or other location;
 5. Name, telephone number, email address, and license or certificate number of the program administrator required under R4-33-702(B);
 6. Name, telephone number, email address, and license number of each program instructor and evidence each program instructor is qualified under R4-33-702(C);
 7. A statement of whether the training program is accredited and if so, name of the accrediting body and date of last review;
 8. For all assisted living facilities at which the training program will provide instruction:
 - a. Name, address, and telephone number of the assisted living facility;
 - b. Name, email address, and telephone number of a contact person at the assisted living facility;
 - c. License number of the assisted living facility issued by the Department of Health Services;
 - d. A statement of whether the license of the assisted living facility is in good standing; and
 - e. Date and results of the most recent compliance inspection conducted by the Department of Health Services;
 9. Evidence of compliance with R4-33-702 and R4-33-703, including the following:
 - a. Written training program description, consistent with R4-33-702(A)(1), and an implementation plan that includes timelines;
 - b. Description of instructional facilities, equipment, and tools available, consistent with R4-33-702(F);
 - c. Written curriculum, consistent with R4-33-703(C);
 - d. Skills checklist used to verify whether a student has acquired the necessary assisted living facility caregiver skills, consistent with R4-33-702(A)(6)(a);
 - e. Evaluation form required under R4-33-702(A)(6)(c) to enable students to assess the quality of the instructional experience provided by the training program;
 - f. Evidence of completion issued to a student under R4-33-702(A)(4);
 - g. Name of textbook used, author, publication date, and publisher;
 - h. Name of any technology-based materials used, producer of the material, and date produced; and
 - i. Copy of written policies and procedures required under R4-33-702(A)(2);
 10. Signature of the owner of the training program; and
 11. The fee prescribed under R4-33-104(D)(1).
- C.** The owner of an assisted living facility caregiver training program shall ensure the application materials submitted under subsection (B) are printed on only one side of white, letter-sized paper, and are not bound in any manner.
- D.** After review of the materials submitted under subsection (B), the Board shall schedule an onsite evaluation of the training program and take one of the following actions:
1. If requirements are met, approve the training program for one year; or
 2. If requirements are not met, deny approval of the training program.
- E.** The owner of an assisted living facility caregiver training program denied approval by the Board may request a hearing

regarding the denial by filing a written request with the Board within 30 days after service of the Board's order denying approval of the training program. The Board shall conduct hearings under A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3). Amended by final rulemaking at 29 A.A.R. 1556 (July 14, 2023), with an immediate effective date of June 15, 2023 (Supp. 23-2).

R4-33-704.1. Application for Approval of an Assisted Living Facility Caregiver Medication Management Training Program

- A.** A person described under R4-33-703.1(A) shall ensure no training is provided until the assisted living facility medication management training program is approved by the Board.
- B.** To obtain approval of an assisted living facility medication management training program, a person described under R4-33-703.1(A) shall submit to the Board an application packet that contains the following:
1. Name, address, telephone number, and email address of the person described under R4-33-703.1(A);
 2. A statement of whether the training program is based within an assisted living facility or other location and address of the location;
 3. Name, telephone number, email address, and license number of each program instructor and evidence each program instructor is qualified under R4-33-703.1(C)(3);
 4. The information required under R4-33-704(B)(8);
 5. The following evidence of compliance with R4-33-703.1(D):
 - a. Skills checklist used to verify whether a student has acquired the necessary assisted living facility caregiver skills, consistent with R4-33-702(A)(6)(a);
 - b. Evaluation form required under R4-33-702(A)(6)(c) to enable students to assess the quality of the instructional experience provided by the training program; and
 - c. Evidence of completion issued to a student under R4-33-702(A)(4);
 6. Signature of the person described under R4-33-703.1(A); and
 7. The fee prescribed under R4-33-104(E)(1) except a person that has an assisted living facility caregiver training program approved under R4-33-704 is not required to pay a fee for approval under this Section.
- C.** R4-33-704(C) through (E) applies to this Section.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

R4-33-705. Renewal of Approval of an Assisted Living Facility Caregiver Training Program

- A.** The approval of an assisted living facility caregiver training program expires one year from the date of approval. If the approval of the training program expires, the owner of the training program shall immediately stop all training program activity.
- B.** To renew approval of an assisted living facility caregiver training program, the owner of the training program shall submit to the Board, no fewer than 60 and no more than 120 days before expiration of the current approval, an application packet that contains the following:

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1. Name, address, telephone number, and email address of the owner;
 2. Name, address, telephone and fax numbers, and website of the training program;
 3. Name, telephone number, email address, and license number of the program administrator required under R4-33-702(B);
 4. Name, telephone number, email address, and license number of each program instructor and evidence each program instructor is qualified under R4-33-702(C);
 5. Written training program description, consistent with R4-33-702(A)(1);
 6. Written curriculum, consistent with R4-33-703(C);
 7. Since the time the training program was last approved:
 - a. Number of student-cohort classes to which training was provided,
 - b. Number of students who completed the training program,
 - c. Results obtained on the Board-approved written examination and skills checklist for each student, and
 - d. Percentage of students who passed the examination on the first attempt;
 8. For an assisted living facility at which the training program has started to provide instruction since the training program was last approved, the information required under R4-33-704(B)(8);
 9. Evaluation form required under R4-33-702(A)(6)(c) to enable students to assess the quality of the instructional experience provided by the training program;
 10. Summary of evaluations for each student cohort, required under R4-33-702(G)(1)(c), and measures taken, if any, to improve the training program based on student evaluations;
 11. Evidence of completion issued to a student under R4-33-702(A)(4);
 12. Name of textbook used, author, publication date, and publisher;
 13. Name of any technology-based materials used, producer of the material, and date produced;
 14. Copy of written policies and procedures required under R4-33-702(A)(2);
 15. Signature of the owner of the training program; and
 16. The fee prescribed under R4-33-104(D)(2).
- C.** After review of the materials submitted under subsection (B), the Board shall ensure the training program is evaluated at either an onsite or telephonic meeting. The program owner shall ensure the program owner, program administrator, and all instructors are available to participate in the evaluation meeting.
- D.** The Board shall ensure each training program receives an onsite evaluation at least every four years. An onsite evaluation includes visiting each assisted living facility at which the training program provides instruction.
- E.** If the Board approves a training program following an onsite evaluation, no deficiencies were identified during the onsite evaluation, and no complaints are filed with the Board, the Board shall evaluate the training program under subsection (C) using a telephonic meeting for at least two years.
- F.** After conducting the evaluation required under subsection (C), the Board shall:
1. Renew approval of a training program the Board determines complies with R4-33-702 and R4-33-703, or
 2. Issue a notice of deficiency under R4-33-706 to the owner of a training program the Board determines does not comply with R4-33-702 or R4-33-703.
- G.** The owner of an assisted living facility training program issued a notice of deficiency by the Board under subsection (F)(2) may request a hearing regarding the deficiency notice by filing a written request with the Board within 30 days after service of the Board's order. The Board shall conduct hearings under A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3). Amended by final rulemaking at 29 A.A.R. 1556 (July 14, 2023), with an immediate effective date of June 15, 2023 (Supp. 23-2).

R4-33-705.1. Renewal of Approval of an Assisted Living Facility Caregiver Medication Management Training Program

- A.** The approval of an assisted living facility caregiver medication management training program expires one year from the date of approval. If the approval expires, the person described under R4-33-703.1(A) shall immediately stop all medication management training program activity.
- B.** To renew approval of an assisted living facility caregiver medication management training program, the person described under R4-33-703.1(A) shall submit to the Board, no fewer than 60 and no more than 120 days before expiration of the current approval, an application packet that contains the following:
1. Name, address, telephone number and email address of the person described under R4-33-703.1(A);
 2. Name, telephone number, email address, and license number of each program instructor and evidence each program instructor is qualified under R4-33-703.1(C)(3);
 3. The information required under R4-33-705(B)(7) through (11);
 4. Signature of the person described under R4-33-703.1(A); and
 5. The fee prescribed under R4-33-104(E)(2) except a person that has approval of an assisted living facility caregiver training program renewed under R4-33-705 is not required to pay a fee for approval under this Section.
- C.** R4-33-705(C) through (G) applies to this Section.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

R4-33-706. Notice of Deficiency; Correction Plan; Disciplinary Action; Voluntary Termination

- A.** Notice of deficiency. If the Board determines an assisted living facility caregiver or medication management training program does not comply with the requirements in this Article, the Board shall issue a written notice of deficiency to the program owner or person described under R4-33-703.1(A) of the training. The Board shall include the following in the notice of deficiency:
1. Description of each deficiency;
 2. Citation to the requirement in this Article with which the training program is not in compliance; and
 3. The time, to a maximum of three months, allowed by the Board for correction of the deficiencies.
- B.** Correction plan.

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1. Within 10 days after service of a notice of deficiency under subsection (A), the owner or person described under R4-33-703.1(A) of the served training program shall submit to the Board a written plan to correct the identified deficiencies;
 2. The Board may conduct onsite or telephonic evaluations during the time for correction to assess progress towards compliance;
 3. The owner or person described under R4-33-703.1(A) of a training program implementing a correction plan shall notify the Board when all corrections have been made; and
 4. After receiving notice under subsection (B)(3) or after the time provided under subsection (A)(3) has expired, the Board shall conduct an onsite evaluation to determine whether all deficiencies listed in the notice under subsection (A) have been corrected.
 - a. If the Board determines all deficiencies have been corrected, the Board shall renew approval of the training program; or
 - b. If the Board determines all deficiencies have not been corrected, the Board shall take disciplinary action under subsection (C).
- C. Disciplinary action.**
1. Under A.R.S. § 36-446.03(P), the Board shall issue a civil money penalty, suspend or revoke approval of an assisted living facility caregiver or medication management training program, or place the training program on probation if, following a hearing, the Board determines that the owner or the person described under R4-33-703.1(A):
 - a. Failed to submit a plan of correction to the Board under R4-33-706(B) within 10 days after service of a notice of deficiency;
 - b. Failed to comply with R4-33-702, R4-33-703, or R4-33-703.1, as applicable, within the time set by the Board under R4-33-706(A)(3) for correction of deficiencies;
 - c. Failed to comply with a federal or state requirement;
 - d. Failed to allow the Board to conduct an evaluation under R4-33-702(J) or R4-33-703.1(D)(6);
 - e. Failed to comply with R4-33-702(K);
 - f. Lent or transferred training program approval to another individual or entity or another training program, including one owned by the same owner or person described under R4-33-703.1(A);
 - g. Conducted an assisted living facility caregiver or medication management training program before obtaining Board approval;
 - h. Conducted an assisted living facility caregiver or medication management training program after expiration of program approval without timely submitting an application for renewal under R4-33-705 or R4-33-705.1, as applicable;
 - i. Falsified an application for assisted living facility caregiver or medication management training program approval under R4-33-704, R4-33-704.1, R4-33-705, or R4-33-705.1;
 - j. Violated an order, condition of probation, or stipulation issued by the Board; or
 - k. Failed to respond to a complaint filed with the Board.
 2. The Board shall conduct hearings under A.R.S. Title 41, Chapter 6, Article 10.
 3. The Board shall include in an order suspending or revoking approval of an assisted living facility caregiver or medication management training program the time and circumstances under which the owner or person described under R4-33-703.1(A) of the suspended or revoked training program may apply again under R4-33-704 or R4-33-704.1 for training program approval.
- D. Voluntary termination.** If the owner or person described under R4-33-703.1(A) of an approved assisted living facility caregiver or medication management training program decides to terminate the training program, the owner or person described under R4-33-703.1(A) shall:
1. Provide written notice of the planned termination to the Board; and
 2. Ensure that the training program, including the instructors, is maintained according to this Article until the last student is transferred or completes the training program.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

R4-33-707. Minimum Standards for an Assisted Living Facility On-the-job Caregiver Training Program**A. In this Section:**

1. "Direct supervision" has the same meaning as specified at A.R.S. § 36-446.16(C).
2. "Five years of experience," as used in A.R.S. § 36-446.16(A)(1)(a)(v), means a certified assisted living facility manager has been the manager of record for at least five years at an assisted living facility.
3. "Manager of record" means a certified assisted living facility manager for whom notice of appointment is provided under R4-33-410.
4. "OTJ" means on-the-job, a form of training that provides an employee with knowledge and skills essential to adequate job performance.

B. Before implementing an OTJ training program, the owner of the assisted living facility at which the OTJ training program will be implemented shall apply to the Board to have the OTJ training program approved.**C. To apply for Board approval under subsection (B), the owner of the assisted living facility shall submit an application packet that contains:**

1. Name, address, telephone number, and email address of the owner of the assisted living facility;
2. Name, telephone number, email address, and certificate number of the assisted living facility manager of record;
3. A statement of who will be responsible for providing oversight of the OTJ training program. If oversight will be provided by someone other than the owner or manager of record, the name, telephone number, email address, and occupational license number of the individual who will be responsible;
4. License number of the assisted living facility at which the OTJ training program will be provided;
5. A written description of the OTJ training program that includes:
 - a. A statement of pre-requisites for being employed by the assisted living facility and becoming a participant in the OTJ training program including any criminal background or drug testing required;

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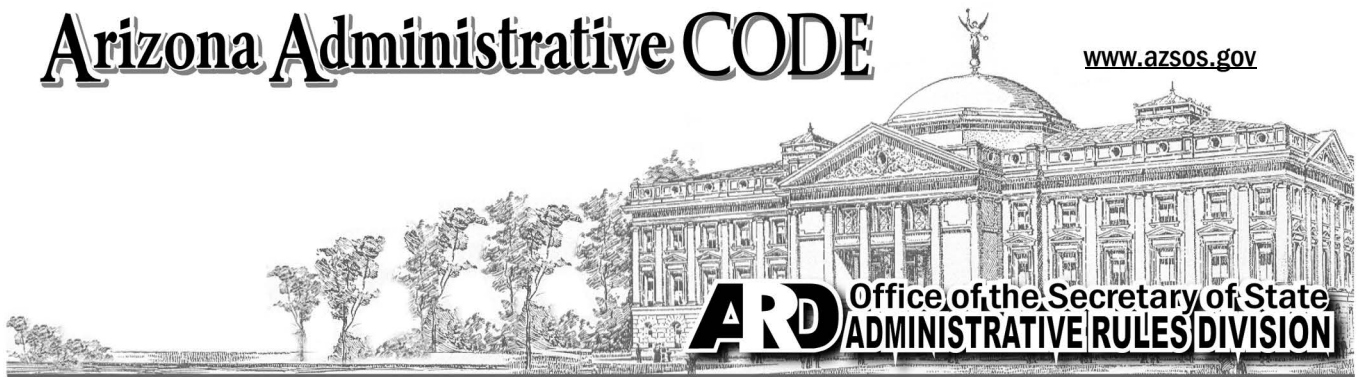
- b. An acknowledgment that the OTJ training program will be provided only to individuals who:
 - i. Are employed at the assisted living facility;
 - ii. Are being paid and receiving the same benefits as other caregivers employed at the assisted living facility;
 - iii. Have a valid fingerprint clearance card; and
 - iv. Have a current food-handler's card issued by the county in which the individual lives;
 - c. A statement of whether any hours of the OTJ training program will involve classroom instruction and if so, the number of hours and curriculum subjects, as specified in R4-33-703(C), that will be taught by classroom instruction;
 - d. An acknowledgment that all hours of the OTJ training program will be taught only to students who are physically present at the assisted living facility;
 - e. An acknowledgment that the OTJ training program will consist of at least 62 hours of training covering all the curriculum subjects specified in R4-33-703(C); and
 - f. An acknowledgment that the OTJ training program complies with A.R.S. § 36-446.16(A)(1)(v) regarding direct supervision of the OTJ training program by the manager of record.
6. A copy of the license or certificate, as specified in A.R.S. § 36-446.16(A)(1), of each health professional who will provide direct supervision of the OTJ training program;
 7. A copy of written policies and procedures regarding:
 - a. Ensuring each individual in the OTJ training program receives at least 62 hours of training covering all the curriculum subjects specified in R4-33-703(C);
 - b. Examining and evaluating each individual as specified in R4-33-702(H);
 - c. Maintaining records of the OTJ training provided to each individual as specified in R4-33-702(A)(2)(d);
 - d. Termination of or quitting by an individual participating in the OTJ training program;
 - e. Criteria for completing the OTJ training program and procedure for ensuring each individual in the OTJ training program is informed of the criteria; and
 - f. Frequency and documentation of updating the written policies and procedures;
 8. A copy of a skills checklist used to verify that each individual in the OTJ training program acquires the skills listed in R4-33-703(C) and necessary to function competently as an assisted living facility caregiver;
 9. A copy of the evidence of completion provided within 15 days to each individual who completes the OTJ training program;
 10. A copy of the written information provided to each individual in the OTJ training program regarding how and to whom to submit a complaint regarding a grade, quality of training, failure to comply with this Section, discrimination, termination, or other issue;
 11. The fee specified at R4-33-104(D); and
 12. Signature of the owner of the assisted living facility at which the OTJ training program will be provided attesting that the information provided is complete and accurate.
- D. After receiving Board approval of the OTJ training program, the owner of the assisted living facility for which the approval was provided shall ensure the following responsibilities are performed:
 1. Within 15 days after an individual completes the OTJ training program, provide to the Board the information specified in R4-33-702(A)(5)(a), (b), (g), and (h); and
 2. Maintain the following records in the caregiver's permanent employee file:
 - a. A copy of the caregiver's fingerprint clearance card and food-handler's card required under subsection (C)(5);
 - b. Written documentation, signed by and with the license number of the health professional providing direct supervision, of each hour of OTJ training provided to the caregiver;
 - c. A copy of the caregiver's completed skills checklist required under subsection (C)(8);
 - d. Results of the state-approved written examination taken by the caregiver showing the caregiver achieved the grade specified in R4-33-702(A)(2)(b);
 - e. Copy of the evidence of completion issued to the caregiver with the caregiver's signed and dated acknowledgment of receipt; and
 - f. A copy of any complaint submitted by the caregiver and records showing how the complaint was resolved.
 - E. The owner of an assisted living facility with a Board-approved OTJ training program shall allow the Board to conduct periodic evaluation, as described in R4-33-702(J), of the OTJ training program.
 - F. The approval of an OTJ training program expires one year after the date of approval. If the approval expires, the owner of the assisted living facility shall ensure the OTJ training program ceases. To renew approval of the OTJ training program, the owner of the assisted living facility shall submit to the Board a renewal application packet, which is available on the Board's website, and the fee specified under R4-33-104(D).
 - G. The provisions of R4-33-706 are applicable to an OTJ training program.

Historical Note

New Section made by final rulemaking at 27 A.A.R. 233, effective April 4, 2021 (Supp. 21-1). Amended by final rulemaking at 29 A.A.R. 1556 (July 14, 2023), with an immediate effective date of June 15, 2023 (Supp. 23-2).

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Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
April 1, 2023 through June 30, 2023

[R7-2-602.02.](#) [Teacher Leader Professional Standards](#) 49 [R7-2-902.](#) [Independent Accounting Responsibility](#) 107

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The release of this Chapter in Supp. 23-2 replaces Supp. 23-1, 1-179 pages.

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

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

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

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

ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

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

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

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

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

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

PERSONAL USE/COMMERCIAL USE

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Article 6, consisting of Sections R7-2-601 through R7-2-617, adopted effective December 4, 1998 (Supp. 98-4).

Article 6, consisting of Sections R7-2-601 through R7-2-608, repealed effective December 4, 1998 (Supp. 98-4).

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The Part headings in Article 10 were assigned Part numbers (Supp. 21-2).

Article 10, consisting of Sections R7-2-1001 through R7-2-1009, R7-2-1021 through R7-2-1032, R7-2-1035 through R7-2-1037, R7-2-1041 through R7-2-1050, R7-2-1053, R7-2-1056, R7-2-1057, R7-2-1061 through R7-2-1068, R7-2-1072 through R7-2-1086, R7-2-1091 through R7-2-1093, R7-2-1101 through R7-2-1105, R7-2-1111 through R7-2-1115, R7-2-1117 through R7-2-1123, R7-2-1125, R7-2-1131 through R7-2-1133, R7-2-1141 through R7-2-1153, R7-2-1155 through R7-2-1159, R7-2-1161 through R7-2-1171, R7-2-1181, R7-2-1182, R7-2-1184, and R7-2-1191 through R7-2-1195, adopted effective December 17, 1987.

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Article 12, consisting of Section R7-2-1201, repealed effective February 20, 1997 (Supp. 97-1).

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Article 13, consisting of Sections R7-2-1301 through R7-2-1307, adopted effective December 3, 1998 (Supp. 98-4).

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ARTICLE 1. STATE BOARD OF EDUCATION MEETINGS**R7-2-101. Governance****A. Officers**

1. The elective officers of the State Board of Education (Board) shall be a President and a Vice President.
2. The State Superintendent of Public Instruction shall serve as the Secretary and as the Executive Officer of the Board.
3. The President shall preside over all meetings of the Board, call meetings as herein provided and perform such other special duties as may be vested in him or her by the Board.
4. In the absence of the President, the Vice President shall preside over all meetings and shall perform such other special duties as may be vested in him or her by the Board.
5. The President shall appoint a nominating committee that will prepare a slate of candidates for presentation to the Board at the first regular meeting following January 1 of each year. Other candidates may be nominated from the floor. The two elected officers shall be elected by written ballot and shall serve for one year, or until their successors are elected.
6. If a vacancy occurs in the office of President, the Vice President shall immediately become the President. As soon as practicable, the Board shall elect a new Vice President.

B. Regular and special meetings

1. Unless otherwise agreed upon by a majority of the Board, meetings shall be held on the fourth Monday of each month.
2. The place of the meeting shall be designated by the President. In the absence of the President, the place of meeting shall be designated by the Vice President.

C. Public input to the Board

1. Requests for matters to be placed on the agenda.
 - a. When any person wishes to have a matter placed on the agenda, that person shall submit a written request to the President of the Board not less than 21 days prior to the Board meeting.
 - b. The President of the Board may choose not to place an item submitted by a person other than a Board member on the agenda.
2. Public comment on agenda items.
 - a. Any member of the public who wishes to address the Board regarding a matter on the agenda for Board action may submit a written request to be heard on forms provided by the Board.
 - b. The President of the Board or a majority of the Board may allot a reasonable time for members of the public to address the Board with respect to agenda items.

Historical Note

Former Section R7-2-101 repealed, new Section R7-2-101 adopted effective December 4, 1978 (Supp. 78-6). Amended effective February 27, 1980 (Supp. 80-1). Former Section R7-2-101 repealed, new Section R7-2-101 adopted effective June 17, 1985 (Supp. 85-3).

R7-2-102. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-103. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

ARTICLE 2. STATE BOARD OF EDUCATION COMMITTEES**R7-2-201. Advisory Committees**

- A.** The State Board of Education (Board) may create an advisory committee for the purpose of providing advice and recommendations as assigned by the Board. In this Section, unless the context otherwise requires, the following definitions shall apply:
1. "Ad Hoc Advisory Committee" means a committee, established by the Board, for a limited time and scope, for the purpose of providing advice and recommendations to the Board.
 2. "Executive Committee" means a committee, whose members consist of the President and Vice-President of the Board, established for the purpose of appointing ad hoc advisory committee members.
 3. "Standing Advisory Committee" means the Certification Advisory Committee, the Professional Practices Advisory Committee, or any other designated permanent committee, established by the Board, for the specific purpose of providing ongoing advice and recommendations as assigned by the Board.
- B.** Any advisory committee or similar body that has been created by either the Board or statute shall be appointed and conduct its business in accordance with this Section except as otherwise required by law.
- C.** The Board shall determine the structure, membership, and tasks of any standing advisory committee the Board has created.
- D.** The Board's Appointments Subcommittee, whose members are appointed by the President of the Board, shall review nominations submitted by the Board members for appointment to a standing advisory committee and shall provide a recommendation to the Board for consideration. A vacancy on a standing advisory committee shall be filled in the manner described in this Section.
- E.** The Board shall determine the structure and task of an ad hoc advisory committee it has created and may make suggestions as to members. The Executive Committee shall appoint the members of an ad hoc advisory committee. An ad hoc advisory committee shall exist for the time necessary to accomplish its assigned task or for one year from the date it is created, whichever is less. An ad hoc advisory committee may continue to function beyond a one-year period only with the express approval of the Executive Committee. A vacancy on an ad hoc advisory committee shall be filled in the manner prescribed by the Executive Committee.
- F.** The Board may in its discretion remove any member from and dissolve any standing advisory committee that the Board has created. The Executive Committee may in its discretion remove any member from and dissolve any ad hoc advisory committee that the Executive Committee has created.
- G.** An advisory committee shall not conduct a meeting of its members without prior acknowledgment from the Executive Director of the Board that the notice and agenda for the meeting have been approved by the President of the Board and posted and that there are sufficient funds to meet all expenses that would be incurred in connection with such meeting. An advisory committee member shall not obligate the payment of Board funds.

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- H. The meetings of a committee shall be held at the offices of the Board or any other facility for which no charges would be incurred for use of the facility.
- I. Activities of an advisory committee are limited to preparation of advice and recommendations to be presented to the Board for issues which relate directly to the task assigned by the Board.
- J. Advisory committees are not authorized the use of Board letterhead stationery without the express approval of the President of the Board and are not authorized the use of Department of Education letterhead stationery without the express approval of the Superintendent of Public Instruction.
- K. An advisory committee shall:
 1. Annually select from its members a chair and vice chair;
 2. Request information, assistance, or opinions from the Department of Education necessary to accomplish its task. An advisory committee shall convey any such request through the Department liaison designated pursuant to this Section.
- L. A quorum of an advisory committee shall be a majority of the voting members of the advisory committee. Voting members shall be only those members specifically appointed by the Board or Executive Committee. A quorum of an advisory committee is necessary to conduct its business. An affirmative vote of the majority of voting members present is necessary for an advisory committee to take action.
- M. The Superintendent shall designate an employee of the Department of Education to serve as a liaison to each advisory committee. The President of the Board may appoint a member of the Board to serve as an additional liaison to each advisory committee as the President deems appropriate.

Historical Note

Amended effective July 1, 1977 (Supp. 77-4). Former Section R7-2-201 repealed, new Section R7-2-201 adopted effective December 4, 1978 (Supp. 78-6).
 Amended effective February 25, 1987 (Supp. 87-1). Section repealed, new Section adopted effective March 18, 1994 (Supp. 94-1). Amended by final exempt rulemaking at 22 A.A.R. 2239, effective August 1, 2016 (Supp. 16-3).
 Amended by final exempt rulemaking at 25 A.A.R. 98, effective December 17, 2018 (Supp. 18-4). The word "rule" has been changed to "Section" to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-202. Repealed**Historical Note**

Former Section R7-2-202 repealed, new Section R7-2-202 adopted effective December 4, 1978 (Supp. 78-6).
 Former Section R7-2-202 repealed, new Section R7-2-202 adopted effective June 21, 1979 (Supp. 79-3).
 Amended effective June 12, 1989 (Supp. 89-2). Amended effective December 12, 1990 (90-4). Amended effective August 28, 1992 (Supp. 92-3). Repealed effective March 18, 1994 (Supp. 94-1).

R7-2-203. Repealed**Historical Note**

Former Section R7-2-203 repealed, new Section R7-2-203 adopted effective April 9, 1984 (Supp. 84-2).
 Amended subsections (A) and (B) effective December 30, 1988 (Supp. 88-4). Repealed effective February 20, 1997 (Supp. 97-1).

R7-2-204. Repealed**Historical Note**

Adopted effective December 4, 1978 (Supp. 78-6). Former Section R7-2-204 repealed, new Section R7-2-204 adopted effective December 31, 1984 (Supp. 84-6).
 Amended effective August 28, 1992 (Supp. 92-3).
 Repealed effective February 20, 1997 (Supp. 97-1).

R7-2-205. Professional Practices Advisory Committee

- A. Professional Practices Advisory Committees (Committees) shall act in an advisory capacity to the State Board of Education (Board) in regard to certification or recertification matters related to immoral conduct, unprofessional conduct, unfitness to teach, revocation, suspension, censure, or surrender of certificates, and matters related to immoral or unprofessional conduct, unfitness to teach and the discipline of noncertificated individuals.
- B. Committees shall each consist of nine members comprised of the following:
 1. One elementary classroom teacher,
 2. One secondary classroom teacher,
 3. One principal,
 4. One superintendent or assistant/associate superintendent,
 5. Three lay members, one lay member who shall be a parent of a student currently attending public school in Arizona,
 6. One local governing board member, and
 7. One charter school teacher, principal, or administrator.
- C. Members appointed under subsections (B)(1) through (4) shall meet at least the following requirements:
 1. Certified to teach in Arizona.
 2. Currently employed in or retired from the education profession in the specific category of their appointment.
- D. Terms of the members
 1. All regular terms shall be for four years except as set forth in subsection (E).
 2. A member may be reappointed with Board approval.
- E. The Board may remove any member from the Committee. All vacancies shall be filled as prescribed in subsections (C)(1) and (2), and those persons appointed to fill vacancies shall serve to complete the term of the person replaced.
- F. The Committee shall:
 1. Select from its members a Chairman and Vice-Chairman,
 2. A quorum shall be a majority of members of the Committee. A quorum is necessary to conduct business. An affirmative vote of the majority of the members present is needed to take action.
 3. Hold meetings as needed to conduct hearings or other Committee business by call of the Chairman of the Committee. If the Chairman neglects or declines to call a meeting, then a majority of the Committee may call a meeting. The Board may call a meeting as required to conduct necessary business. Notice of any meeting shall be given to Committee members seven days prior to the meeting.
 4. Recommend the removal of any member who is absent from three consecutive meetings.
 5. Refer to R7-2-1308 to assist in determining whether the acts complained of constitute unprofessional conduct.
 6. Conduct its business pursuant to R7-2-1301 et seq. and hearings pursuant to R7-2-701 et seq.

Historical Note

Adopted effective December 4, 1978 (Supp. 78-6). Former Section R7-2-205 repealed, new Section R7-2-205 adopted effective February 24, 1982 (Supp. 82-1). For-

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mer Section R7-2-205 repealed, new Section R7-2-205 adopted effective August 30, 1984 (Supp. 84-4).

Amended effective February 21, 1986 (Supp. 86-1). Amended subsections (H), (I), and (J) effective February 3, 1987 (Supp. 87-1). Amended effective December 15, 1989 (Supp. 89-4). Amended effective May 31, 1991 (Supp. 91-2). Amended effective April 9, 1993 (Supp. 93-2). Amended effective December 3, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by final exempt rulemaking at 21 A.A.R. 1775, effective May 20, 2013 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1). The word “rule” has been changed to “Section,” the words “above” and “below” have been removed to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-206. Certification Denial Appeals Process for Applications for Certification that Do Not Involve Allegations of Immoral or Unprofessional Conduct

A. Request for hearing. A person who has had an application for certification denied by the Department of Education pursuant to A.R.S. § 15-534.01(B) may file a written request for a hearing with the Board within 15 days after being served notice of the denial pursuant to subsection (C). Intermediate Saturdays, Sundays and legal holidays shall be included in the computation of the 15 days. If the final day of the 15 day deadline falls on a Saturday, Sunday or legal holiday, the next business day is the final day of the deadline. Applications for certification that involve allegations of immoral or unprofessional conduct shall be reviewed by the Professional Practices Advisory Committee pursuant to R7-2-205.

B. Notice of hearing

1. If an applicant requests a hearing to appeal the denial of an application for certification, a notice of hearing shall be given at least 20 days prior to the date set for the hearing.
2. The notice shall include:
 - a. A statement of the time, place and nature of the hearing.
 - b. A statement of the legal authority and jurisdiction under which the hearing is to be held.
 - c. A reference to the particular sections of the statutes and rules involved.
 - d. A short and plain statement of the matters asserted. If a party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application a more definite and detailed statement shall be furnished.

C. Service of documents; change of address notice requirement

1. Every notice or decision issued by the Board or the Department pertaining to the denial of an application for initial certification or renewal of a certificate shall be served by personal delivery, first class mail or certified mail, return receipt requested, to the applicant or certificated person's last address of record with the Department of Education or by any other method that is reasonably calculated to give actual notice to the applicant or the certificated person. A document is filed with the Board on the date it is received by the Board, as established by the

Board's date stamp on the face of the document. A document issued by the Board or the Department pursuant to this Section is served on a party as follows:

- a. On the date it is personally served.
 - b. Five days after it is mailed by first class mail.
 - c. On the date of the return receipt if it is mailed by certified mail.
2. Each applicant or certificated person shall inform the Department of Education and the Board of any change of address within 30 days of the change of address.

D. Hearing process

1. All hearings shall be conducted before the Board or a hearing officer pursuant to A.R.S. Title 41, Chapter 6, Article 6 and this Section.
2. Parties may participate in the hearing in person or through an attorney.
3. Upon request of either party, the hearing officer may schedule a prehearing conference. The purpose of a prehearing conference shall be to narrow issues, attempt settlement, address evidentiary issues or for any other purpose deemed necessary by the hearing officer.
4. Opportunity shall be afforded all parties to respond and present evidence and argument on the issues involved.
5. The Board may dispose of any certification appeal by decision or approved stipulation, agreed settlement, consent agreement or by default.
6. A hearing shall be recorded manually or by a recording device and shall be transcribed on request of any party, unless otherwise provided by law. The cost of such transcript shall be paid by the party making the request, unless otherwise provided by law or unless assessment of the cost is waived by the Board.
7. The hearing may be rescheduled, maintaining due regard for the interests of justice and the orderly and prompt conduct of the proceedings.
8. The record in an appeal of a certification denial shall include:
 - a. All pleadings, motions and interlocutory rulings;
 - b. Evidence received or considered;
 - c. A statement of matters officially noticed;
 - d. Objections and offers of proof and rulings thereon;
 - e. Proposed findings of fact and conclusions of law and exceptions thereto;
 - f. Any decision, opinion, recommendation or report of the hearing officer;
 - g. All staff memoranda, other than privileged communications, or data submitted to the hearing officer in connection with its consideration of the case.
9. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.
10. A hearing may be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. Neither the manner of conducting the hearing nor the failure to adhere to the rules of evidence required in judicial proceedings shall be grounds for reversing any administrative decision or order, providing the evidence supporting such decision or order is substantial, reliable, and probative. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. Every person who is a party to such proceedings shall have the right to be represented by counsel, to submit evidence in open hearing and shall have the right of cross-examination. Unless otherwise provided by law, hearings may be held at any place determined by the Board. At such hear-

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ing such applicant shall be the moving party and have the burden of proof.

11. Copies of documentary evidence may be received in the discretion of the hearing officer. Upon request, the parties shall be given an opportunity to compare the copy with the original.
12. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the specialized knowledge of the hearing officer. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed including any staff memoranda or data and they shall be afforded an opportunity to contest the material so noticed. The hearing officer's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

E. Subpoenas

1. The hearing officer may issue subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence on the hearing officer's own volition or at the request of a party.
2. A request for a hearing subpoena shall be in writing and served on each party at least seven days prior to the date set for hearing and shall state:
 - a. The name of the case, the case number, and the date, time and place where the witness is expected to appear and testify;
 - b. The name and address of the witness subpoenaed;
 - c. The documents, if any, sought to be provided; and
 - d. A brief statement of the relevance of the testimony or documents.
3. On application of a party or the agency and for use as evidence, the hearing officer may permit a deposition to be taken, in the manner and upon the terms designated by the hearing officer, of a witness who cannot be subpoenaed or is unable to attend the hearing.
4. The individual to whom a subpoena is directed shall comply with its provisions unless, prior to the date set for appearance, the hearing officer grants a written request to quash or modify the subpoena. The request shall state the reasons why it should be granted. The hearing officer shall grant or deny such request by order.
5. The hearing officer shall quash or modify the subpoena if:
 - a. It is unreasonable or oppressive; or
 - b. The desired testimony or evidence may be obtained by an alternative method.
6. The party requesting the subpoena shall prepare it and cause it to be served upon the individual to whom it is directed in the same manner as provided for service of subpoenas in civil matters before the superior court. The return of service shall be filed with the Board.

F. Conduct of hearing

1. The hearing officer may conduct all or part of the hearing by telephone or other electronic means, as long as each party has an opportunity to participate in the entire proceeding as it takes place.
2. Except for those hearings which may involve presentation of evidence protected by law as confidential, or which are otherwise closed pursuant to an express provision of law, all hearings are open to public observation.

3. Conduct at any hearing that is disruptive or shows contempt for the proceedings shall be grounds for exclusion from further participation or observation.

G. Evidence

1. All witnesses shall testify under oath or affirmation.
2. The hearing officer shall have the power to administer oaths and affirmations.
3. All parties shall have the right to present such oral or documentary evidence and to conduct such cross-examination as may be required for a full and fair disclosure of the facts.
4. The hearing officer shall receive evidence, rule upon offers of proof, and exclude evidence the hearing officer has determined to be irrelevant, immaterial, or unduly repetitious.
5. Unless otherwise ordered by the hearing officer, documentary evidence shall be limited in size when folded to 8 1/2 by 11 inches. The submitting party shall identify documentary exhibits by number or letter and party and furnish a copy of each exhibit to each party present. One additional copy shall be furnished to the hearing officer unless the hearing officer otherwise directs. When evidence offered by any party appears in a larger work, containing other information, the party shall plainly designate the portion offered. If the evidence offered is so voluminous as would unnecessarily encumber the record, the book, paper, or document shall not be received in evidence but may be marked for identification and, if properly authenticated, the designated portion may be read into or photocopied for the record. All documentary evidence offered shall be subject to appropriate and timely objection.

- H. Stipulations.** Parties to an appeal of a certification denial may stipulate, in writing, agreement upon any matter involved in the proceeding. If approved by the hearing officer, agreement on matters of procedure shall be binding upon the parties to the stipulation. The hearing officer may require presentation of evidence for proof of stipulated facts for the hearing officer's consideration. No substantive matter agreed to by the parties shall be binding upon the Board unless incorporated into the decision of the Board.

I. Recommendations

1. A recommended decision shall be prepared for the Board by the hearing officer and shall include findings of fact and conclusions of law, separately stated.
2. Parties shall be notified either personally or by mail to their last known address of any decision or order.
3. A recommended decision shall be delivered to the Board within 30 days after the close of the hearing unless the Board extends the period for good cause.

J. Decisions and orders

1. Any final decision or order adverse to a party shall be in writing or stated in the record.
2. When the Board is the hearing body, the decision shall be rendered within 60 days following the final day of the hearing.
3. Within 30 days after receipt of any recommended decision from the hearing officer, the Board shall render a decision to affirm, reverse, adopt, modify, supplement, amend or reject the recommendation and may remand the matter to the hearing officer with instructions, or may convene itself as the hearing body.

K. Rehearing and review of decisions

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1. After a hearing is held, a party in an appeal of a certification denial who is aggrieved by a decision rendered by the Board may file with the Board, not later than 30 days after such decision has been made, a written motion for rehearing specifying the particular grounds therefor. A motion for rehearing under this Section may be amended at any time before it is ruled upon by the Board. A response may be filed within 15 days after service of such motion by any other party. The Board may require the filing of written briefs on the issues raised in the motion or response and may provide for oral argument.
2. A rehearing of a decision by the Board may be granted for any of the following causes materially affecting the moving party's rights:
 - a. Irregularity in the administrative proceedings of the hearing body, or abuse of discretion, whereby the moving party was deprived of a fair hearing.
 - b. Misconduct of the hearing body or the prevailing party.
 - c. Accident or surprise which could not have been prevented by ordinary prudence.
 - d. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the hearing.
 - e. Excessive or insufficient penalties.
 - f. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing.
 - g. That the decision is not justified by the evidence or is contrary to the law.
3. The Board may affirm or modify the decision or grant a rehearing to all or any of the parties, on all or part of the issues, for any of the reasons set forth in subsection (K)(2). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.
4. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. The order granting such a rehearing shall specify the grounds therefor.
5. Not later than 20 days after a decision is rendered, the Board may, on its own initiative, order a rehearing of its decision for any reasons for which it might have granted a rehearing on motion of a party. The order granting such a rehearing shall specify the grounds therefor.
6. When a motion for rehearing is based upon affidavits they shall be served with the motion. An opposing party may, within 10 days after service of such motion, serve opposing affidavits and this period may be extended for an additional period not exceeding 20 days, by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.
7. After a hearing has been held and a final administrative decision has been entered, a party is not required to file a motion for rehearing or review of the decision in order to exhaust the party's administrative remedies.
8. Any party in an appeal of a certification denial who is aggrieved by a decision rendered by the Board may file with the Board, not later than 20 days after such decision has been made, a written request for review of the decision. If a review of the decision is granted, the Board may affirm or modify the previous decision.

Historical Note

Former Section R7-2-206 adopted effective December 4, 1978 (Supp. 78-6). Repealed effective February 24, 1982. See R7-2-205 adopted effective February 24, 1982 (Supp. 82-1). New Section R7-2-206 adopted effective August 9, 1989 (Supp. 89-3). Repealed effective March 18, 1994 (Supp. 94-1). New Section made by exempt rulemaking at 16 A.A.R. 156, effective December 7, 2009 (Supp. 09-4). Amended by final exempt rulemaking at 25 A.A.R. 98, effective December 17, 2018 (Supp. 18-4).

R7-2-207. Repealed**Historical Note**

Adopted effective August 9, 1989 (Supp. 89-3). Repealed effective March 18, 1994 (Supp. 94-1).

ARTICLE 3. CURRICULUM REQUIREMENTS AND SPECIAL PROGRAMS**R7-2-300. Adoption of Assessments**

As required in A.R.S. § 15-741, the Board shall adopt statewide assessments in order to measure pupil achievement of the state board adopted academic standards as follows:

1. In English language arts and mathematics, annually in grades three through eight and at least once in high school.
2. In science, once in grades three through five and grades six through eight and at least once in high school.
3. In other subjects and for other students, at the direction of the Board.

Historical Note

New Section made by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2). Amended by final exempt rulemaking at 27 A.A.R. 2342 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-301. Minimum Course of Study and Competency Goals for Students in the Common Schools

- A. Students shall demonstrate competency as defined by the State Board-adopted academic standards, at the grade levels specified, in the following required subject areas. District and charter school instructional programs shall include an ongoing assessment of student progress toward meeting the competency requirements. These shall include the successful completion of the academic standards in at least reading, writing, mathematics, science and social studies, as determined by district and/or statewide assessments.
 1. English language arts;
 2. Mathematics;
 3. Science;
 4. Social Studies; including:
 - a. Civics; and
 - b. Instruction on the Holocaust and other genocides at least once in either grade seven or grade eight;
 5. The Arts, which may consist of two or more of the following: visual arts, dance, theatre, music or media arts;
 6. Health/Physical Education, including mental health. Mental health instruction may be included as part of other subject areas and shall comply with A.R.S. § 15-701.02.
- B. The local governing board or charter school may prescribe course of study and competency requirements for promotion that are in addition to or higher than the course of study and competency requirements the State Board of Education prescribes. Additional subjects may be offered by the local gov-

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erning board or charter school as options and may include, but are not limited to:

1. Career and Technical Education,
 2. Computer Science,
 3. Educational Technology,
 4. World and Native Languages.
- C. Prior to the issuance of a standard certificate of promotion from the eighth grade, each student shall demonstrate competency, as defined by the local governing board, of the State Board of Education adopted academic standards for grade eight in the subject areas listed in subsections (A)(1) through (6).
- D. Special education and promotion from the eighth grade.
1. The charter school or local governing board of each school district shall be responsible for developing a course of study and graduation requirements for all students placed in special education programs in accordance with R7-2-401 et seq.
 2. Students placed in special education classes in grades K through eight are eligible to receive the standard certificate of promotion without meeting State Board of Education competency requirements.
- E. Online and distance education courses may be offered by the local governing board or charter school if the course is provided through an Arizona Online Instruction Program established pursuant to A.R.S. § 15-808.
- F. Alternative Demonstration of Competency. Upon request of the student, the local school district governing board or charter school shall provide the opportunity for a student in grades seven and eight to demonstrate competency in the subject areas listed in subsections (A)(1) through (6) in lieu of classroom time.

Historical Note

Former Section R7-2-301 repealed, new Section R7-2-301 adopted effective December 4, 1978 (Supp. 78-6). Amended subsections (A) and (B) effective May 4, 1982 (Supp. 82-3). Amended subsection (B) by adding subsection (10) effective July 26, 1982 (Supp. 82-4). Section repealed, new Section adopted effective April 12, 1993 (Supp. 93-2). Amended effective May 3, 1993 (Supp. 93-2). Amended by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013 (the making of subsection (F)); filed in the Office January 15, 2016, with historical note added for clarification as the Board adopted the same amendment June 23, 2014 (Supp. 16-2). Amended by final exempt rulemaking at 21 A.A.R. 1778, effective June 23, 2014; filed in the Office August 4, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2). Amended by final rulemaking at 24 A.A.R. 691, effective February 26, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 26 A.A.R. 2897, effective October 26, 2020 (Supp. 20-4). The hyphen between “K-8” has been changed to the word “through,” the numeral “8” has been changed to “eight,” the ordinal “8th” was corrected to “eighth” for consistency in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 2694 (November 19, 2021), effective October 25, 2021 (Supp. 21-4).

R7-2-301.01. Repealed**Historical Note**

R7-2-301(A), (B), and (C) repeated and numbered as R7-2-301.01(A), (B), and (C); R7-2-301(D) and (E) repeated

and numbered as R7-2-301.01(D) and (E) and amended; the text of R7-2-301.01 as amended is effective January 1, 1989 (Supp. 86-2). Complete text printed and historical note added (Supp. 89-3). Repealed effective April 12, 1993 (Supp. 93-2).

R7-2-301.02. Repealed**Historical Note**

Adopted effective March 26, 1990 (Supp. 90-1). Amended effective December 18, 1991; amended effective December 20, 1991 (Supp. 91-4). Repealed effective March 18, 1994 (Supp. 94-1).

R7-2-302. Minimum Course of Study and Competency Requirements for Graduation from High School

The Board prescribes the minimum course of study and competency requirements as outlined in subsections (1) through (5) and, through the graduating class of 2025, receipt of a passing score of 60 correct answers out of one hundred questions on a civics test identical to the civics portion of the naturalization test used by the United States Citizenship and Immigration Services as prescribed in A.R.S. § 15-701.01. Beginning with the graduating class of 2026, students shall obtain a passing score of at least 70 correct answers out of one hundred questions on a civics test identical to the civics portion of the naturalization test used by the United States Citizenship and Immigration Services prescribed in A.R.S. § 15-701.01.

1. Subject area course requirements. The Board establishes 22 credits as the minimum number of credits necessary for high school graduation. Students shall obtain credits for required subject areas as specified in subsections (1)(a) through (e) based on completion of subject area course requirements or competency requirements. At the discretion of the local school district governing board or charter school, credits may be awarded for completion of elective subjects specified in subsection (1)(f) based on completion of subject area course requirements or competency requirements. The awarding of a credit toward the completion of high school graduation requirements shall be based on successful completion of the subject area requirements prescribed by the State Board and local school district governing board or charter school as follows:
 - a. Four credits of English or English as a Second Language, which shall include but not be limited to the following: reading American and other world literature, reading informational text, writing, research methods, speaking and listening skills, grammar, and vocabulary.
 - b. Three credits in social studies to minimally include the following:
 - i. One credit of American history, including Arizona history;
 - ii. One credit of world history/geography, to include instruction on the Holocaust and other genocides;
 - iii. One-half credit of American government, including civics and Arizona government; and
 - iv. One-half credit in economics.
 - c. Four credits of mathematics to minimally include:
 - i. Three credits containing course content in preparation for proficiency at the high school level on the statewide assessment and aligned to the Arizona Mathematics Standards for Algebra I, Geometry, and Algebra II. These three credits shall be taken beginning with the

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- ninth grade unless a student meets these requirements prior to the ninth grade pursuant to subsection (1)(c)(iii). The requirement for the third credit covering Algebra II, may be met by, but is not limited to the following: a math course comparable to Algebra II course content; computer science, career and technical education and vocational education, economics, science and arts courses as determined by the local school district governing board or charter school.
- ii. A fourth credit that includes significant mathematics content as determined by the local school district governing board or charter school.
 - iii. Courses successfully completed prior to the ninth grade that meet the high school mathematics credit requirements may be applied toward satisfying those requirements.
 - iv. The mathematics requirements may be modified for students using a Personal Curriculum pursuant to R7-2-302.03.
- d. Three credits of science in preparation for proficiency at the high school level on the statewide assessment.
 - e. One credit of the Arts or career and technical education and vocational education.
 - f. Seven credits of additional courses prescribed by the local school district governing board or charter school.
 - i. Health instruction, regardless of the course it is provided in, shall include instruction on mental health;
 - ii. Mental health instruction may be included in other courses; and
 - iii. All mental health instruction shall comply with A.R.S. § 15-701.03.
 - g. A credit or partial credit may apply toward more than one subject area but shall count only as one credit or partial credit toward satisfying the 22 required credits.
2. Credits earned through correspondence courses to meet graduation requirements shall be taken from an accredited institution as defined in R7-2-601. Credits earned thereby shall be limited to four, and only one credit may be earned in each of the following subject areas:
 - a. English as described in subsection (1)(a) of this Section,
 - b. Social Studies,
 - c. Mathematics, and
 - d. Science.
 3. Online and distance education courses may be offered by the local governing board or charter school if the course is provided through an Arizona Online Instruction Program established pursuant to A.R.S. § 15-808.
 4. Local school district governing boards or charter schools may grant to career and technical education and vocational education program completers a maximum of 5 1/2 credits to be used toward the Board English, mathematics, science, and economics credit requirements for graduation, subject to the following restrictions:
 - a. The Board has approved the career and technical education and vocational education program for equivalent credit to be used toward the Board English, mathematics, science, and economics credit requirements for graduation.
 - b. A credit or partial credit may apply toward more than one subject area but shall count only as one credit or partial credit toward satisfying the 22 required credits.
 - c. A student who satisfies any part of the Board English, mathematics, science, and economics requirements through the completion of a career and technical education and vocational education program shall still be required to earn 22 total credits to meet the graduation requirements prescribed in this Section.
 5. Competency requirements.
 - a. The awarding of a credit toward the completion of high school graduation requirements shall be based on the requirements outlined in A.R.S. § 15-701.01 and the successful completion of State Board-adopted academic standards for subject areas listed in subsections (1)(a) through (1)(e) and the successful completion of the competency requirements for the elective subjects specified in subsection (1)(f). Competency requirements for elective subjects as specified in subsection (1)(f) shall be the academic standards adopted by the State Board. If there are no adopted academic standards for an elective subject, the local school district governing board or charter school shall be responsible for developing and adopting competency requirements for the successful completion of the elective subject. The school district governing board or charter school shall be responsible for developing and adopting the method and manner in which to administer a test that is identical to the civics portion of the naturalization test used by the United States Citizenship and Immigration Services. School districts and charter schools shall document and report student outcome data on the test pursuant to A.R.S. § 15-701.01 and based on procedures adopted by the Arizona Department of Education. Schools may administer the test to students beginning in the seventh grade and any pupil who does not obtain a passing score on the test may retake the test until the pupil obtains a passing score.
 - b. The determination and verification of student accomplishment and performance shall be the responsibility of the subject area teacher.
 - c. Upon request of the student, the local school district governing board or charter school shall provide the opportunity for the student to demonstrate competency in the subject areas listed in subsections (1)(a) through (1)(f) in lieu of classroom time. In appropriate courses, a school district governing board or charter school shall include as a mechanism to demonstrate competency a score determined by the State Board as college and career ready on the appropriate assessment adopted by the State Board pursuant to A.R.S. §§ 15-741 or 15-741.01.
 6. The local school district governing board or charter school shall be responsible for developing a course of study and graduation requirements for all students placed in special education programs in accordance with A.R.S. Title 15, Chapter 7, Article 4 and R7-2-401 et seq. Students placed in special education classes, through 12, are

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eligible to receive a high school diploma upon completion of graduation requirements.

Historical Note

Former Section R7-2-302 repealed, new Section R7-2-302 adopted effective December 4, 1978 (Supp. 78-6). Amended effective July 8, 1983 (Supp. 83-4). Amended subsections (1) and (5) effective January 1, 1987 (Supp. 84-3). See R7-2-302.01 and R7-2-302.02 for minimum credits for graduating classes of 1987 forward (Supp. 86-5). Repealed effective August 28, 1992; Inadvertently omitted from Supp. 92-3; corrected Supp. 93-4. Amended effective November 17, 1994 (Supp. 94-4). Repealed effective February 20, 1997 (Supp. 97-1). New Section adopted by final rulemaking at 7 A.A.R. 1255, effective February 20, 2001 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 3893, effective August 21, 2002 (Supp. 02-3). Amended by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; since the Board did not file the amendments until January 15, 2016, subsection (3)(a) through (b) was already repealed at the time of publishing the Section in Supp. 15-3; therefore, there is no record of the amendments in the Administrative Code; these amendments can be viewed at 21 A.A.R. 1778 (Supp. 16-2). Amended by final exempt rulemaking at 21 A.A.R. 1778, effective June 23, 2014; filed in the Office August 4, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 22 A.A.R. 197, effective October 26, 2015; filed in the Office January 15, 2016 (Supp. 16-3). Amended by final rulemaking at 24 A.A.R. 691, effective February 26, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 26 A.A.R. 2897, effective October 26, 2020 (Supp. 20-4). The word “sixty” has been changed to the numeral “60,” the hyphen between “9-12” was replaced with the word “through” and the numeral “9” has been changed to “nine,” the phrase “of this Section” was removed, and “one hundred” was changed to the numeral “100” to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 2694 (November 19, 2021), effective October 25, 2021 (Supp. 21-4). Amended by final exempt rulemaking at 29 A.A.R. 183 (January 13, 2023), effective December 9, 2022 (Supp. 22-4).

R7-2-302.01. Repealed**Historical Note**

Section R7-2-302 repeated and amended effective January 1, 1987, filed September 24, 1986 (Supp. 86-5). Amended as an emergency by adding a new subsection (B) effective May 3, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Filing date for January 1, 1987, amendments corrected to September 24, 1986 (Supp. 89-3). Emergency expired. Adopted as a permanent rule effective February 7, 1990 (Supp. 90-1). Repealed effective August 28, 1992; Inadvertently omitted from Supp. 92-3; corrected Supp. 93-4. New Section made by exempt rulemaking at 14 A.A.R. 195, effective December 10, 2007 (Supp. 08-1). Section repealed by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2).

R7-2-302.02. Repealed**Historical Note**

Adopted effective January 1, 1991, filed September 24, 1986 (Supp. 86-5). Amended effective May 9, 1988 (Supp. 88-2). Amended effective June 12, 1989 (Supp. 89-2). Amended effective March 26, 1990 (Supp. 90-1). Repealed effective March 18, 1994 (Supp. 94-1). New Section made by exempt rulemaking at 14 A.A.R. 195, effective December 10, 2007 (Supp. 08-1). Section repealed by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2).

R7-2-302.03. Personal Curriculum**A. Definitions.**

1. “Personal Curriculum” means a documented process that may be used to modify the high school graduation requirements for mathematics delineated in R7-2-302.02(1)(c). A student may use a personal curriculum to modify the Algebra II requirement delineated in R7-2-302.02(1)(c)(ii) and reduce the credit requirements for mathematics from four to three credits. A student who successfully completes the student’s personal curriculum meets the requirements for high school graduation.
2. “Development Team” means a team that develops a personal curriculum for a student and consists of the student, the parent or legal guardian of the student, and a school counselor or principal or their designee. A school principal may add additional members to the development team as the principal deems appropriate.

B. A student is eligible for a personal curriculum if the student meets the following criteria:

1. The student has successfully completed the mathematics requirements delineated in R7-2-302.02(1)(c)(i); and
2. Despite the student’s successful completion of the mathematics requirements delineated in R7-2-302.02(1)(c)(i), the development team determines that the student demonstrates a need to modify the requirement delineated in R7-2-302.02(1)(c)(ii) for Algebra II or its equivalent course content.

C. The requirements for a personal curriculum are as follows:

1. An eligible student may only modify the mathematics requirement delineated in R7-2-302.02(1)(c)(ii) for Algebra II or its equivalent course content;
2. In lieu of successfully completing Algebra II or its equivalent course content, an eligible student shall successfully complete at least one credit in mathematics that shall include significant mathematics content as determined by the local school district governing board or charter school; and
3. An eligible student shall successfully complete a course in mathematics in the student’s senior year.

D. The procedures for developing and implementing a personal curriculum are as follows:

1. The parent or legal guardian of a student, an emancipated student, or a student with permission from the student’s parent or legal guardian may request a personal curriculum in a manner prescribed by the local school district governing board or charter school.
2. Upon receipt of a request for a personal curriculum made pursuant to subsection (D)(1), the local school district or charter school shall verify that the student successfully completed the mathematics requirements delineated in R7-2-302.02(1)(c)(i) and, upon verification, shall convene a development team.
3. The development team shall:

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- a. Verify that the student demonstrates a need to modify the requirement delineated in R7-2-302.02(1)(c)(ii) for Algebra II or its equivalent course content,
 - b. Identify an appropriate alternative mathematics course or courses to modify the requirement for Algebra II or its equivalent course content,
 - c. Develop a written personal curriculum plan that includes the alternative mathematics course or courses identified in subsection (D)(3)(b) and a plan for monitoring student progress toward successfully completing the alternative mathematics course or courses. In developing the personal curriculum plan the development team shall consider how the proposed modifications maintain the integrity of the high school diploma and enable the student to achieve the student's post-secondary education and career goals.
4. The development team may modify the personal curriculum plan based upon the development team's evaluation of the student's progress.
- E. The Superintendent of Public Instruction shall monitor a school district or charter school if there is reason to believe that the school district or charter school is allowing modifications inconsistent with the requirements delineated in this Section.

Historical Note

Adopted effective November 1, 1989 (Supp. 89-4).
 Amended effective December 12, 1990 (Supp. 90-4).
 Repealed effective February 20, 1997 (Supp. 97-1). New
 Section made by exempt rulemaking at 14 A.A.R. 195,
 effective December 10, 2007 (Supp. 08-1).

R7-2-302.04. Repealed**Historical Note**

Adopted effective July 10, 1992 (Supp. 92-3). Amended
 effective May 3, 1993 (Supp. 93-2). Amended effective
 December 17, 1998 (Supp. 98-4). Section repealed by
 final exempt rulemaking at 22 A.A.R. 143, effective
 August 26, 2013; filed in the Office on January 15, 2016
 (Supp. 16-2).

R7-2-302.05. Arizona Education and Career Action Plan for Students in Grades nine through 12

- A. Effective for the graduation class of 2013, schools shall complete for every student in grades nine through 12 an Arizona Education and Career Action Plan ("ECAP") prior to graduation. Schools shall develop an Education and Career Action Plan in consultation with the student, the student's parent or guardian and the appropriate school personnel as designated by the school principal or chief administrative officer. Schools shall monitor, review and update each Education and Career Action Plan at least annually. Completion of an Education and Career Action Plan shall be verified by appropriate school personnel.
- B. An Arizona Education and Career Action Plan shall at a minimum allow students to enter, track and update the following information:
 1. Academic Goals that include identifying and planning the coursework necessary to achieve the high school graduation requirements and pursue postsecondary education and career options; analyzing assessment results to determine progress and identify needs for intervention and advisement; and documenting academic achievement;

2. Career Goals that include identifying career plans, options, interests and skills; exploring entry level opportunities; and evaluating educational requirements;
3. Postsecondary Education Goals that include identifying progress toward meeting admission requirements, completing application forms and creating financial assistance plans; and
4. Extracurricular Activity Goals that include documenting participation in clubs, organizations, athletics, fine arts, community service, recreational activities, volunteer activities, work-related activities, leadership opportunities, and other activities.

Historical Note

New Section made by exempt rulemaking at 12 A.A.R. 876, effective August 22, 2005 (Supp. 06-1). Section R7-2-302.05 renumbered to R7-2-302.06; new Section R7-2-302.05 made by final exempt rulemaking at 22 A.A.R. 111, effective February 25, 2008; filed in the Office January 6, 2016 (Supp. 16-1). The hyphen between "9-12" has been changed to the word "through" and the numeral 9 has been changed to "nine," to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-302.06. Repealed**Historical Note**

New Section made by exempt rulemaking at 12 A.A.R. 876, effective August 22, 2005 (Supp. 06-1). Amended by exempt rulemaking at 15 A.A.R. 1570, effective September 25, 2006 (Supp. 09-1). Amended by exempt rulemaking at 16 A.A.R. 2031, effective August 25, 2008 (Supp. 09-2). Amended by exempt rulemaking at 15 A.A.R. 1602, effective August 24, 2009 (Supp. 09-3). Section R7-2-302.06 renumbered to R7-2-302.07; new Section R7-2-302.06 renumbered from Section R7-2-302.05 by final exempt rulemaking at 22 A.A.R. 111, effective February 25, 2008; filed in the Office January 6, 2016 (Supp. 16-1). Section repealed by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2).

R7-2-302.07. Repealed**Historical Note**

New Section made by exempt rulemaking at 15 A.A.R. 1602, effective August 24, 2009 (Supp. 09-3). Section R7-2-302.07 renumbered to R7-2-302.08; new Section R7-2-302.07 renumbered from Section R7-2-302.06 by final exempt rulemaking at 22 A.A.R. 111, effective February 25, 2008; filed in the Office January 6, 2016 (Supp. 16-1). Section repealed by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2).

R7-2-302.08. Repealed**Historical Note**

New Section made by exempt rulemaking at 15 A.A.R. 1602, effective August 24, 2009 (Supp. 09-3). Section R7-2-302.08 renumbered to R7-2-302.09; new Section R7-2-302.08 renumbered from Section R7-2-302.07 by final exempt rulemaking at 22 A.A.R. 111, effective February 25, 2008; filed in the Office January 6, 2016 (Supp. 16-1). Section repealed by final exempt rulemaking at 22

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A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2).

R7-2-302.09 Repealed**Historical Note**

New Section made by exempt rulemaking at 15 A.A.R. 1602, effective August 24, 2009 (Supp. 09-3). R7-2-302.09 renumbered to R7-2-302.10; new Section R7-2-302.09 renumbered from Section R7-2-302.08 by final exempt rulemaking at 22 A.A.R. 111, effective February 25, 2008; filed in the Office January 6, 2016 (Supp. 16-1). Section repealed by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2).

R7-2-302.10. Repealed**Historical Note**

New Section R7-2-302.10 renumbered from Section R7-2-302.09 by final exempt rulemaking at 22 A.A.R. 111, effective February 25, 2008; filed in the Office January 6, 2016 (Supp. 16-1). Section amended by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2). Repealed by final exempt rulemaking at 22 A.A.R. 197, effective October 26, 2015; filed in the Office January 15, 2016 (Supp. 16-3).

R7-2-302.11. Minimum Course of Study and Competency Requirements During Public Health Emergency in the 2019-2020 School Year

- A. Notwithstanding any other rule, local education agencies shall not refuse to withhold academic credit or a diploma from a student solely because the student missed instructional time due to a school closure issued by the governor.
- B. Local education agencies may issue academic credit and a diploma to a student if the student meets competency requirements pursuant to Article 3. When determining if a student meets competency requirements in a school year during which the governor issues a school closure, local education agencies may consider the educational opportunities provided to the student during the school closure. Educational opportunities, as determined by the local education agency, may include, but are not limited to the following:
 - 1. Independent study provided online or through printed materials; and
 - 2. Online instruction.
- C. If a local education agency is unable to consider or unable to provide the educational opportunities pursuant to subsection (B), the local education agency may award academic credit or a diploma if the student was on track to earn the academic credit or diploma prior to the school closure. Evidence that a student was on track to earn academic credit or a diploma, as determined by the local education agency, may include, but is not limited to, passing grades issued by the student's teacher or passing scores on locally or nationally administered assessments. It is the intent of the Board that all schools attempt, to the extent possible, to provide educational opportunities to students during a school closure issued by the governor.
- D. Local education agencies that issue academic credit and a diploma to a student pursuant to subsections (B) and (C) shall issue transcripts and diplomas to students in the same manner as the local education agency would for students that did not miss instructional time due to a school closure caused issued by the governor.

- E. This Section applies only to the 2019-2020 school year and the graduating class of 2020.

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 966, effective March 31, 2020 (Supp. 19-2).

R7-2-303. Sex Education

- A. Instruction in sex education in the public schools of Arizona, including instruction provided after hours, shall be offered only in conformity with the following requirements. Nothing in this Section shall be construed to require a school district or charter school provide sex education instruction to pupils.
 - 1. Common schools: Nature of instruction; approval; format.
 - a. Supplemental/elective nature of instruction. The common schools of Arizona may provide a specific elective lesson or lessons concerning sex education as a supplement to the health course of study.
 - i. This supplement may only be taken by the student at the written request of the student's parent or guardian. When the school district or charter school seeks consent pursuant to this subsection, the school district or charter school shall inform the parent or guardian of their right to review the instructional materials and activities.
 - ii. Alternative elective lessons from the state-adopted optional subjects shall be provided for students who do not enroll in elective sex education.
 - iii. School districts and charter schools may not provide sex education lessons or instruction before grade five.
 - iv. Elective sex education lessons shall not exceed the equivalent of one class period per day for 1/4 of the school year for grades five through eight.
 - b. Local governing board approval. All elective sex education lessons to be offered shall first be approved by the local governing board.
 - i. Each local governing board contemplating the offering of elective sex education shall establish an advisory committee with membership representative of district size and the racial and ethnic composition of the community to assist in the development of lessons and advise the local governing board on an ongoing basis. All meetings of committees that are authorized for the purposes of reviewing and selecting the sex education course of study shall be publicly noticed at least two weeks before occurring and be open to the public according to A.R.S. Title 38, Chapter 3, Article 3.1.
 - ii. The local governing board shall review the total instructional materials and approve all lessons and curricula in the course of study to be offered in sex education.
 - iii. The local governing board shall make any proposed sex education course of study available and accessible for review and public comment for at least 60 days before the governing board or governing body decides whether to approve that course of study. The local governing board shall publicize and hold at least two public

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- hearings within the 60-day period for the purpose of receiving public input at least one week prior to the local governing board meeting at which the elective sex education lessons will be considered for approval. Public input may include written comments, oral comments and comments submitted electronically.
- iv. The local governing board shall maintain for viewing by the public, both online and in-person according to A.R.S. § 15-102(A)(2), the total instructional materials to be used in approved elective sex education lessons within the school district or charter school at least two weeks before any instruction is offered.
 - c. Format of instruction.
 - i. Lessons shall be taught to boys and girls separately.
 - ii. Lessons shall be ungraded, require no homework, and any evaluation administered for the purpose of self-analysis shall not be retained or recorded by the school or the teacher in any form.
 - iii. Lessons shall not include tests, psychological inventories, surveys, or examinations containing any questions about the student's or the student's parents' personal beliefs or practices in sex, family life, morality, values or religion.
 2. High schools: Course offering; approval; format.
 - a. A course in sex education may be provided in the high schools of Arizona.
 - b. This course may only be taken by the student at the written request of the student's parent or guardian.
 - c. Alternative elective lessons from the state-adopted optional subjects shall be provided for students who do not enroll in elective sex education.
 - d. All meetings of committees that are authorized for the purposes of reviewing and selecting the sex education course of study shall be publicly noticed at least two weeks before occurring and be open to the public according to A.R.S. Title 38, Chapter 3, Article 3.1.
 - e. The local governing board shall review the total instructional materials and approve all lessons and curricula in the course of study to be offered in sex education.
 - f. The local governing board shall make any proposed sex education course of study available and accessible for review and public comment for at least sixty days before the governing board or governing body decides whether to approve that course of study. The local governing board shall publicize and hold at least two public hearings within the sixty-day period for the purpose of receiving public input at least one week prior to the local governing board meeting at which the elective sex education lessons will be considered for approval. Public input may include written comments, oral comments and comments submitted electronically.
 - g. Lessons shall not include tests, psychological inventories, surveys, or examinations containing any questions about the student's or the student's parents' personal beliefs or practices in sex, family life, morality, values or religion.
 - h. Local governing boards shall maintain for viewing by the public, both online and in-person according to A.R.S. § 15-102(A)(2), the total instructional materials to be used in all sex education courses to be offered in high schools within the school district or charter school at least two weeks before any instruction is offered.
 3. Content of instruction: Common schools and high schools.
 - a. All sex education materials and instruction shall be age appropriate, recognize the needs of exceptional students, meet the needs of the district, recognize local community standards and sensitivities, shall not include the teaching of abnormal, deviate, or unusual sexual acts and practices, and shall include the following:
 - i. Emphasis upon the power of individuals to control their own personal behavior. Pupils shall be encouraged to base their actions on reasoning, self-discipline, sense of responsibility, self-control and ethical considerations such as respect for self and others; and
 - ii. Instruction on how to say "no" to unwanted sexual advances and to resist negative peer pressure. Pupils shall be taught that it is wrong to take advantage of, or to exploit, another person.
 - b. All sex education materials and instruction which discuss sexual intercourse shall:
 - i. Stress that pupils should abstain from sexual intercourse until they are mature adults;
 - ii. Emphasize that abstinence from sexual intercourse is the only method for avoiding pregnancy that is 100 percent effective;
 - iii. Stress that sexually transmitted diseases have severe consequences and constitute a serious and widespread public health problem;
 - iv. Include a discussion of the possible emotional and psychological consequences of preadolescent and adolescent sexual intercourse and the consequences of preadolescent and adolescent pregnancy;
 - v. Advise pupils of Arizona law pertaining to the financial responsibilities of parenting, and legal liabilities related to sexual intercourse with a minor.
 - B. Certification of compliance. All districts and charter schools offering a local governing board-approved sex education course or lesson shall certify, under the notarized signature of both the president of the local governing board and the chief administrator of the school district or charter school, compliance with this Section except as specified in subsection (C). Acknowledgment of receipt of the compliance certification from the State Board of Education is required as a prerequisite to the initiation of instruction. Certification of compliance shall be in a format and with such particulars as shall be specified by the Department of Education.
 - C. School districts and charter schools shall make any existing sex education course of study available and accessible for review both online and in person by June 30, 2021.

Historical Note

Former Section R7-2-303 repealed, new Section R7-2-303 adopted effective December 4, 1978 (Supp. 78-6).
 Former Section R7-2-303 repealed, new Section R7-2-

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303 adopted effective June 12, 1989 (Supp. 89-2). Amended by final exempt rulemaking at 25 A.A.R. 1551, effective May 20, 2019 (Supp. 19-2). The hyphens between grades in this Section have been replaced with the word “through,” the word “rule” was corrected to “Section,” the numeral “4” was corrected to “four,” the numeral “5” was corrected to “five,” and the numeral “8” was corrected to “eight” to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 1107, effective June 28, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 27 A.A.R. 2340 (October 22, 2021) effective September 27, 2021 (Supp. 21-4).

R7-2-304. Extended School Year

The governing board of a common high school considering the adoption of an extended school year shall:

1. Prepare a comparative cost analysis of the extended school year program versus the cost of new facilities and sites.
2. Hold at least one public hearing, publicized a week in advance, to present the alternatives, including the results of the comparative cost analysis.
3. Determine faculty, community, and parental support prior to making a final determination.

Historical Note

Former Section R7-2-304 repealed, new Section R7-2-304 adopted effective December 4, 1978 (Supp. 78-6). The Section heading has been updated to title case to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-305. Declaration of Independence

The governing board of each common school district shall adopt policies that:

1. Require pupils to recite the following passage from the Declaration of Independence for pupils in grades four through six at the commencement of the first class of the day in the schools: “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.”; and
2. Enable the pupil or the parent or legal guardian of the pupil to object to reciting the passage of the Declaration of Independence, and that specify that a pupil shall not be required to participate if the pupil or the pupil’s parent or guardian objects.

Historical Note

Repealed effective December 4, 1978 (Supp. 78-6). Adopted effective February 15, 1979 (Supp. 79-1). Repealed effective February 20, 1997 (Supp. 97-1). New Section made by final rulemaking at 7 A.A.R. 5363, effective November 7, 2001 (Supp. 01-4). The numeral “4” was corrected to “four,” the numeral “6” was corrected to “six” to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-306. English Language Learner Programs

A. Definitions. All terms defined in A.R.S. § 15-751 are applicable, with the following additions:

1. “Statewide assessment” means the test prescribed by A.R.S. § 15-741 or an assessment approved by the Board

pursuant to A.R.S. § 15-741.02 to administer to students instead of the statewide assessment.

2. “Arizona Academic Standards” means the standards adopted by the State Board of Education pursuant to A.R.S. §§ 15-203, 15-701, and 15-701.01.
3. “Board” means the State Board of Education.
4. “Compensatory instruction” means instruction given in addition to regular classroom instruction, such as individual or small group instruction, extended day classes, summer school or intersession school.
5. “Department” means the Department of Education.
6. “EL” means English learner.
7. “FEP” means fluent English language proficient, a student who has met the requirements for exit from an English language learner program.
8. “Federal EL grant monies” means federal grants or funds awarded to an LEA to educate ELs or to improve the LEA’s capacity to educate ELs, including but not limited to grants awarded under Title III of the Every Student Succeeds Act of 2015.
9. “IEP” means individualized education program, a written statement specifying special education services to be provided to a child with a disability.
10. “LEA” means local education agency, the school district or charter school that provides educational services.
11. “PHLOTE” means primary or home language other than English.
12. “Reassessment for reclassification” means the process of determining whether an English language learner may be reclassified as fluent English proficient (FEP).
13. “Superintendent” means the State Superintendent of Public Instruction.
14. “WICP” means written individualized compensatory plan that documents the scope and type of services provided to an EL to overcome the identified language and academic deficiencies.

B. Identification of students to be assessed.

1. The primary or home language of all students shall be identified by the students’ parent or legal guardian on the home language survey. These documents shall inform parents that the responses to these questions will determine whether their student will be assessed for English language proficiency.
2. A student shall be considered as a PHLOTE student if the home language survey indicates that one or more of the following are true:
 - a. The primary language used in the home is a language other than English, regardless of the language spoken by the student.
 - b. The language most often spoken by the student is a language other than English.
 - c. The student’s first acquired language is a language other than English.
3. The English language proficiency of all PHLOTE students shall be assessed as provided in subsection (C).

C. English language proficiency assessment.

1. PHLOTE students in kindergarten shall be administered an English language proficiency test. Students in grades one through 12 shall be administered an English language proficiency test. Students who score below the designated score for fluent English language proficiency, adopted by the Department and based on the test publishers’ designated scores, shall be classified as ELs.

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2. English language proficiency assessments shall be conducted by individuals who are proficient in English and trained in language proficiency testing to administer and, when applicable, score the tests.
 3. The LEA shall assess the English language proficiency of all new PHLOTE students as prescribed above within 60 days of the beginning of the school year or within 30 school days of a student's enrollment in school, whichever is later, unless the LEA receives funds under Title III of the Every Student Succeeds Act of 2015 or another federal grant that requires assessment and parental notification within 30 calendar days from the start of the school year or within two calendar weeks of a student enrolling at a school.
- D.** Screening and assessment of students in gifted education. ELs who meet the qualifications for placement in a gifted educational program shall receive programmatic services designed to develop their specific areas of potential and academic ability and may be concurrently enrolled in gifted programs and English language learner programs.
- E.** English language learner programs.
1. All ELs shall be provided daily instruction in English language development appropriate to their level of English language proficiency and consistent with A.R.S. §§ 15-751, 15-752, and, as applicable, § 15-753. The English language instruction shall include listening and speaking skills, reading and writing skills, and cognitive and academic development in English.
 2. ELs shall be provided daily instruction in subject areas required under the minimum course of study adopted by the Board pursuant to R7-2-301 and R7-2-302 that is understandable and appropriate to the level of academic achievement of the EL and is in conformity with accepted strategies for teaching ELs. This subsection does not require an LEA to provide daily instruction in every subject area required pursuant to R7-2-301 and R7-2-302 if those subject areas are not provided daily to English proficient students.
 3. The curriculum of all English language learner programs shall incorporate the Academic Standards adopted by the Board and shall be comparable in amount, scope and quality to that provided to English language proficient students.
 4. ELs who are not progressing toward achieving proficiency of the Arizona Academic Standards adopted by the Board, as evidenced by the failure to improve scores on the statewide assessment, shall be provided compensatory instruction to assist them in achieving those Arizona Academic Standards. A WICP describing the compensatory instruction provided shall be kept in the student's academic file.
 5. On request of a parent or legal guardian of an EL the principal of the EL's school shall require a meeting with the principal or principal's designee, the parent or legal guardian and the classroom teacher to review the student's progress in achieving proficiency in the English language or in making progress toward the Arizona Academic Standards adopted by the Board, to identify any problems, to determine appropriate solutions and to identify the person or persons responsible for implementing the changes and determining their effectiveness.
- F.** Reassessment for reclassification.
1. The purpose of reassessment is to determine if an EL has developed the English language skills necessary to succeed in the English language curricula.
 2. An EL in grades one through 12 may be reassessed for reclassification during test windows established by the Department if the mid-year test requirements are met, but shall be reassessed for reclassification at least once per year. ELs that score at or above the designated score for fluent English language proficiency, adopted by the Department and based on the test publishers' designated scores, shall be reclassified as FEP.
 3. LEAs shall notify the parents or legal guardians in writing that their child has been reclassified as FEP when the student meets the criteria for such reclassification.
- G.** Evaluation of FEP students after exit from EL programs.
1. The LEA shall monitor exited students based on the criteria provided in this Section during each of the two years after being reclassified as FEP to determine whether these students are performing satisfactorily in achieving the Arizona Academic Standards adopted by the Board. Such students will be monitored in reading, writing and mathematics skills and mastery of academic content areas, including science and social studies. The criteria shall be grade-appropriate and uniform throughout the LEA, and upon request, is subject to Board review. Students who are not making satisfactory progress shall, with parent consent, be provided compensatory instruction or shall be re-enrolled in an EL program. A WICP describing the compensatory instruction provided shall be maintained in the students' EL files.
 2. The LEA shall use statewide assessment scores to determine progress toward achieving the Arizona Academic Standards in monitoring FEP students after exit from an EL program unless no score is available. Performing satisfactorily will be measured by whether a student meets or exceeds the state standards in reading, writing, and mathematics as measured by the statewide assessment.
 3. If a statewide assessment score is not available because the test is not administered in the students' grade or to assess progress in academic subjects not assessed by the statewide assessment, the LEA shall use one or more of the following criteria in its evaluation to determine progress toward achieving the Arizona Academic Standards in monitoring FEP students after exit from an EL program:
 - a. LEA-developed criterion-referenced tests of academic achievement that demonstrate alignment to the Arizona Academic Standards; or
 - b. Standardized tests measuring academic achievement that demonstrate alignment to the Arizona Academic Standards; or
 - c. Nationally norm-referenced test scores; or
 - d. Teacher recommendations based on classroom assessments that demonstrate alignment to the Arizona Academic Standards.
- H.** Monitoring of EL programs.
1. Each year the Department shall monitor at least 32 LEAs, as follows:
 - a. At least 12 of the 50 LEAs with the highest EL enrollment;
 - b. At least 10 LEAs with ELs that are not included in the 50 described above;
 - c. At least 10 LEAs that have reported that they have 25 or fewer EL students in their schools; and

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- d. Other LEAs upon receipt of a documented written complaint from any Arizona resident, the U.S. Department of Education, or the U.S. Office for Civil Rights, alleging that the LEA is not complying with state or federal law regarding ELs.
 2. All of the 50 LEAs in subsection (H)(1)(a) shall be monitored by the Department at least once every four years.
 3. The monitoring shall be on-site monitoring and shall include classroom observations, curriculum reviews, faculty interviews, student records reviews, and review of EL programs. The Department may use personnel from other schools to assist in the monitoring.
 4. The Department shall issue a report on the results of its monitoring within 45 days after completing the monitoring. If the Department determines that an LEA is not complying with state or federal laws applicable to EL students, the LEA shall prepare and submit to the Department, within 60 days of the Department's determination, a corrective action plan that sets forth steps that the LEA will take to correct the deficiencies noted in the report.
 5. The Department shall review and return such corrective action plan to the LEA within 30 days, noting any required changes. No later than 30 days after receiving its corrective action plan back from the Department, the LEA shall begin implementing the measures set forth in the plan, including any revisions required by the Department.
 6. The Department shall conduct a follow-up evaluation of the LEA within one year after returning the corrective action plan to the LEA.
 7. If the Department finds continued non-compliance during the follow-up evaluation, the LEA shall be referred to the Board for a determination of non-compliance. If the Board determines the LEA to be out of compliance with state or federal laws applicable to EL students, it may take one or more of the following actions:
 - a. Temporarily withhold cash payments of federal EL grant monies;
 - b. Disallow (that is deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance;
 - c. Wholly or partly suspend or terminate the current award of federal EL grant monies;
 - d. Withhold further awards of federal EL grant monies for the program.
 8. The Department shall monitor all LEAs that the Board has determined to be non-compliant and which have had federal EL grant monies withheld or terminated to ensure that such LEAs do not reduce the amount of funds spent on their EL programs as the result of its loss of funds.
- A. For the purposes of this Section, the following definitions shall apply:
 1. "DANTES" means the Defense Activity for Non-Traditional Education Support.
 2. "Department" means the Adult Education Services Division of the Arizona Department of Education.
 3. "Equivalency Test" means a High School Equivalency Test approved by the State Board of Education.
 4. "High School Equivalency Testing Center" means a testing center established by the Department for the purpose of administering High School Equivalency tests and providing High School Equivalency testing services pursuant to the requirements established by a State Board approved testing provider and state jurisdictional rules.
 5. "USAFI" means the United States Armed Forces Institute.
 - B. Eligibility requirements. Any individual who is 16 years of age or older and who has officially been withdrawn from school may take a High School Equivalency Test.
 1. Individuals shall be required to provide the High School Equivalency Testing Center with positive identification and proof of age, and
 2. Individuals who are at least 16 years of age and under 18 years of age shall also be required to provide:
 - a. A signed and notarized statement of consent from a parent or legal guardian, and
 - b. A letter from the last school attended verifying that the individual has officially withdrawn from the school.
 - C. Issuance of a diploma. The Department shall issue a high school equivalency diploma to any individual who has not received a high school diploma or high school equivalency certificate or diploma if the individual:
 1. Meets the eligibility requirements specified in subsection (B) and has received passing scores on a High School Equivalency Test; or
 2. Is a member of the U.S. Armed Forces and has received passing scores on a High School Equivalency Test through USAFI or DANTES provided that the individual's last high school enrollment was in an Arizona high school. Individuals who have taken a High School Equivalency Test through USAFI or DANTES shall send their military permanent record and application card to DANTES with a request that the official High School Equivalency Test scores and application card be forwarded to the Department; or
 3. Has received passing scores on a High School Equivalency Test taken at an approved testing provider's site, provided that the Department receives an official transcript directly from the approved testing provider.
 - D. The Department shall keep a record of test scores for each individual who has taken a High School Equivalency Test.
 - E. The Arizona Department of Education may collect fees for the issuance of High School Equivalency Diplomas and Transcripts. Fees established pursuant to this Section shall not exceed \$20.
 1. The State Board of Education will deposit, pursuant to A.R.S. §§ 35-146 and 35-147, fees collected under this Section in the High School Equivalency Testing Revenue Account within the Arizona Department of Education budget, to be used to offset costs of providing these services.

Historical Note

Repealed effective December 4, 1978 (Supp. 78-6). New Section R7-2-306 adopted effective July 10, 1979 (Supp. 79-4). Amended effective August 20, 1981 (Supp. 81-4). Former Section R7-2-306 repealed, new Section R7-2-306 adopted effective November 14, 1984 (Supp. 84-6). Amended by final rulemaking at 10 A.A.R. 353, effective March 8, 2004 (Supp. 04-1). Amended by final exempt rulemaking at 26 A.A.R. 66, effective December 13, 2019 (Supp. 19-4). The word "twelve" was changed to the numeral "12" for consistency in Chapter style and format (Supp. 21-2).

R7-2-307. High School Equivalency Diplomas

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2. If the state fee for General High School Equivalency Diplomas and/or Transcripts presents a financial hardship for the examinee, the examinee may request a fee waiver.
3. A fee waiver shall be granted if all of the following apply:
 - a. Applicant presents documented proof of Arizona residency.
 - b. Applicant submits a completed Fee Waiver Request Form, available from the State High School Equivalency Testing Office or from any official High School Equivalency Testing Center.
 - c. Applicant demonstrates sufficient need for a fee waiver. This may include, but is not limited to the following:
 - i. Proof of eligibility for public assistance and/or federally subsidized housing,
 - ii. Residence in a foster home,
 - iii. Enrollment in a program for the economically disadvantaged such as Upward Bound, or
 - iv. Participation in a free or reduced lunch program.
3. Applications shall include budgets and be submitted according to the standard procurement and grants management policies of the Department of Education for the awarding of competitive grants.
- C. Board priorities and criteria for application approval
 1. Priority shall be given to projects funded during the previous fiscal year which:
 - a. Adhered to all applicable state and federal rules and regulations.
 - b. Operated in an efficient and effective manner demonstrating high levels of student educational gains as measured by standardized assessments and student retention as compared with the state average for these projects.
 - c. Completed and submitted all required state and federal reports.
 - d. Utilized volunteers where possible.
 2. Equal opportunity for project application approval will be given to eligible applicants who demonstrate previous comparable experience and performance in another adult literacy program.
 3. Criteria for approval shall include a determination by the project review committee that the application meets state and federal rules and regulations and the policies and procedures contained in the Arizona State Plan for Adult Education.

Historical Note

Adopted effective August 20, 1981 (Supp. 81-4). Amended subsections (A), (C), and (G) effective October 2, 1984 (Supp. 84-5). Amended effective December 22, 1997 (Supp. 97-4). Amended effective December 31, 1998 (Supp. 98-4). Amended by exempt rulemaking at 18 A.A.R. 1023, effective October 24, 2011 (Supp. 12-2). Amended by final exempt rulemaking at 21 A.A.R. 1781, effective September 23, 2013 (Supp. 15-3). The word "rule" has been changed to "Section" to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-308. Adult Education

- A. For the purposes of this Section the following definitions apply:
 1. "Adult Basic Education" (ABE) means instruction in reading, writing and math equivalent to grades one through eight, speaking and citizenship skills.
 2. "Adult Secondary Education" (ASE) means instruction in reading, writing, math, science and social studies equivalent to the completion of high school.
 3. "Eligible applicants" may include local educational agencies, community based organizations, volunteer literacy organizations, institutions of higher education, public or private nonprofit organizations, institutions of higher education, public or private nonprofit agencies, libraries, public housing authorities, and consortiums of any of the aforementioned entities.
 4. "English Language Acquisition for Adults" (ELAA) means a program of instruction designed to help individuals of limited English proficiency achieve competency in the English language, including reading, writing, listening and speaking.
 5. "Literacy" means an individual's ability to read, write and speak in English, compute and solve problems at levels of proficiency necessary to function on the job, in the family and in society.
 6. "Project" means the approved and funded application which is administered by the eligible applicant.
- B. Application for funding
 1. Only eligible applicants may apply for funding.
 2. Contracts shall be awarded through a competitive funding process.
- D. Use of funds and student reporting
 1. Federal and state funds shall not be co-mingled.
 2. Projects shall not assess students a tuition charge for instruction or fees for books, instructional supplies, or materials used in the program.
 3. Student attendance hours reported to the Adult Education Division shall not be used in securing financing from any other source. Classes taught by volunteers are not to be reported unless they are administered and supervised by the local project.
- E. An adult education certificate issued by the Board shall be required to teach in the Adult Education Program.
- F. Students enrolled in adult education classes must be at least 16 years of age and officially withdrawn from school.
- G. Course of study
 1. Adult Basic Education (A.B.E.) students shall be functioning academically below the eighth grade level. The sequential course of study shall:
 - a. Develop and improve communication and computational skills of students.
 - b. Raise the general educational level of students.
 - c. Improve the student's ability to benefit from occupational training.
 - d. Increase opportunities for more productive and profitable employment.
 - e. Assist students to be better able to meet their adult responsibilities as parents, citizens and as co-workers.
 2. Adult Secondary Education (A.S.E.) students shall be functioning below the 12th grade level. The course of study shall:
 - a. Give the students a foundation in the areas of English, social studies, literature, science and math.
 - b. Enable students, through the development of critical thinking, to utilize new learning experiences in recognizing, evaluating and solving problems of daily life.

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- c. Attempt to motivate students to continue their education through more advanced study and to become more proficient in observing and adopting new skills in a changing society.
 - d. Equip students with the knowledge prerequisite for satisfactory achievement on a High School Equivalency Test approved by the State Board of Education.
3. English Language Acquisition for Adults (ELAA) and citizenship students shall be resident aliens. The course of study shall:
- a. Develop an increasing ability to speak, understand, read, and write English.
 - b. Encourage the student to become a participating citizen and give insight into the values of such participation.
 - c. Help the student prepare for the Naturalization Test for U.S. Citizenship by developing a background in American history and government.
 - d. Create a desire for continued learning and self-realization.

H. Reports

- 1. Each project shall maintain bookkeeping records and must be able to substantiate expenditures.
- 2. A financial report shall be filed quarterly for each project with the Adult Education Division within 30 days after the close of the quarter.
- 3. Projects shall be completed by June 30. A fiscal completion report which has been reconciled with the County School Superintendent's Office, or if another agency, that agency's comparable administrative office, shall be filed with the Adult Education Division within 60 days after the project ending date.
- 4. Participation in the project reporting system designed to collect student and staff attendance, demographic information and student performance data is required. These reports shall be filed with the Adult Education Division monthly.
- 5. An annual written report on the year's activities, including internal written monitoring reports, shall be submitted to the Adult Education Division, no later than August 15.

- I. If changes in the approved program or budget are desired, an amendment shall be submitted to the Adult Education Division for review and approval prior to expending any funds for the proposed changes.

Historical Note

Adopted effective December 14, 1984 (Supp. 84-6).
 Amended by exempt rulemaking at 15 A.A.R. 1292, effective June 26, 2006 (Supp. 09-1). Amended by final exempt rulemaking at 21 A.A.R. 1781, effective September 23, 2013 (Supp. 15-3). The word "rule" has been changed to "Section" to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-309. Completion of Grade 10

Completion of grade 10 is accomplished when a student has earned 10 credits which shall include:

- 1. Two credits of English.
- 2. One credit of mathematics.
- 3. One credit of science.
- 4. Six credits of additional courses prescribed by the local Governing Board.

Historical Note

Adopted effective March 13, 1986 (Supp. 86-2). The Section heading has been updated to title case, governing board has been changed to lowercase to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-310. Pupil Achievement Testing

- A. The statewide assessments adopted by the Board shall be administered annually during the testing windows established by the Department. By June 1 of each year, the Department shall designate the window for testing for the next school year and all school districts and charter schools shall administer the test during the windows designated.
- B. The superintendent or head of the local education agency shall be responsible for:
 - 1. Reviewing, and attesting to have reviewed, the policies, procedures and guidance provided by the Department regarding administration of statewide assessments.
 - 2. Providing school district enrollment data to the Department annually for purposes of test material distribution.
 - 3. Verifying the count of test materials received and distributing the test materials to each public school in the local education agency.
 - 4. Securing the test materials prior to distribution to pupils or persons administering the tests at the time of testing, as well as after the time of testing. Test materials shall be kept in locked storage.
 - 5. Advising all district and school employees that the test materials are not to be reproduced in any manner.
 - 6. Familiarizing each person who will administer the test with the test publishers' directions for administering the tests, the timing of the tests and the testing schedule. This is to be accomplished through meetings which shall be held near the window for testing.
 - 7. Distributing actual test materials to persons administering the tests on the day of testing and collecting test materials at the end of the day of testing.
 - 8. Training persons administering the tests on how to properly complete the identification information and how to code the information required on the variables being collected according to A.R.S. § 15-741, et seq.
 - 9. Properly packaging all scorable and nonscorable materials which are to be returned to the scoring contractor. Packaging shall comply with instructions furnished by the scoring contractor or the Department.
 - 10. Forwarding all scorable and nonscorable materials which are to be returned to the scoring contractor per instructions. Materials for the entire local education agency should be forwarded in one shipment.
 - 11. Retaining all unused and reusable test materials, reporting them in the school's inventory, storing them in a safe and secure manner and returning the test materials at the end of the testing window per instructions.
 - 12. Immediately reporting to the Department any losses of test materials or other irregularities.
 - 13. The superintendent or head of the local education agency may designate a testing coordinator to act on their behalf.
- C. Persons designated by the superintendent or head of the local education agency to administer the test shall:
 - 1. Keep all test materials in locked storage.
 - 2. Not reproduce any test materials in any manner.
 - 3. Not disclose any actual test items to pupils prior to testing.
 - 4. Not provide answers of any test items to any pupils.

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5. Administer only sample tests which are provided by the test publishers. Previous editions of the test series being used in the statewide testing program may not be used as sample tests.
 6. Strictly observe all timed statewide assessments, if the assessments are timed. The test publishers' suggested time limits for untimed subtests shall be followed as closely as possible in order to maintain uniformity in test administration.
 7. Follow directions for administering the test explicitly. No test item may be repeated unless otherwise indicated in the directions.
 8. Not change a pupil's answer.
 9. Return all test materials to the superintendent or head of the local education agency immediately upon completion of testing.
- D.** Local education agencies shall administer the statewide assessment to all students in the grades designated by the Board. Failure to administer a statewide assessment to at least 95 percent of all students will be factored into the statewide accountability system.
- E.** All violations of this Section shall be referred by the superintendent or head of the local education agency to the State Superintendent of Public Instruction, for appropriate action.

Historical Note

Adopted effective March 13, 1986 (Supp. 86-2). Amended subsections (A) and (B) effective February 25, 1987 (Supp. 87-1). Amended effective October 22, 1991; amended effective December 20, 1991 (Supp. 91-4). The Section heading has been updated to title case, the numeral "3" has been changed to "three," the numeral "7" has been changed to "seven," the numeral "8" has been changed to "eight," and the word "rule" has been changed to "Section" to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 2342 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-311. Pupil Testing Variable Information

Persons designated by the superintendent or head of the local education agency to administer the State Board approved statewide assessments shall assure that information requested by the Department is properly completed for each pupil that is administered a statewide assessment.

Historical Note

Adopted effective June 25, 1986 (Supp. 86-3). The Section heading has been updated to title case to reflect current standards in Chapter style and format (Supp. 21-1). Amended by final exempt rulemaking at 27 A.A.R. 2342 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-312. Honorary High School Diploma

- A.** An honorary high school diploma shall be provided to an individual who has never obtained a high school diploma and who meets both of the following requirements:
1. Currently resides in Arizona; and
 2. Provides documented evidence from the Arizona Department of Veterans' Services that the individual enlisted in the armed forces of the United States and served in World War I, World War II, the Korean conflict or the Vietnam conflict.
- B.** All high schools shall provide for the presentation of an honorary high school diploma to an individual eligible pursuant to

subsection (A). The individual shall not be required to reside within the school boundaries. The Arizona Department of Education may issue an honorary high school diploma to an individual eligible pursuant to subsection (A).

Historical Note

Adopted effective December 15, 1989 (Supp. 89-4). Repealed effective February 20, 1997 (Supp. 97-1). New Section made by final rulemaking at 9 A.A.R. 1125, effective May 10, 2003 (Supp. 03-1). Amended by final exempt rulemaking at 27 A.A.R. 241, effective January 25, 2021 (Supp. 21-1).

R7-2-313. Academic Contests Fund

The State Board of Education establishes an academic contests fund consisting of monies appropriated by the legislature or received as gifts or grants for deposit in the academic contests fund pursuant to A.R.S. § 15-1241.

1. The Superintendent of Public Instruction shall, at least annually, compile a list of national contests to be presented to the State Board of Education for approval. Contest requirements are:
 - a. Shall be sponsored by a recognized national organization.
 - b. Shall be academic in nature, motivate pupils to be creative and demonstrate excellence.
 - c. Shall be open to all pupils, regardless of race, creed, sex or national origin. Contests may separate pupils by age or grade level.
2. School districts shall submit an application for academic contest funds to the Superintendent of Public Instruction for student and chaperone expenses. Requirements are:
 - a. No other sponsoring agency is assuming the total costs.
 - b. The participation of the students shall be the result of successfully competing at the local or state level, or both, of that contest.
 - c. The governing board of the school district in which the students attend shall approve the participation and travel of the students.
 - d. The fiscal agent applying for academic contest funds shall be an authorized district representative and responsible for the disbursement of travel funds.
 - e. A school district receiving academic contest funds shall submit a completion report and return any unused portion within 90 days after completion of travel to the Department of Education.
3. Application review and approval; funding limitations.
 - a. The State Board of Education shall annually set expenditure limitations for expenses of students and chaperones. These limitations shall be based on the number of applicants, monies available and current state travel regulations.
 - b. The Superintendent of Public Instruction shall review applications for academic contest funds and shall approve applications based upon the criteria set forth in this Section and the availability of funds.

Historical Note

Adopted effective December 15, 1989 (Supp. 89-4). The Section heading has been updated to title case, the word "rule" has been changed to "Section" to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-314. Definitions

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The following definitions apply to Sections R7-2-315 and R7-2-315.01:

1. "Board examination system" means a complete instructional system that includes all of the following components:
 - a. A coherent group of courses that collectively constitutes a core curriculum at the high school level,
 - b. A comprehensive syllabus for each course,
 - c. Appropriate instructional and teaching materials for each course,
 - d. High quality examinations that are closely aligned with the course syllabus,
 - e. Professional scoring of examinations, and
 - f. Teacher education that is designed to train teachers to properly teach those courses.
2. "Grand Canyon Diploma" means a high school diploma that is offered to any student who demonstrates readiness for college level mathematics and English according to standards prescribed by an interstate compact on board examination systems, who has passing grades on an additional set of required approved board examinations in core academic courses as determined by the State Board of Education.
3. "Readiness for college level mathematics and English" means that a student has the mathematics and English skills and knowledge needed to succeed in college level courses that count toward a degree or certificate without taking remedial or developmental coursework.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-4).
 Repealed effective February 20, 1997 (Supp. 97-1). New
 Section made by exempt rulemaking at 18 A.A.R. 1025,
 effective January 24, 2011 (Supp. 12-2).

R7-2-315. Board Examination Systems; Offerings; Procedures

- A. The State Board of Education shall select board examination systems that may be used by traditional public schools and charter schools in accordance with the requirements of this Section. Board examination systems selected by the State Board of Education shall:
 1. Be approved by an interstate compact on board examination systems,
 2. Be periodically modified to reflect core standards selected by an interstate compact on board examination systems,
 3. Be aligned to State Board of Education approved academic standards,
 4. Have common passing scores that are prescribed by an interstate compact on board examination systems that are set to the level of literacy required to succeed in college-level courses offered by community colleges in this state that count toward a degree or certificate without taking remedial or developmental coursework.
- B. The State Board of Education shall contract with a private organization to act as primary administrator of approved board examination systems. The private organization shall:
 1. Identify, select and contract with a national organization that is devoted to issues concerning education and the economy and that is selected by the State Board of Education to provide technical services to develop and maintain an interstate system of approved board examination systems.
 2. Provide data and other information to a national organization that is devoted to issues concerning education and the economy and that is selected by the State Board of Education to provide technical services the national organization deems necessary to set appropriate performance standards for students in this state. The Department of Education shall provide data and other information to the private organization, as necessary.
 3. Conduct technical studies required by the State Board of Education to compare the scores on approved board examinations by the students in this state to scores on the Arizona Instrument to Measure Standards Test and other measures deemed necessary to ensure the efficacy of the approved board examinations. The private organization may contract with other entities that are selected by the State Board of Education for the purpose of conducting technical studies.
 4. In cooperation with the Superintendent of Public Instruction and the State Board of Education, solicit monies from all lawful private and public sources, including federal monies, to offset the costs of instruction provided to students pursuant to this Section.
 5. Exercise general supervision over the implementation of the approved board examination systems in this state.
 6. Prepare an annual report for the State Board of Education, which shall forward it to the legislature and the governor, on the progress made toward the goals established in A.R.S. Title 15, Chapter 7, Article 6. Participating schools and the Department of Education shall provide data to the private organization as needed in order to complete the annual report.
 7. Identify, select and represent this state on the national governing body of an interstate compact on board examination systems, as approved by the State Board of Education.
 8. Select this state's representatives in an interstate compact on board examination systems in accordance with the policies prescribed by that interstate compact.
 9. Develop the Grand Canyon Diploma to be approved and adopted by the State Board of Education.
- C. The Department of Education shall develop a system, subject to State Board of Education approval, to track the academic progress of pupils who participate in board examination systems.
- D. School districts or charter schools wishing to implement an approved board examination in one or more schools shall:
 1. Send written notice to the private organization described in this Section indicating that school district's or charter school's interest in implementing an approved board examination system,
 2. Submit an implementation plan to the private organization described in this Section that includes at least the following elements:
 - a. The specific approved board examination system the school district wishes to implement;
 - b. A proposed timeline for the implementation of an approved board examination system;
 - c. A description of the funding model that will be employed to ensure the sustainability of the approved board examination system offering;
 - d. A communication plan for students and parents that provides an overview of the selected approved board examination system, potential course offerings, a description of student support systems, and contact

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information for students and parents to obtain more detailed information regarding board examination systems and the Grand Canyon Diploma option, as defined in R7-2-315.01.

- E. Upon receipt of an implementation plan described in this Section the private organization shall work cooperatively with the applicable school district or charter school to ensure that the plan is feasible and to modify any elements of the plan deemed necessary for successful implementation of the approved board examination system.

Historical Note

Adopted effective November 17, 1994 (Supp. 94-4).
Repealed effective February 20, 1997 (Supp. 97-1). New Section made by exempt rulemaking at 18 A.A.R. 1025, effective January 24, 2011 (Supp. 12-2).

R7-2-315.01. Grand Canyon Diploma

- A. School districts and charter schools in this state may choose to offer a Grand Canyon Diploma beginning in the 2012 – 2013 school year. A high school student who is enrolled in a school district or charter school that offers a Grand Canyon Diploma may choose to pursue a Grand Canyon Diploma.
- B. A student may be awarded a Grand Canyon Diploma at the end of grade 10 or during or at the end of grade 11 or 12 provided that the student has passed both the mathematics and English assessments for the applicable approved board examination system, and the student has successfully completed the following subject area requirements within board examination system curriculum:
1. Two credits of English;
 2. Two credits of mathematics;
 3. Two credits of science, including lab-based science, engineering or information technologies;
 4. One credit of American History;
 5. One credit of World History;
 6. One credit of fine arts or career and technical education and vocational education; and
 7. One-half credit of economics.
- C. A student that satisfies all the criteria for issuance of a Grand Canyon Diploma is exempt from the minimum course of study requirements delineated in R7-2-302.02.
- D. Students who earn a Grand Canyon Diploma shall have multiple pathways available to them and may:
1. Enroll the following semester in a community college under the jurisdiction of a community college in this state. Students who take community college courses on high school campuses pursuant to this subsection shall be eligible to participate in extracurricular activities, including interscholastic sports, through the end of grade 12.
 2. Remain in high school and enroll in additional advanced preparation board examination programs that are designed to prepare students for admission to high quality postsecondary institutions that offer baccalaureate degree programs. These board examination programs shall be selected from a list provided by an interstate compact for board examination systems and approved by the State Board of Education. Students who elect to remain in high school pursuant to this subsection shall be eligible to participate in extracurricular activities, including interscholastic sports, through the end of grade 12.
 3. Enroll in a full-time career and technical education program offered on a community college campus, a high school campus or a joint technical education district campus, or any combination of these campuses. Students who

elect to remain in high school pursuant to this subsection shall be eligible to participate in extracurricular activities, including interscholastic sports, through the end of grade 12.

4. Return to a traditional academic program without completing the next level of board examination systems curriculum through the end of grade 12. Students who elect to remain in high school pursuant to this subsection shall be eligible to participate in extracurricular activities, including interscholastic sports, through the end of grade 12.
- E. Students who pursue but do not earn a Grand Canyon Diploma at the end of grade 10 or 11 shall receive a customized program of assistance during the next school year that addresses the areas in which the student demonstrated deficiencies in the approved board examinations. These students may retake the board examinations at the next available examination administration. Students may choose to return to a traditional academic program without completing the board examination system curriculum.
- F. A student who remains in a board examination system curriculum through grade 12 and does not pass the board examination may graduate with a standard diploma provided that the student meets the following requirements:
1. The student has passed the Arizona Instrument to Measure Standards assessments in mathematics and English or received a sufficient score as determined by the State Board of Education on the ACT, SAT, or an approved board examination in mathematics and English.
 2. The student has earned at least 22 credits and has passed a State Board of Education approved sequence of courses within the board examination system curriculum. For the purpose of this requirement the private organization and the Department of Education shall recommend for State Board of Education approval a sequence of courses for each approved board examination system. The sequence of courses for each board examination system shall ensure that students receive instruction in all State Board of Education approved academic standards encompassed in R7-2-302.02(1)(a) through (e).
- G. A student who is enrolled in a school district or charter school that does not offer a board examination system curriculum may earn a Grand Canyon Diploma by:
1. Obtaining a passing score on the assessments of an approved board examination system in each of the subject areas delineated in R7-2-315.01(B)(1) through (6), and
 2. Completing a high school course in economics.

Historical Note

New Section made by exempt rulemaking at 18 A.A.R. 1025, effective January 24, 2011 (Supp. 12-2).

Appendix A. Repealed**Historical Note**

Adopted effective November 17, 1994 (Supp. 94-4).
Repealed effective February 20, 1997 (Supp. 97-1).

R7-2-316. Charter Schools Stimulus Fund

- A. "Start-up costs" mean those costs associated with developing or implementing the following essential components of a charter school:
1. The hiring of teachers and other essential staff members;
 2. The hiring of a chief administrative officer and other costs associated with instituting the administrative structure of the school;

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3. Curriculum development and implementation;
 4. The leasing of physical facilities or equipment and costs associated with establishment of utility services and accounts;
 5. Operational expenses incurred prior to the date on which the charter school begins operations;
 6. The development and implementation of an accounting system which complies with the uniform system of financial records requirements;
 7. Obtaining insurance, including prepayment of premiums which will effectuate insurance coverage during the first year of operation;
 8. Costs associated with licensing and compliance with other health, safety and civil rights requirements.
- B.** "Costs associated with renovating or remodeling existing buildings and structures" means those costs associated with the following essential components:
1. Modifications affecting the structural integrity of the building, including those changes needed to meet building code and zoning standards.
 2. Modifications needed to meet non-structural building code requirements, such as those related to plumbing, electrical wiring and fire safety.
 3. Modifications needed to meet state health standards, such as those related to rest rooms and food preparation and service.
 4. Adjusting the size of rooms to accommodate the number of students to be served.
 5. Construction-related finish work, such as exterior and interior replastering and painting, carpeting, flooring, baseboards and door hanging.
 6. Roofing and air conditioning/heating installation or repair required prior to operation of the school.
 7. Access requirements for persons with disabilities.
- C.** The State Board of Education shall, subject to legislative appropriation, provide an initial grant or an additional grant from the charter schools stimulus fund to applicants who have a charter or application that has been approved by a sponsor pursuant to A.R.S. § 15-183 and who meet the requirements of A.R.S. § 15-188 and this Section. The grant may be in any amount up to \$100,000 per charter school applicant or charter school.
- D.** The application for an initial grant shall include:
1. A copy of the applicant's charter;
 2. The identity of the sponsor which approved the charter;
 3. The total amount of funding requested;
 4. An itemization of the specific start-up costs and costs associated with renovating or remodeling existing building and structures for which the funds will be used. Itemization shall include the amount of funds requested for each essential component and a detailed explanation of the basis for calculating the amount requested;
 5. The number of students to be served at the school;
 6. The dimensions of the facility in which the school is to be operated;
 7. A description of the extent to which the facility must be remodeled or renovated in order to meet applicable health and safety standards, unless this information is included in the applicant's charter.
- E.** The application for an additional grant shall be in a format approved by the State Board of Education and shall include:
1. The date and amount of the initial grant award.
 2. A copy of any amendments or other modifications to the charter or application which formed the basis for the initial grant.
 3. The identity of the current sponsor of the charter school.
 4. An itemized accounting of the expenditures made with the initial grant monies.
 5. The total amount of additional funding requested.
 6. An itemization of the specific start-up costs associated with renovating or remodeling existing buildings and structures for which the additional funds will be used. Itemization shall include the amount of funds requested for each essential component and a detailed explanation of the basis for calculating the amount requested.
- F.** In its review of an application for a stimulus fund grant, the State Board of Education may receive information concerning the application from the Department of Education, an advisory committee, and any other source. The State Board may award a grant in an amount different from that requested by the applicant. No grant shall be awarded pursuant to this Section unless the State Board determines that:
1. Every amount requested in the applicant's itemization of costs is for the essential component with which the amount is associated; and
 2. Based on all of the information before the State Board concerning the application, there is a rational basis for the award of funds.
- G.** No applicant or charter school shall be eligible for more than one initial grant and one additional grant, regardless of the amount awarded.
- H.** An applicant who receives an initial grant and fails to begin operating a charter school within the 18 months following the date of the award shall reimburse the Department of Education for the amount of the initial grant plus interest calculated at a rate of 10% per year. Such reimbursement is immediately due and payable at the end of the initial 18-month period.
- I.** An applicant who receives an additional grant and fails to begin operating a charter school within the 18 months following the date of the award shall reimburse the Department of Education for the amount of the initial grant plus interest calculated at a rate of 10% per year. Such reimbursement is immediately due and payable at the end of the applicable 18-month period and is in addition to any amounts required by subsection (H).
- J.** An applicant for a grant pursuant to this Section shall be notified of the date at which the State Board of Education shall consider the application no less than 10 days in advance thereof. Written notification of the Board's decision concerning an application for a grant shall be mailed to the applicant within 10 days following such decision.

Historical Note

Adopted effective April 20, 1995 (Supp. 95-2). The word "rule" has been changed to "Section" to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-317. State Seal of Biliteracy Program

- A.** Definitions. For purposes of this Section, "foreign language" means any language other than English.
- B.** School districts and charter schools in this state may choose to participate in the State Seal of Biliteracy Program (Program) which recognizes students who have attained a high level of proficiency in one or more foreign languages, in addition to English. School districts and charter schools participating in the Program may award the State Seal of Biliteracy to any high school student who graduates from a school operated by the

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school district or charter school and who meets the requirements of subsections (B)(1) or (2), and subsection (B)(3).

1. **Assessment Method.** To demonstrate language proficiency through the assessment method, the student must attain the required score on a language assessment as adopted by the State Board of Education, upon recommendation by the Arizona Department of Education, for purposes of demonstrating language proficiency for the Program in the four domains of speaking, writing, listening, and reading.
2. **Alternative evidence model.** A school district or charter school may choose to award the State Seal of Biliteracy through an alternative evidence method.
 - a. An alternative evidence method may be used in any of the following circumstances:
 - i. No standardized assessment exists for the targeted foreign language;
 - ii. Evaluating the language proficiency of a student with disabilities for whom the standardized assessment is inappropriate as determined by the student's Individualized Education Program team or a student on a 504 plan as determined by the student's 504 plan committee; or
 - iii. The standardized assessment for the targeted foreign language does not assess one or more of the four domains of speaking, writing, listening and reading.
 - b. Any alternative evidence method used shall consist of a student portfolio that contains evidence of experience in the targeted foreign language, as well as work samples, test results and other accomplishments that demonstrate proficiency, as established in the guidelines developed by the Arizona Department of Education, in the targeted foreign language in the four domains of speaking, writing, listening and reading. Student portfolios shall comply with guidelines adopted by the Department.
 - c. A school district or charter school that uses an alternative evidence model must notify the Arizona Department of Education.
3. To be eligible to be awarded the State Seal of Biliteracy, each student shall also demonstrate proficiency in English by meeting the following requirements:
 - a. The student must successfully complete all English Language Arts requirements for graduation, pursuant to R7-2-302, with an overall grade point average in those classes of 2.0 or higher on a 4.0 scale, or the equivalent; and
 - b. The student receives a passing score in English Language Arts on one of the following:
 - i. The statewide assessment adopted pursuant to A.R.S. § 15-741, an assessment approved by the Board pursuant to A.R.S. § 15-741.02, or another state's statewide assessment;
 - ii. A nationally recognized college entrance exam;
 - iii. An exam that is accepted for credit or admission by at least one university under the jurisdiction of the Arizona Board of Regents; or
 - iv. An end of course exam administered as part of a dual enrollment or concurrent enrollment course.
 - c. If the student has a primary home language other than English, the student shall obtain a score of pro-

ficient based on the English language proficiency standards pursuant to A.R.S. § 15-756.

- C. By October 1 of each year, the Arizona Department of Education shall make an electronic facsimile of the State Seal of Biliteracy available to each school district or charter school participating in the Program. Each participating school district or charter school shall identify each student who has met the requirements of the Program, affix the State Seal of Biliteracy to the student's diploma upon graduation, and shall note the receipt of the State Seal of Biliteracy on the transcript of the student.
- D. The Arizona Department of Education shall post on its website by July 1 of each year, the list of acceptable language assessments and the score to be achieved on each, as approved by the Board, which qualifies the student as proficient in a foreign language. The Arizona Department of Education shall ensure that all approved assessments are aligned to the Arizona world and native languages standards adopted by the Board.
- E. Each school district and charter school that chooses to participate in the Program shall meet the following requirements:
 1. Notify the Arizona Department of Education of its intent to participate in the Program at least 30 days prior to issuing the seal by filling out the form provided on the Arizona Department of Education's website.
 2. Designate at least one individual to serve as coordinator of the Program and provide that individual's name and contact information to the Arizona Department of Education.
 3. Using a format prescribed by the Arizona Department of Education, submit a report no later than 90 days after the end of the school year with the total number of students awarded the State Seal of Biliteracy, the number of seals for each targeted foreign language and the method used to determine proficiency in the foreign language.
 4. Make available to parents and students information regarding the Program and the name and contact information for the coordinator of the Program.
- F. The Arizona Department of Education shall establish guidelines and procedures to assist school districts and charter schools in the administration of the Program.

Historical Note

New Section made by final exempt rulemaking at 22 A.A.R. 3367, effective October 24, 2016 (Supp. 16-4). The word "rule" has been changed to "Section" to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 1529, effective August 27, 2021 (Supp. 21-3).

R7-2-318. K through Three Reading Program

- A. In this Section, unless the context otherwise requires:
 1. "Intensive reading instruction" is a proactive instructional approach used to reduce the likelihood of future reading problems by addressing severe and persistent difficulties with learning to read through the use of evidence-based instruction in smaller-group settings, increased instructional time, and increased intensity that is aligned to individual student needs or deficiencies and is driven by ongoing student performance data from a valid assessment tool.
 2. "Interventions" are instructional supports provided to students with the purpose of preventing and remediating reading difficulties. These supports are organized in tiers which provide increasing instructional intensity and support with each level.

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3. "Motivational assessments" are measures of motivation or attitudes toward reading and produce information to monitor student progress.
 4. "Prevention" is instructional support provided to students before students have experienced failure in learning to read.
 5. "Remediation" is instructional support provided to students after a student has experienced significant and persistent difficulties in learning to read.
 6. "Universal screeners" are very brief measures based on established standardized benchmarks or performance targets developed through extensive research designed to improve accuracy of identifying students who will likely need additional support for meeting grade level reading standards.
- B.** Prior to the release of monies generated by the K through three reading support level weight, a school district or charter school assigned a letter grade of C, D or F, or that has more than ten percent of its pupils in grade three who do not demonstrate sufficient reading skills as established by the Board, shall submit to the Department on or before October 1, a comprehensive local education agency K through three reading program plan, using the format prescribed by the Department. Each school district or charter school assigned a letter grade of A or B shall submit its plan to the Department on or before October 1 in odd numbered years only beginning in 2016-2017.
- C.** Pursuant to A.R.S. §§ 15-211, 15-701 and 15-704, the K through three reading program plan submission shall contain the following components for pupils in half-day and full-day kindergarten programs and grades one through three:
1. School literacy contacts, literacy team members and master reading schedules;
 2. A list of the staff who reviewed and approved the individual school K through 3 reading program plans;
 3. Program expenditures for the prior school year and a budget for the current school year regarding the monies used only on instructional purposes intended to improve reading proficiency from the K through three support level weight and the K through three reading support level weight;
 4. An analysis of the effectiveness of the local education agency's K through three reading program for the previous school year and plans for improvement for the current school year;
 5. Core reading programs which teach the essential components of reading instruction including explicit and systematic phonics pursuant to A.R.S. § 15-704(H)(1), with a description of the frequency and duration of the instruction;
 6. Date of last K through three reading curriculum review for standards alignment;
 7. Tier II and Tier III intensive reading intervention programs, including frequency and duration;
 8. A sample template of a parental notification letter;
 9. Evidence-based intervention and remedial services provided to students; and
 10. Evidence of ongoing teacher training based on evidence-based reading research.
- D.** The local education agency shall submit universal screening data on October 1, winter benchmark data on February 1 and end of year assessment data on June 1 for pupils in kindergarten programs and grades one through three.
- E.** Each school district or charter school governing body shall submit data for the prior school year on the total number of

pupils that were subject to retention, the total number that were promoted, the total number actually retained and the interventions administered pursuant to A.R.S. § 15-701 to the Department no later than October 1 and prior to the release of monies generated by the K through three reading support level weight.

Historical Note

New Section made by final exempt rulemaking at 23 A.A.R. 1637, effective May 22, 2017 (Supp. 17-2). The hyphen between "K-3" and the numeral "3" have been corrected to the words "through three" for consistency in Chapter style and format (Supp. 21-2).

R7-2-319. State Seal of Personal Finance Proficiency

- A.** School districts and charter schools may participate in the State Seal of Personal Finance Proficiency Program (Program), which recognizes students who have attained a high level of proficiency in personal finance. School districts and charter schools participating in the Program may award the State Seal of Personal Finance Proficiency to any high school student who graduates from a school operated by the school district or charter school and who meets the requirements of the Program outlined in subsections (A)(1) and (A)(2) of this subsection. To be eligible to be awarded the State Seal of Personal Finance Proficiency, each student shall do each of the following:
1. Complete all Social Studies requirements for graduation with GPA of 3.0 or higher on a 4.0 scale, or the equivalent; and
 2. Complete all of the following activities:
 - a. Passage of an assessment. The student shall attain the required score on one personal finance assessment as adopted by the State Board of Education, defined by the Arizona Department of Education, for purposes of demonstrating personal finance proficiency;
 - b. Completion of an approved Personal Finance Program. The student shall complete one of the personal finance programs as adopted by the State Board of Education, defined by the Arizona Department of Education, for purposes of demonstrating personal finance proficiency;
 - c. Participation in a curricular or extracurricular program. The student shall complete one personal finance curricular or extracurricular program as adopted by the State Board of Education, defined by the Arizona Department of Education, for purposes of demonstrating personal finance proficiency; and
 - d. Demonstrated college and/or career readiness plan. The student shall complete one college and career readiness plan as adopted by the State Board of Education, defined by the Arizona Department of Education, for purposes of demonstrating personal finance proficiency.
- B.** By October 1 of each year, the Arizona Department of Education shall make an electronic facsimile of the State Seal of Personal Finance Proficiency available to each school district or charter school participating in the Program. Each participating school district or charter school shall identify each student who has met the requirements of the Program, affix the State Seal of Personal Finance Proficiency to the student's diploma upon graduation, and shall note the receipt of the State Seal of Personal Finance Proficiency on the transcript of the student.

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- C. The Arizona Department of Education shall post on its website by July 1 of each year:
1. The list of acceptable personal finance assessments and the score to be achieved on each, as approved by the Board, which meet the requirements of R7-2-319(A)(2)(a);
 2. The list of acceptable personal finance programs, as approved by the Board, which meet the requirements of R7-2-319(A)(2)(b);
 3. The list of acceptable personal finance curricular or extra-curricular programs, as approved by the Board, which meet the requirements of R7-2-319(A)(2)(c); and
 4. The list of acceptable college and/or career readiness plans, as approved by the Board, which meet the requirements of R7-2-319(A)(2)(d).
- D. Each school district and charter school that participates in the Program shall meet the following requirements:
1. Notify the Arizona Department of Education of its intent to participate in the Program at least 30 days prior to issuing the seal by filling out the form provided on the Arizona Department of Education's website;
 2. Designate at least one individual to serve as coordinator of the Program and provide that individual's name and contact information to the Arizona Department of Education;
 3. Using a format prescribed by the Arizona Department of Education, submit a report no later than 90 days after the end of the school year with the total number of students awarded the State Seal of Personal Finance Proficiency; and
 4. Make available to parents and students information regarding the Program and the name and contact information for the coordinator of the Program.
- E. The Arizona Department of Education shall establish guidelines and procedures to assist school districts and charter schools in the administration of the Program.
- Historical Note**
New Section made by final exempt rulemaking at 25 A.A.R. 962, effective March 25, 2019 (Supp. 19-1).
- R7-2-320. State Seal of Civics Literacy**
- A. School districts and charter schools may participate in the State Seal of Civics Literacy Program (Program), which recognizes students who have attained a high level of proficiency in Civics. School districts and charter schools participating in the Program may award the State Seal of Civics Literacy to any high school student who graduates from a school operated by the school district or charter school and who meets the requirements of the Program outlined in subsections (A)(1), (2) and (3) of this subsection. To be eligible, each student shall do all of the following:
1. Complete all Social Studies requirements for graduation with GPA of 3.0 or higher on a 4.0 scale, or the equivalent;
 2. Pass the Civics test prescribed in R7-2-302; and
 3. Complete all of the following activities:
 - a. Civic Learning Programs. The student shall complete the required number of civic learning programs for purposes of demonstrating civic literacy.
 - i. Students graduating in school year 2019-2020 shall complete at least two approved civic learning programs.
 - ii. Students graduating in school year 2020-2021 and thereafter shall complete at least three approved civic learning programs.
 - b. Civic Engagement Activities. The student shall complete the required number of civic engagement activities as for purposes of demonstrating civic literacy.
 - i. Students graduating in school year 2019-2020 shall complete at least one approved civic engagement activity.
 - ii. Students graduating in school year 2020-2021 and thereafter shall complete at least two approved civic engagement activities.
- c. Service Learning and/or Community Service for a public agency or charitable organization that serves the public good. The student shall complete the required number of hours engaged in Service Learning and/or Community Service for a public agency or charitable organization that serves the public good for purposes of demonstrating civic literacy proficiency.
- i. Students graduating in school year 2019-2020 shall complete at least 30 hours engaged in Service Learning and/or Community Service for a public agency or charitable organization that serves the public good.
 - ii. Students graduating in school year 2020-2021 shall complete at least 45 hours engaged in Service Learning and/or Community Service for a public agency or charitable organization that serves the public good.
 - iii. Students graduating in school year 2021-2022 shall complete at least 60 hours engaged in Service Learning and/or Community Service for a public agency or charitable organization that serves the public good.
 - iv. Students graduating in school year 2022-2023 and thereafter shall complete at least 75 hours engaged in Service Learning and/or Community Service for a public agency or charitable organization that serves the public good.
- d. Written Reflection. The student shall complete a writing assignment as adopted by the State Board of Education for purposes of demonstrating civic literacy proficiency.
- B. By October 1 of each year, the Arizona Department of Education shall make an electronic facsimile of the State Seal of Civics Literacy available to each school district or charter school participating in the Program. Each participating school district or charter school shall identify each student who has met the requirements of the Program, affix the State Seal of Civics Literacy to the student's diploma upon graduation, and shall note the receipt of the State Seal of Civics Literacy on the transcript of the student.
- C. The Arizona Department of Education shall post on its website by July 1 of each year:
1. The list of acceptable civic learning programs, as approved by the Board, which meet the requirements of R7-2-320(A)(3)(a);
 2. The list of acceptable civic engagement activities, as approved by the Board, which meet the requirements of R7-2-320(A)(3)(b);
 3. The defined number of hours of service learning and/or community service for a public agency or charitable organization.

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nization that serves the public good, as approved by the Board, which meet the requirements of R7-2-320(A)(3)(c); and

4. The list of written assignments, as approved by the Board, which meet the requirements of R7-2-320(A)(3)(d).
- D.** Each school district and charter school that chooses to participate in the Program shall meet the following requirements:
1. Notify the Arizona Department of Education of its intent to participate in the Program at least 30 days prior to issuing the seal by filling out the form provided on the Arizona Department of Education's website;
 2. Designate at least one individual to serve as coordinator of the Program and provide that individual's name and contact information to the Arizona Department of Education;
 3. Using a format prescribed by the Arizona Department of Education, submit a report no later than 90 days after the end of the school year with the total number of students awarded the State Seal of Civics Literacy; and
 4. Make available to parents and students information regarding the Program and the name and contact information for the coordinator of the Program.
- E.** The Arizona Department of Education shall establish guidelines and procedures to assist school districts and charter schools in the administration of the Program.

Historical Note

New Section made by final exempt rulemaking at 25 A.A.R. 962, effective March 25, 2019 (Supp. 19-1).

R7-2-321. State Seal of Arts Proficiency

- A.** School districts and charter schools in this state may choose to participate in the State Seal of Arts Proficiency Program, which recognizes students who have attained a high level of proficiency in the Arts. School districts and charter schools participating in the Program may award the State Seal of Arts Proficiency to any high school student who graduates from a school operated by the school district or charter school and who meets the requirements of the Program outlined in subsections (A)(1) and (2). To be eligible, a student shall do both of the following:
1. Complete all qualifying Arts and Career and Technical Education (CTE) courses with GPA of 3.0 or better on a 4.0 scale, or the equivalent.
 2. Complete the required activities from each of the following three categories:
 - a. Minimum Credit Requirements. The student shall complete one of the following credit pathways of Arts and CTE classes as follows:
 - i. A minimum of 4 credits in one artistic discipline; or
 - ii. 3 credits in one artistic discipline, and 1 qualifying creative industries CTE credit or separate artistic discipline; or
 - iii. 2 credits in one artistic discipline, and 2 credits in a qualifying creative industries CTE credits or separate artistic discipline.
 - b. Arts related extracurricular activities. The student shall complete the required number of hours engaged in arts related extracurricular activity for purposes of demonstrating arts proficiency as follows:
 - i. Students graduating in school year 2019-2020 must complete at least 30 hours engaged in arts

related extracurricular activities as identified by the school district or charter school.

- ii. Students graduating in school year 2020-2021 must complete at least 45 hours engaged in arts related extracurricular activities as identified by the school district or charter school.
 - iii. Students graduating in school year 2021-2022 must complete at least 60 hours engaged in arts related extracurricular activities as identified by the school district or charter school.
 - iv. Students graduating in school year 2022-2023 and beyond must complete at least 80 hours engaged in arts related extracurricular activities as identified by the school district or charter school.
- c. Student Capstone Project. The student shall complete a Capstone Project, as defined by the Arizona Department of Education, for purposes of demonstrating arts proficiency.
- B.** By October 1 of each year, the Arizona Department of Education shall make the State Seal of Arts Proficiency available to each school district or charter school participating in the Program. Each participating school district or charter school shall identify each student who has met the requirements of the Program, affix the State Seal of Arts Proficiency to the student's diploma upon graduation, and shall note the receipt of the State Seal of Arts Proficiency on the transcript of the student.
- C.** The Arizona Department of Education shall post on its website by July 1 of each year:
1. A list of arts and CTE classes which meet the requirements of R7-2-321(A)(2)(a);
 2. A list of extracurricular arts activities which meet the requirements of R7-2-321(A)(2)(b);
 3. A list of student capstone examples which meet the requirements of R7-2-321(A)(2)(c).
- D.** Each school district and charter school that chooses to participate in the Program shall meet the following requirements:
1. Notify the Arizona Department of Education of its intent to participate in the Program by September 15 by filling out the form provided on the Arizona Department of Education's website.
 2. Designate at least one individual to serve as coordinator of the Program and provide that individual's name and contact information to the Arizona Department of Education.
 3. Using a format prescribed by the Arizona Department of Education, submit a list of qualifying students who have met graduation and Arts Seal pathway requirements to the Arizona Department of Education by April 15 of each year.
 4. Make information available to parents and students regarding the Program and the name and contact information for the coordinator of the Program.
- E.** The Arizona Department of Education shall establish guidelines and procedures to assist school districts and charter schools in the administration of the Program.

Historical Note

New Section made by final exempt rulemaking at 25 A.A.R. 3399, effective October 28, 2019 (Supp. 19-4).

ARTICLE 4. SPECIAL EDUCATION

Authority: Laws 2017, Ch. 337

R7-2-401. Special Education Standards for Public Agencies

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Providing Educational Services

- A.** For the purposes of this Article, the Individuals with Disabilities Education Improvement Act (IDEA), 20 U.S.C. 1400 et seq. and its implementing regulations, 34 CFR 300.1 et seq., are incorporated herein by reference. Copies of the incorporated material can be obtained from the U.S. Government Printing Office, <https://bookstore.gpo.gov/catalog/law-regulations> or the Arizona Department of Education, Exceptional Student Services, 1535 West Jefferson Street, Phoenix, Arizona 85007.
- B.** Definitions. All terms defined in the IDEA, its implementing regulations and A.R.S. § 15-761 are applicable, with the following additions:
1. "Accommodations" means the provisions made to allow a student to access the general education curriculum and demonstrate learning. Accommodations do not substantially change the instructional level, content or performance criteria, but are made in order to provide a student equal access to learning and equal opportunity to demonstrate what is known. Accommodations shall not alter the content of the curriculum or a test, or provide inappropriate assistance to the student within the context of the test.
 2. "Administrator" means the chief administrative official or designee authorized to act on behalf of a public education agency.
 3. "Boundaries of responsibility" means for:
 - a. A school district, the geographical area within its legally designated boundaries.
 - b. A charter school, the population of students enrolled in the charter school.
 - c. A public education agency other than a school district or charter school, the population of students receiving educational services from a public education agency.
 4. "Child with a disability," has the same meaning prescribed in A.R.S. § 15-761.
 5. "Department" means the Arizona Department of Education.
 6. "Exceptional Student Services" means the Exceptional Student Services Division of the Arizona Department of Education.
 7. "Evaluator" means a person trained and knowledgeable in a field relevant to the child's disability who administers specific and individualized assessment for the purpose of special education evaluation and placement.
 8. "Full and individual evaluation" means procedures used in accordance with the IDEA to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. This evaluation includes:
 - a. A review of existing information about the child;
 - b. A decision regarding the need for additional information;
 - c. If necessary, the collection of additional information; and
 - d. A review of all information about the child and a determination of eligibility for special education services and needs of the child.
 9. "Independent educational evaluation" means an evaluation conducted by an evaluator who is not employed by the public education agency responsible for the education of the child in question.
 10. "Informed written consent" means a person has been fully informed of all information relevant to the activity for which consent is sought, in the person's native language or through another mode of communication; the person understands and agrees in writing to the carrying out of the activity for which consent is sought; and the person understands that the granting of consent is voluntary and may be revoked at any time.
 11. "Interpreter" means a person trained to translate orally or in sign language in matters pertaining to special education identification, evaluation, placement, the provision of free appropriate public education (FAPE), or assurance of procedural safeguards for parents and students who converse in a language other than spoken English. Each student's IEP team determines the level of interpreter skill necessary for the provision of FAPE.
 12. "Multidisciplinary Evaluation Team" has the same meaning prescribed in A.R.S. § 15-761.
 13. "Modifications" means substantial changes in what a student is expected to learn and to demonstrate. Changes may be made in the instructional level, the content or the performance criteria. Such changes are made to provide a student with meaningful and productive learning experiences, environments, and assessments based on individual needs and abilities.
 14. "Private school" means any nonpublic educational institution where academic instruction is provided, including nonsectarian and parochial schools, that are not under the jurisdiction of the state or a public education agency.
 15. "Private special education school" means a nonpublic educational institution where instruction is provided primarily to students with disabilities. The school may also serve students without disabilities.
 16. "Public education agency" or "PEA" means a school district, charter school, accommodation school, state supported institution, or other political subdivision of the state that is responsible for providing education to children with disabilities.
 17. "Qualified professionals" means individuals who have met state approved or recognized degree, certification, licensure, registration or other requirements that apply in the areas in which the individuals are providing services such as screening, identification, evaluation, general education, special education or related services, including supplemental aids and services.
 18. "Specially designed instruction" has the same meaning prescribed in A.R.S. § 15-761.
 19. "Special education teacher" means a teacher holding a special education certificate from the Arizona Department of Education.
 20. "Suspension" has the same meaning prescribed in A.R.S. § 15-840.
- C.** Public Awareness.
1. Each public education agency shall inform the general public and all parents, within the public education agency's boundaries of responsibility, of the availability of special education services for students aged 3 through 21 years and how to access those services. This includes information regarding early intervention services for children aged birth through 2 years.
 2. School districts are responsible for public awareness in private schools located within their boundaries of responsibility.
- D.** Child Identification and Referral.
1. Each public education agency shall establish, implement, and make available, either in writing or electronically, to

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- its school-based personnel and all parents, within the public education agency boundaries of responsibility, written procedures for the identification and referral of all children with disabilities, aged birth through 21, including children with disabilities attending private schools and home schools, regardless of the severity of their disability.
2. Each public education agency shall require appropriate school-based personnel to review the written procedures related to child identification and referral on an annual basis. The public education agency shall maintain documentation of school-based personnel review.
 3. Procedures for child identification and referral shall meet the requirements of the IDEA and regulations, A.R.S. Title 15, Chapter 7, Article 4 and these rules.
 4. The public education agency responsible for child identification activities is the school district in which the parents reside unless:
 - a. The student is enrolled in a charter school or public education agency that is not a school district. In that event, the charter school or public education agency is responsible for child identification activities;
 - b. The student is enrolled in a non-profit private school. In that event, the school district within whose boundaries the private school is located is responsible for child identification activities.
 5. Identification (screening for possible disabilities) shall be completed within 45 calendar days after:
 - a. Entry of each preschool or kindergarten student and any student enrolling without appropriate records of screening, evaluation, and progress in school; or
 - b. Notification to the public education agency by parents of concerns regarding developmental or educational progress by their child aged 3 years through 21 years.
 6. Screening procedures shall include vision and hearing status and consideration of the following areas: cognitive or academic, communication, motor, social or behavioral, and adaptive development. Screening does not include detailed individualized comprehensive evaluation procedures.
 7. For a student transferring into a school; the public education agency shall review enrollment data and educational performance in the prior school. If there is a history of special education for a student not currently eligible for special education, or poor progress, the name of the student shall be submitted to the administrator for consideration of the need for a referral for a full and individual evaluation or other services.
 8. If a concern about a student is identified through screening procedures or through review of records, the public education agency shall notify the parents of the student of the concern within 10 school days and inform them of the public education agency procedures to follow-up on the student's needs.
 9. Each public education agency shall maintain documentation of the identification procedures utilized, the dates of entry into school or notification by parents made pursuant to subsection (D)(5), and the dates of screening. The results shall be maintained in the student's permanent records in a location designated by the administrator. In the case of a student not enrolled, the results shall be maintained in a location designated by the administrator.
 10. If the identification process indicates a possible disability, the name of the student shall be submitted to the administrator for consideration of the need for a referral for a full and individual evaluation or other services. A parent or a student may request an evaluation of the student. For parentally-placed private school students the school district within whose boundaries the non-profit private school is located is responsible for such evaluation.
 11. If, after consultation with the parent, the responsible public education agency determines that a full and individual evaluation is not warranted, the public education agency shall provide prior written notice and procedural safeguards notice to the parent in a timely manner.
- E. Evaluation/re-evaluation.**
1. Each public education agency shall establish, implement, and make available to school-based personnel and parents within its boundaries of responsibility written procedures for the initial full and individual evaluation of students suspected of having a disability, and for the re-evaluation of students previously identified as being eligible for special education.
 2. Procedures for the initial full and individual evaluation of children suspected of having a disability and for the re-evaluation of students with disabilities shall meet the requirements of IDEA and its regulations, state statutes and State Board of Education rules.
 3. The initial evaluation of a child being considered for special education, or the re-evaluation per a parental request of a student already receiving special education services, shall be conducted within 60 calendar days from the public education agency's receipt of the parent's informed written consent and shall conclude with the date of the Multidisciplinary Evaluation Team (MET) determination of eligibility.
 4. If the parent requests the evaluation the PEA must, within a reasonable amount of time not to exceed 15 school days from the date it receives a parent's written request for an evaluation, either begin the evaluation by reviewing existing data, or provide prior written notice refusing to conduct the requested evaluation. The 60-day evaluation period shall commence upon the PEA's receipt of the parent's informed written consent.
 5. The 60-day evaluation period may be extended for an additional 30 days, provided it is in the best interest of the child, and the parent and PEA agree in writing to such an extension. Neither the 60-day evaluation period nor any extension shall cause a re-evaluation to exceed the timelines for a re-evaluation within three years of the previous evaluation.
 6. The public education agency may accept current information about the student from another state, public agency, public education agency, or through an independent educational evaluation. In such instances, the Multidisciplinary Evaluation Team shall be responsible for reviewing and approving or supplementing an evaluation to meet the requirements identified in subsections (E)(1) through (7).
 7. For the following disabilities, the full and individual initial evaluation shall include:
 - a. Emotional disability: verification of a disorder by a qualified professional.
 - b. Hearing impairment:
 - i. An audiological evaluation by a qualified professional, and

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- ii. An evaluation of communication/language proficiency.
 - c. Other health impairment: verification of a health impairment by a qualified professional.
 - d. Specific learning disability: a determination of whether the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade-level standards, or intellectual development that meets the public education agency criteria through one of the following methods:
 - i. A discrepancy between achievement and ability;
 - ii. The child's response to scientific, research-based interventions; or
 - iii. Other alternative research-based procedures.
 - e. Orthopedic impairment: verification of the physical disability by a qualified professional.
 - f. Speech/language impairment: an evaluation by a qualified professional.
 - g. For students whose speech impairments appear to be limited to articulation, voice, or fluency problems, the written evaluation may be limited to:
 - i. An audiometric screening within the past calendar year,
 - ii. A review of academic history and classroom functioning,
 - iii. An assessment of the speech problem by a speech therapist, or
 - iv. An assessment of the student's functional communication skills.
 - h. Traumatic brain injury: verification of the injury by a qualified professional.
 - i. Visual impairment: verification of a visual impairment by a qualified professional.
 - 8. The Department shall develop a list, subject to review and approval of the State Board of Education, of qualified professionals eligible to conduct the appropriate evaluations prescribed in subsection (E)(7).
 - 9. The Multidisciplinary Evaluation Team shall determine, in accordance with the IDEA and regulations, whether the requirements of subsections (E)(7)(a) through (i) are required for a student's re-evaluation.
- F. Parental Consent.**
- 1. A public education agency shall obtain informed written consent from the parent of the child with a disability before the initial provision of special education and related services to the child.
 - 2. If the parent of a child fails to respond to a request for, or refuses to consent to, the initial provision of special education and related services, the public education agency may not use mediation or due process procedures in order to obtain agreement or a ruling that the services may be provided to the child.
 - 3. If the parent of the child refuses to consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide consent for the initial provision of special education and related services, the public education agency:
 - a. Will not be considered to be in violation of the requirement to make available FAPE to the child because of the failure to provide the child with the special education and related services for which the parent refuses to or fails to provide consent, and
 - b. Is not required to convene an IEP Team meeting or develop an IEP in accordance with these rules.
 - 4. If, at any time subsequent to the initial provision of special education and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services, the public education agency:
 - a. May not continue to provide special education and related services to the child, but shall provide prior written notice before ceasing the provision of special education and related services;
 - b. May not use the mediation procedures or the due process procedures in order to obtain agreement or a ruling that the services may be provided to the child;
 - c. Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further special education and related services; and
 - d. Is not required to convene an IEP Team meeting or develop an IEP for the child for further provision of special education and related services.
 - 5. If a parent revokes consent in writing for their child's receipt of special education services after the child is initially provided special education and related services, the public agency is not required to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent.
- G. Individualized Education Program (IEP).**
- 1. Each public education agency shall establish, implement, and make available to its school-based personnel and parents written procedures for the development, implementation, review, and revision of IEPs.
 - 2. Procedures for IEPs shall meet the requirements of the IDEA and its regulations, state statutes and State Board of Education rules.
 - 3. Procedures shall include the incorporation of Arizona academic standards as adopted by the State Board of Education into the development of each IEP and address grade-level expectations and grade-level content instruction.
 - 4. Each IEP of a student with a disability shall be developed in accordance with IDEA and its regulations, state statutes and State Board of Education rules. If appropriate to meet the needs of a student and to ensure access to the general curriculum, an IEP team may include specially designed instruction in the IEP that may be delivered in a variety of educational settings by a general education teacher or other certificated personnel provided that certificated special education personnel are involved in the planning, progress monitoring and when appropriate, the delivery of the specially designed instruction.
 - 5. Each student with a disability who has an IEP shall participate in the state assessment system. Students with disabilities can test with or without accommodations or modifications as indicated in the student's IEP. Students who are determined to have a significant cognitive disability based on the established eligibility criteria will be assessed with the state's alternate assessment as determined by the IEP team.
 - 6. A meeting of the IEP team shall be conducted to review and revise each student's IEP at least annually, or more frequently if the student's progress substantially deviates from what was anticipated. The public education agency

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shall provide written notice of the meeting to the parents of the student to ensure that parents have the opportunity to participate in the meeting. After the annual review, the public education agency and parent may agree not to convene an IEP team meeting for the purposes of making changes, and instead may develop a written document to amend or modify the student's current IEP.

7. A parent or public education agency may request in writing a review of the IEP, and shall identify the basis for requesting review. Such review shall take place within 45 school days of the receipt of the request at a mutually agreed upon date and time.

H. Least Restrictive Environment.

1. Each public education agency shall establish, implement, and make available to its school-based personnel and parents, written procedures to ensure the delivery of special education services in the least restrictive environment as identified by IDEA and its regulations, state statutes and State Board of Education rules.
2. A continuum of services and supports for students with disabilities shall be available through each public education agency.

I. Procedural Safeguards.

1. Each public education agency shall establish, implement, and make available to school-based personnel and parents of students with disabilities written procedures to ensure children with disabilities and their parents are afforded the procedural safeguards required by federal statute and regulation and state statute. These procedures shall include dissemination to parents information about the public education agency's and state's dispute resolution options.
2. In accordance with the requirements of IDEA, prior written notice shall be provided to the parents of a child within a reasonable time after the PEA proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, educational placement or the provision of FAPE to the child, but before the decision is implemented.

J. Confidentiality.

1. Each public education agency shall establish, implement, and make available to its personnel and parents written policies and procedures to ensure the confidentiality of records and information in accordance with the IDEA and its regulations, the Family Educational Rights and Privacy Act (FERPA) and its regulations, and state statutes.
2. Parents shall be fully informed about the requirements of the IDEA and regulations, including an annual notice of the policies and procedures that the PEA shall follow regarding storage, disclosure to a third party, retention, and destruction of personally identifiable information.
3. The rights of parents regarding education records are transferred to the student at age 18, unless the student has been adjudicated incapacitated, or the student has executed a delegation of rights to make educational decisions pursuant to A.R.S. § 15-773.
4. Upon receiving a written request, each public education agency shall forward special education records to any other public education agency in which a student has enrolled or is seeking to enroll. Records shall be forwarded within the time-frame specified in A.R.S. § 15-828(F). The public education agency shall also forward records to any other person or agency for which the parents have given signed consent.

- K. Preschool Programs.** Each public education agency responsible for serving preschool children with disabilities shall establish, implement, and make available to its personnel and parents, written procedures for:
 1. The operation of the preschool program, in accordance with federal statute and regulation, and state statute, that provides a continuum of placements to students;
 2. The smooth and effective transition from the Arizona Early Intervention Program to a public school preschool program in accordance with the agreement between the Department of Economic Security and the Department; and
 3. The provision of a minimum of 360 minutes per week of instruction in a program that meets at least 216 hours over the minimum number of days.

- L. Children in Private Schools.** Each education agency shall establish, implement, and make available to its personnel and parents written procedures regarding the access to special education services to students enrolled in private schools by their parents as identified by the IDEA and its regulations, state statutes and State Board of Education rules.

M. Department Responsible for General Supervision and Obligations Related to and Methods of Ensuring Services.

1. The Department is responsible for the general supervision of services to children with disabilities aged 3 through 21 served through a public education agency.
2. The Department shall ensure through fund allocation, monitoring, dispute resolution, and technical assistance that all eligible students receive FAPE in conformance with the IDEA and its regulations, A.R.S. Title 15, Chapter 7, Article 4, and these rules.
3. In exercising its general supervision responsibilities, the Department shall ensure that when it identifies noncompliance with the requirements of the IDEA Part B, the noncompliance is corrected as soon as possible, and in no case later than one year after the Department's written notification to the PEA of its identification of the noncompliance.

N. Procedural Requirements Relating to Public Education Agency Eligibility.

1. Each public education agency shall establish eligibility for funding with the Department in accordance with the IDEA and its regulations, state statutes and with schedules and methods prescribed by the Department.
2. In the event the Department determines that a public education agency does not meet eligibility for funding requirements, the public education agency has a right to a hearing before such funding is withheld.
3. The Department may suspend payments during any time period when a public education agency has not corrected deficiencies in eligibility for federal funds as a result of fiscal requirements of monitoring, auditing, complaint and due process findings.
4. Each public education agency shall, on an annual basis, determine the number of children within each disability category who have been identified, located, evaluated, and/or receiving special education services. This includes children residing within the boundaries of responsibility of the public education agency who have been placed by their parents in private schools or who are home schooled.

O. Public Participation.

1. Each public education agency shall establish, implement, and make available to personnel and parents written pro-

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cedures to ensure that, prior to the adoption of any policies and procedures needed to comply with federal and state statutes and regulations, there are:

- a. Public hearings;
- b. Notice of the hearings; and
- c. An opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities.

2. This requirement does not pertain to day-to-day operating procedures.

P. Suspension and Expulsion.

1. Each public education agency shall establish, implement, and make available to personnel and parents written procedures for the suspension and expulsion of students with disabilities.
2. Each public education agency shall require all school-based staff involved in the disciplinary process to review the policies and procedures related to suspension and expulsion on an annual basis. The public education agency shall maintain documentation of staff review.
3. Procedures for such suspensions and expulsions shall meet the requirements of the IDEA and its regulations, and state statutes.

Historical Note

Amended effective December 11, 1974. Amended effective July 14, 1975 (Supp. 75-1). Amended effective July 1, 1977 (Supp. 77-4). Amended effective April 26, 1978 (Supp. 78-2). Former Section R7-2-401 repealed, new Section R7-2-401 adopted effective December 4, 1978 (Supp. 78-6). Amended by adding subsection (H) as an emergency effective July 20, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Amended (D)(11), (E)(5)(b) and added (H) effective December 14, 1984 (Supp. 84-6). Amended as an emergency effective June 18, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Emergency expired. Amended subsection (D) by adding subsection (12) effective March 13, 1986 (Supp. 86-2). Amended subsection (G) effective July 8, 1986 (Supp. 86-4). Amended subsections (D) and (H) and added subsection (I) effective June 22, 1987 (Supp. 87-2). Amended effective August 2, 1988 (Supp. 88-3). Amended effective December 6, 1995 (Supp. 95-4). Amended by final rulemaking at 7 A.A.R. 1541, effective March 19, 2001 (Supp. 01-1). Amended to correct a manifest typographical error in subsection (D)(1) (Supp. 01-3). Subsections (D)(9), (E)(4), and (E)(6) amended under A.R.S. § 41-1011 to correct subsection cross-references (Supp. 02-2). Amended by final rulemaking at 9 A.A.R. 4633, effective December 8, 2003 (Supp. 03-4). Amended by exempt rulemaking at 15 A.A.R. 1838, effective August 29, 2006 (Supp. 09-1). Amended by exempt rulemaking at 15 A.A.R. 1849, effective May 19, 2008 (Supp. 09-2). Amended by exempt rulemaking at 16 A.A.R. 201, effective December 7, 2009 (Supp. 10-1). Amended by final exempt rulemaking at 24 A.A.R. 140, effective October 23, 2017; filed in the Office on January 2, 2018 (Supp. 18-1).

R7-2-402. Standards for Approval of Special Education Programs in Private Schools

- A.** Definitions. All terms defined in the regulations for the Individuals with Disabilities Education Improvement Act (IDEA)

Amendments, A.R.S. § 15-761, and State Board of Education Section R7-2-401 are applicable.

- B.** No student may be placed by a public education agency in a private special education school program unless the facility has been approved as meeting the standards as outlined in this Section, and the public education agency is unable to provide satisfactory education and services through its own facilities and personnel.

- C.** In order for a private special education school to be approved by the Department for the purpose of contracting with a public education agency, the private facility shall:

1. Provide special education instructional programs for students with disabilities that are at least comparable to those provided by the public schools of Arizona and meet the requirements of IDEA.
2. Provide the following documentation:
 - a. Policies and procedures based on IDEA and state statutes;
 - b. Curriculum that is aligned with the Arizona Academic Standards;
 - c. A completed application;
 - d. Copies of all teacher and related service personnel certifications and licenses; and
 - e. If applicable, a copy of North Central Accreditation.
3. Provide certificated special education teachers in each classroom to implement the IEPs of those students assigned to that classroom.
4. Provide related services to meet the needs of the students as indicated on their IEPs.
5. Provide administration personnel such as head teacher, principal, or other administrator certificated in an administrative area or experienced and certificated in the appropriate area of special education.
6. Provide an education that meets the standards that apply to education provided by the public education agency.
7. Maintain student records in accordance with the statutory requirements.
8. Accept all responsibilities concerning instructional programs to the disabled student and parent or guardian that are required of the public schools of Arizona. Ultimate responsibility for any student under contract in a private special education school rests with the public education agency contracting for the students' education.
9. Administer all required statewide assessments to those students placed in the private facility by a PEA or through the educational voucher system.
10. Maintain adequate liability insurance.
11. Maintain an accounting system and budget which includes the costs of operation, maintenance, transportation, and capital outlay, and which is open to review upon request.
12. Maintain an attendance reporting system that provides public education agencies and the Department with required information.
13. Provide notification to contracting public education agencies and the Department of any changes in staff or deletion of programs within 10 school days of the change or deletion.
14. Provide notification to the contracting PEA of any intent to discontinue, suspend, or terminate services to a student for longer than 10 days. Services to the student must be continued by the private school until an IEP meeting with the PEA is convened to determine an appropriate alternative placement. The PEA must be given up to 10 school

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days to arrange for the transition of the student after the IEP determination.

15. Permit onsite evaluation of the program by the Department or its designees, and the representatives of the public education agencies.
16. Request approval to contract with public education agencies from the Department in accordance with the prescribed procedures.

Historical Note

Former Section R7-2-402 repealed, new Section R7-2-402 adopted effective December 4, 1978 (Supp. 78-6). Amended by final rulemaking at 7 A.A.R. 1541, effective March 19, 2001 (Supp. 01-1). Amended by final rulemaking at 9 A.A.R. 4633, effective December 8, 2003 (Supp. 03-4). Amended by exempt rulemaking at 15 A.A.R. 1849, effective May 19, 2008 (Supp. 09-2). The word "rule" has been changed to "Section" to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-403. Repealed**Historical Note**

Adopted effective December 4, 1978 (Supp. 78-6). Amended as an emergency effective September 26, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-5). Former emergency adoption now adopted effective December 4, 1979 (Supp. 79-6). Section repealed by final rulemaking at 9 A.A.R. 4633, effective December 8, 2003 (Supp. 03-4).

R7-2-404. Special Education Voucher Program Policies and Procedures

- A. Institutional vouchers. Students residing and attending special education programs at the Arizona Schools for the Deaf and the Blind (ASDB) or the Arizona State Hospital (ASH) or students attending special education day programs provided by ASDB may be eligible for special education institutional voucher funding.
 1. Eligibility criteria.
 - a. Student shall be between the ages of 3 and 22 years.
 - b. Student shall have a recognized disability as documented by a current educational evaluation. Evaluations shall be completed by the institution or the student's home school district (HSD), as determined by a multidisciplinary evaluation team (MET).
 - c. Student shall have a current individualized education program (IEP) identifying the placement as the most appropriate and least restrictive educational environment.
 2. Institutional voucher application/approval.
 - a. Applications for special education institutional vouchers shall be completed by the institution and submitted to the Exceptional Student Services Division of the Department of Education. The institution shall provide all student information requested on the institutional voucher application.
 - b. Institutions shall sign a Statement of Assurance guaranteeing their maintenance of and ability to produce all supporting documentation for each application.
 - c. Institutional voucher applications shall be reviewed and approved or disapproved by the voucher unit manager. Applications that are disapproved may be corrected and resubmitted. Institutional voucher

payments will not be made for student attendance prior to voucher approval date.

- d. Voucher identification numbers shall be assigned for each new student approval, and shall be used by the institution to complete claims for payment and the special education census form.
- e. Institutional vouchers are approved for the current year only; therefore the application process shall be repeated each school year for each student.
- f. Institutions shall report any changes in student status, including withdrawals, transfers, current evaluation dates and changes in disability categories to the Exceptional Student Services Division of the Department of Education. Changes shall be submitted within ten days of the occurrence.
3. Institutional voucher claim for payment.
 - a. The special education institutional voucher claim for payment form shall be completed by the institution at the end of each calendar month. The claim shall be submitted in accordance with procedures established by the School Finance Division of the Department of Education.
 - b. Claims for payment shall be submitted to the School Finance Division of the Department of Education.
4. Special education census.

All institutional voucher students shall be reported on the special education census in accordance with procedures established by the School Finance Division of the Department of Education.
5. Review of placement.
 - a. It is the responsibility of the HSD to review student progress at least once a semester.
 - b. The IEP may be completed by the institution but is ultimately the responsibility of the student's HSD to ensure that it is reviewed and revised annually.
 - c. It is the responsibility of the HSD to ensure that re-evaluations are conducted on a tri-annual basis or more frequently as needed.
- B. Residential vouchers: Students placed in private residential treatment facilities (PRF) may be eligible for residential voucher funding for the educational portion of the placement.
 1. Eligibility Criteria.
 - a. Students shall be enrolled in and eligible for educational services from a Public Education Agency (PEA).
 - b. Placement shall be made by one of the State Placing Agencies. They are the Department of Economic Security (DES), the Department of Health Services (DHS), the Administrative Office of the Courts (AOC), or the Department of Juvenile Corrections (ADJC).
 - c. Residential facilities shall be licensed by the Department of Health Services or Department of Economic Security and approved by the Department of Education for the specific educational needs of each student placed there.
 - d. The following conditions invalidate eligibility.
 - i. Placement by any agency other than those noted in subsection (B)(1)(b).
 - ii. Placement in facilities not appropriately licensed by DHS or DES or approved by the Department of Education.
 - iii. Student attendance at a PEA while residing in a residential facility.

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- e. Eligible students are divided into three categories.
 - i. Non-special education (NSE): Students not eligible for special education services who are placed by a State Placing Agency for their care, safety, or treatment.
 - ii. Care special education (CSE): Students eligible for special education services who are placed by a State Placing Agency for their care, safety, or treatment.
 - iii. Residential special education (RSE): Students requiring residential placement to benefit from educational programming who are placed by an IEP team.
2. Voucher application/approval process. The process differs depending on category.
 - a. NSE and CSE options:
 - i. When a placement decision is reached, the State Placing Agency (SPA) shall complete a SPA Application for Voucher Funding, and forward a copy to the student's Home School District (HSD) for appropriate signatures within five days of placement.
 - ii. Upon placement, copies of the completed voucher shall be provided to the PRF and the Exceptional Student Services of the Department of Education (ESS).
 - iii. Upon receipt and review of the application and verification of facility approval, the SPA application will be approved for the initial 60 days of placement. An approval memo is sent to the PRF and the HSD. The Exceptional Student Services shall assign a student identification number to each approved voucher student. This number shall be used by the private facility when completing the special education census form and the claim for payment form.
 - iv. The HSD shall submit the HSD Application for Education Voucher Funding packet and submit it to the Exceptional Student Services of the Department of Education. Appropriate documentation of eligibility for special education and provision of services, if applicable, shall be included.
 - v. The HSD voucher application packet shall be reviewed and approved or disapproved by the voucher unit manager. Applications that are disapproved may be corrected and resubmitted. Approvals are granted from the date of receipt through the end of the school year. An approval memo is sent to the PRF and the HSD.
 - vi. If the HSD cannot complete the requirements for the HSD application packet within the initial 60-day approval period, they shall submit an Application For Extension Of Education Voucher Funding.
 - b. RSE option.

The HSD shall follow statutory requirements and procedures agreed upon by the ADE, DHS, and DES when considering placement in a PRF for educational reasons. If a need for such a placement is determined, the HSD shall complete and submit the HSD Application for Education Voucher Funding packet to the ESS. Documentation of the necessity for PRF placement, measurable exit criteria, and a reintegration plan shall be required.
3. Changes in placement/Discharge.
 - a. If a student is discharged or is absent without leave for more than ten days from the PRF, the facility shall notify the State Placing Agency, Home School District and the Exceptional Student Services Division of the Department of Education in writing within five days.
 - b. Students returning to a facility after a discharge or students transferred from one facility to another require a new SPA voucher application.
 - c. Students placed under the RSE option shall not be discharged without the consent of the IEP team.
4. Voucher claim for payment.
 - a. A special education voucher claim for payment shall be submitted in accordance with procedures established by the School Finance Division of the Department of Education.
 - b. Claim for payment shall be submitted to the School Finance Division of the Department of Education.
5. Special education census.

A special education census form shall be completed for all voucher students in accordance with procedures established by the School Finance Division of the Department of Education.
6. Review and continuation of placement.
 - a. The Home School District (HSD) shall regularly monitor the progress of students, ensure the annual review and revision of IEPs, and complete three-year re-evaluations as applicable.
 - b. Voucher approval is for one school year only. Students remaining in an PRF from the end of one school year to the beginning of the next year require new voucher applications. Prior to the beginning of the new school year, the PRF shall submit an Application for Continuing Voucher funding, signed by both the SPA and the HSD. For a student who is eligible for special education services, a current IEP shall accompany the continuing application if the IEP has been reviewed or revised after the original voucher was approved.

Historical Note

Adopted effective December 4, 1978 (Supp. 78-6).
 Amended by final rulemaking at 9 A.A.R. 4633, effective
 December 8, 2003 (Supp. 03-4).

Editor's Note: The following Section was erroneously published in Supp. 04-2 with amendments that were not approved by the Attorney General's Office. It is republished with the text in effect before Supp. 04-2. The correct notice was published at 10 A.A.R. 3274 (Supp. 04-3).

R7-2-405. Special Education Dispute Resolution; Due Process

A. Definitions. The following definitions are applicable to this Section:

1. "Due process hearing" means a fair and impartial administrative hearing conducted by the State Education Agency by an impartial hearing officer through the Arizona Office of Administrative Hearings in accordance with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) and its implementing regulations (34 CFR 300).

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2. "Impartial hearing officer" or "hearing officer" means an Administrative Law Judge ("ALJ") of the Arizona Office of Administrative Hearings ("OAH") and who is knowledgeable in the laws governing special education and administrative hearings.
3. "Public agency" ("PEA") has the same definition as provided in R7-2-401.
4. "State Education Agency" ("SEA") means the Department of Education, Exceptional Student Services Section.
- B.** The due process procedures specified in this Section apply to all public agencies dealing with the identification, evaluation, special education placement of, and the provision of a free appropriate public education ("FAPE") for children with disabilities.
- C.** The SEA shall establish procedures concerning:
 1. Impartial due process hearings, and
 2. Confidentiality and access to student records.
- D.** An impartial hearing officer shall be:
 1. Unbiased - not prejudiced for or against any party in the hearing;
 2. Disinterested - not having any personal or professional interest that would conflict with objectivity in the hearing;
 3. Independent - may not be an officer, employee, or agent of a public agency involved in the education or care of the child or the SEA. A person who otherwise qualifies to conduct a hearing is not an employee of the public agency or the SEA solely because the person is paid by the public agency to serve as a hearing officer;
 4. Trained by the SEA as to the state and federal laws pertaining to the identification, evaluation, placement of, and the provision of FAPE for children with disabilities.
- E.** Hearing officer qualifications and training.
 1. All hearing officers shall participate in all required training conducted by the SEA as to the state and federal laws pertaining to the identification, evaluation, educational placement, and the provision of FAPE for children with disabilities.
 2. A hearing officer shall meet the requirements set forth by OAH regarding ALJs. A hearing officer shall not have represented a parent in a special education matter during the preceding 12 months, and shall not have represented a school district in any matter during the preceding 12 months.
- F.** Selection of hearing officers.
 1. The SEA shall prepare and maintain a list of individuals who meet the qualifications specified in subsection (E) to serve as hearing officers. This list shall also include the qualifications of each hearing officer.
 2. A hearing officer shall be assigned in accordance with the procedures of the Office of Administrative Hearings.
- G.** Request for due process hearing.
 1. The due process complaint must allege a violation that occurred not more than two years before the date the parent or public education agency knew or should have known about the alleged action that forms the basis of the due process complaint.
 2. A parent shall submit a written request for a due process hearing to the public education agency and the SEA. The SEA shall provide a model form that a parent may use in requesting a due process hearing. Upon receipt of a written request, there shall be no change in the educational placement of the child except under the applicable provisions of IDEA, unless the PEA and parents agree. If a parent requests a due process hearing, the public education agency shall advise the parents of any free or low-cost legal services available, and provide a copy of the procedural safeguards notice. All correspondence to the parent shall be provided in English and the primary language of the home. If the written request involves an application for initial admission, the child, with the consent of the parent, shall be placed in the public school until the completion of all proceedings.
3. If the public education agency requests a due process hearing, such request may be made on a model form, as noted in subsection (G)(2), and a copy shall be provided to the parent and the SEA. Upon receipt of a written request, there shall be no change in the educational placement of the child except under the applicable provisions of IDEA, unless the PEA and the parents agree. In conjunction with its request for due process hearing, the public education agency shall advise the parents of any free or low-cost legal services available and provide a copy of the procedural safeguards notice. All correspondence to the parent, including the due process request, shall be provided in English and the primary language of the home. If the written request involves an application for initial admission, the child, with the consent of the parent, shall be placed in the public school until the completion of all proceedings.
- H.** An impartial due process hearing shall be conducted in accordance with the following procedures:
 1. The hearing officer shall hold a pre-hearing conference, either telephonically or at a location that is reasonably convenient to the parents and the child involved, to determine if the complaint is a legitimate due process complaint, to ensure that all matters are clearly defined, to establish the proceedings that will be used for the hearing, to determine who will represent and/or advise each party, and to set the time and dates for the hearing.
 2. The hearing officer shall conduct the hearing at a location that is reasonably convenient to the parents and the child involved.
 3. The hearing officer shall preside at the hearing and shall conduct the proceedings in a fair and impartial manner, and shall ensure that all parties involved have an opportunity to:
 - a. Present their evidence and confront, cross-examine, and compel the attendance of witnesses;
 - b. Object to the introduction of any evidence at the hearing that has not been disclosed to all parties at least five business days before the hearing;
 - c. Produce outside expert witnesses;
 - d. Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities.
 4. The parent involved in the hearing shall be given the right to:
 - a. Have the child who is the subject of the hearing present,
 - b. Have the hearing conducted in public,
 - c. Have an interpreter provided by the public agency.
 5. The hearing officer shall review all relevant facts concerning the identification, evaluation, the educational placement, and the provision of FAPE. This shall include any Independent Education Evaluation secured by the parent.

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- a. The hearing officer shall determine whether the public agency has met all requirements of federal and state law, rules, and regulations.
 - b. The hearing officer shall render findings of fact and a decision, which shall be binding on all parties unless appealed pursuant to this Section.
6. The hearing officer's findings of fact and decision shall be in writing and shall be provided to the parent, the public education agency, the SEA, and their respective representatives. The parent may choose to receive an electronic verbatim record of the hearing and electronic findings of fact and decision relative to the hearing in addition to the written findings of fact and decision. The hearing officer's findings of fact and decision shall be delivered by certified mail or by hand within 45 calendar days after notification to the hearing officer that the parties have been unable to resolve the matter in accordance with 20 U.S.C. 1415(f)(1)(B). A hearing officer may grant specific extensions of time beyond the 45 calendar days for good cause shown at the request of either party.
 7. The findings of fact and decision of the hearing officer shall be final at the administrative level. The notification of the findings of fact and decision shall contain notice to the parties that they have a right to judicial review.
 8. Any party to the proceeding has the right to appeal a final administrative decision to a court of competent jurisdiction within 35 calendar days after receipt of the decision.
 9. The SEA, after deleting any personally identifiable information, shall make such written findings of fact and decision available to the public.
- I. Expedited hearing.**
1. An expedited hearing regarding disciplinary matters may be requested in accordance with federal law as set forth in 20 U.S.C. 1415(k).
 2. Hearing officers for an expedited hearing shall be assigned by the Office of Administrative Hearings.
 3. The expedited hearing shall be conducted within 20 school days of the date the hearing is requested and shall result in a determination within 10 school days after the hearing.

Historical Note

Adopted effective December 4, 1978 (Supp. 78-6). Amended subsection (V) effective May 1, 1987 (Supp. 87-2). Amended effective July 20, 1990 (Supp. 90-3). Emergency amendment adopted effective November 21, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-4). Emergency expired. Emergency amendment readopted effective March 21, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Amended effective May 2, 1991 (Supp. 91-2). Amended effective November 17, 1994 (Supp. 94-4). Amended effective December 6, 1995 (Supp. 95-4). Amended by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4). Amended by final rulemaking at 10 A.A.R. 2399, effective July 23, 2004 (Supp. 04-2). Supp. 04-2 Historical Note entry is in error. R7-2-405 was erroneously included in Supp. 04-2 with amendments that were not approved by the Attorney General's Office. It is republished with the text in effect before Supp. 04-2. The correct notice was published at 10 A.A.R. 3274 (Supp. 04-3). Amended by exempt rulemaking at 15 A.A.R. 1732, effective January 26, 2006 (Supp. 09-1). Amended by exempt rulemaking at 15 A.A.R. 1849, effective May 19, 2008 (Supp. 09-2). Amended by exempt rulemaking

at 16 A.A.R. 201, effective December 7, 2009 (Supp. 10-1). The word "rule" has been replaced with "Section" to reflect current standards in Chapter style and format (Supp. 21-1).

R7-2-405.01. Special Education Dispute Resolution; State Administrative Complaints

- A.** Notwithstanding any other provision of law, a state administrative complaint filed with the Department regarding any alleged violations of Part B of the federal Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1400 et seq.) or its implementing regulations (34 CFR 300) shall be investigated in accordance with the Code of Federal Regulations Title 34.
1. The party filing the complaint shall forward a copy of the state administrative complaint to the public education agency serving the child at the same time the party files the complaint with the Department.
 2. A written decision shall be issued to the complainant and the public education agency that is the subject of the state administrative complaint in accordance with the 60-day time limit specified in the Code of Federal Regulations Title 34.
- B.** The Department shall accept and investigate state administrative complaints that allege a violation that occurred not more than one year prior to the date that the complaint is received by the Department.
- C.** The state administrative complaint shall include all of the following:
1. A statement that a public education agency has violated a requirement of Part B of the IDEA or its implementing regulations.
 2. The facts on which the statement is based.
 3. The signature and contact information for the complainant.
 4. If alleging violations with respect to a specific child, all of the following:
 - a. The name and address of the child.
 - b. The name of the school the child is attending.
 - c. In the case of a homeless child or youth (within the meaning of Section 725(2) of the McKinney-Vento Homeless Assistance Act (20 U.S.C. 11434a(2))), available contact information for the child, and the name of the school the child is attending.
 - d. A description of the nature of the problem of the child, including facts relating to the problem.
 - e. A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.
 5. The Department shall develop a model form to assist parents and public agencies in filing a state administrative complaint under this Section.

Historical Note

New Section made by exempt rulemaking at 16 A.A.R. 201, effective December 7, 2009 (Supp. 10-1).

R7-2-405.02. Special Education Dispute Resolution; Mediation

In accordance with the Individuals with Disabilities Education Act, the Department shall provide parents of students with disabilities and public education agencies the opportunity to resolve disputes involving any matter under IDEA, including matters arising prior to the filing of a request for due process, through a mediation process.

1. The mediation process shall:
 - a. Be voluntary on the part of both parties,

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- b. Not be used to deny or delay a parent's right to a due process hearing or any other rights afforded under Part B of the IDEA,
- c. Be conducted by a qualified and impartial mediator who is trained in effective mediation techniques.
- 2. The Department shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.
- 3. The Department shall select mediators on a random or rotational basis.
- 4. The Department shall bear the cost of the mediation process.
- 5. Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to both the parent and the public education agency.
- 6. If the parties resolve a dispute through the mediation process, the parties shall execute a legally binding agreement that:
 - a. States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings,
 - b. Is signed by both the parent and a representative of the public education agency who has the authority to bind the agency, and
 - c. Is enforceable in any state court of competent jurisdiction or in a district court of the United States.
- 7. Whether or not the dispute is resolved through mediation, discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings of any federal court or state court.
- 8. Impartiality of the Mediator. An individual who serves as a mediator:
 - a. May not be an employee of the Department or of the public education agency that is involved in the education or care of the student.
 - b. Shall not have a personal or professional interest that conflicts with the person's objectivity.
 - c. Is not an employee of the Department or of a public education agency solely because the mediator is paid by the Department of Education to serve as a mediator.
- c. LEAs shall place transfer students as soon as they have verified eligibility.
- 2. Curriculum, differentiated instruction, and supplemental services for gifted students.
 - a. Expanded academic course offerings may include, for example, one or more of the following: acceleration, enrichment, flexible pacing, interdisciplinary curriculum, and seminars.
 - b. Differentiated instruction, which emphasizes the development of higher order thinking, may include critical thinking, creative thinking, and problem solving skills.
 - c. Supplemental services, which may be offered to meet the individual needs of each gifted student, may include, for example, guidance and counseling, mentorships, independent study, correspondence courses, and concurrent enrollment.
- 3. Parent involvement.
 - a. Each LEA shall provide the following information to all parents or legal guardians:
 - i. Definition of a gifted child;
 - ii. Services mandated for gifted students by the state of Arizona;
 - iii. Services available from the LEA;
 - iv. Written criteria of the LEA for referral, screening, selection and placement.
 - b. Each LEA shall develop policies and procedures which ensure that parents or legal guardians are:
 - i. Given the opportunity to have their children tested;
 - ii. Given advance notice of the week that their children are to be tested;
 - iii. Given the opportunity to withhold permission for testing;
 - c. Each LEA shall:
 - i. Make testing available for students K through 12 on a periodic basis but not less than three times per year;
 - ii. Inform parents or legal guardians of the results of the district-administered test within 30 school days of determining the test results;
 - iii. Upon request, explain test results to parents or legal guardians.
- 4. The scope and sequence shall be a written program description which demonstrates articulation across all grades and schools to ensure opportunities for continuous progress and shall include:
 - a. Statement of purpose;
 - b. General population description;
 - c. Identification process and placement criteria including provisions for special populations;
 - d. Goals and objectives;
 - e. Curriculum, differentiated instruction, and supplemental services;
 - f. Program models;
 - g. Time allocations for services;
 - h. Procedures and criteria for evaluation of student and program outcomes.

Historical Note

New Section made by exempt rulemaking at 16 A.A.R. 201, effective December 7, 2009 (Supp. 10-1).

R7-2-406. Gifted Education Programs and Services

- A. Governing boards shall adopt policies for the education of gifted students which shall include:
 - 1. Procedures for identification and placement of students to be placed in gifted programs.
 - a. Students shall be served who score at or above the 97th percentile on national norms in any one of three areas - verbal, nonverbal, or quantitative reasoning - on any test from the State Board-approved list. Students who score below the 97th percentile also may be served.
 - b. Local educational agencies (LEAs) shall accept, as valid for placement, scores at or above the 97th percentile on any State Board-approved test submitted by other LEAs or by qualified professionals.

- B. The Arizona Department of Education shall develop and make available model policies for the development, implementation, and evaluation of services for gifted students.

Historical Note

Adopted effective December 12, 1990 (Supp. 90-4). The hyphen between "K-12" has been changed to the word

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“through” for consistency in Chapter style and format
(Supp. 21-2).

R7-2-407. Special Education Standards and Assistance for Providing Educational Services and Materials for Visually Impaired Students

- A. All requirements in this Section are in addition to the general special education standards in R7-2-401 for public education agencies providing special education.
- B. For the purposes of this Section, the following definitions apply:
 1. “Accessible Electronic File” means, until the effective date of a nationally adopted file format, a digital file in a mutually agreed upon electronic file format that has been prepared using a markup language that maintains the structural integrity of the information and can be processed by Braille conversion software. Upon the effective date of a nationally adopted file format, such as the Instructional Materials Accessibility Standard (IMAS), “Accessible Electronic File” shall mean an electronic file conforming to the specifications of the nationally adopted file format, including future technical revisions and versions of this nationally adopted file format.
 2. “Individualized Braille literacy assessment” means the Learning Media Assessment or other standardized or individualized assessments that pertain to the child’s reading medium.
 3. “Non-printed instructional materials” means non-printed textbooks and related core materials, including those that require the availability of electronic equipment in order to be used as a learning resource, that are written and published primarily for use in elementary school and secondary school instruction and are required by a state educational agency or a local educational agency for use by pupils in the classroom. These materials shall be available to the extent technologically available, and may include software programs, CD-ROMs and internet-based materials.
 4. “Printed instructional materials” means textbooks and related printed core materials, that are written and published primarily for use in elementary school and secondary school instruction and are required by a state educational agency or a local educational agency for use by pupils in the classroom. This may include workbooks, practice tests, and tests.
 5. “Publisher” means an individual, firm, partnership or corporation that publishes or manufactures printed instructional materials for students attending public schools in Arizona, including an on-line service, a software developer, or a distributor of an electronic textbook.
 6. “Specialized format” means Braille, audio or digital text which is exclusively for use by blind or other persons with disabilities.
 7. “Structural integrity” means the structure of all parts of the printed instructional material will be kept intact to the extent feasible and as mutually agreed upon by the publisher and the local educational agency. This may include appropriate representation of graphic illustrations.
- C. Upon determination of a student having a visual impairment as assessed by a full and initial evaluation defined in R7-2-401(E)(6)(i), a visually impaired student who is determined to be blind as defined by A.R.S. § 15-214(B) shall receive an individualized Braille literacy assessment.
- D. Individualized Education Programs (IEP) for blind students. In addition to the requirements for establishing and implementing an IEP consistent with R7-2-401(F) for a student determined to have a disability, each IEP for a student determined to be “blind” as assessed by R7-2-401(E)(6)(i) and defined by A.R.S. § 15-214(B), shall presume that proficiency in Braille is essential in achieving academic success unless otherwise determined by the IEP team established consistent with the regulations for the most recent reauthorization of the Individuals with Disabilities Education Act (IDEA) and in the manner provided by the most recent reauthorization of the IDEA Act for developing an IEP. An IEP developed under this Section for a student determined to be blind shall include all required provisions of A.R.S. § 15-214(A)(3), including the following:
 1. The results of the individualized Braille literacy assessment.
 2. The date on which Braille instruction will begin, the methods to be used and the frequency and duration of the Braille instruction.
 3. The level of competency expected to be achieved within specified time-frames and the objective measures to be used for evaluation.
 4. The Braille materials and equipment necessary to achieve the stated expected competency gains, including ordering instructional materials to achieve the IEP-stated goals.
 5. The rationale for not providing Braille instruction if Braille is not determined to be an appropriate medium by the IEP team and is not included in the IEP.
- E. The Arizona Department of Education shall designate a central repository for publishers to, upon request, provide accessible electronic files for instructional materials used by public schools in Arizona as defined in subsection (B)(1). The central repository shall be responsible for maintaining a complete list of available accessible electronic files for instructional materials and instructional materials in specialized formats, processing requests from PEAs for instructional materials in specialized formats and providing access to these materials in specialized formats to schools throughout Arizona that are providing services to blind or other students with disabilities.
 1. Upon receipt of a written request certifying to the requirements set forth in subsections (E)(1)(a) through (c) publishers shall deliver to the repository, at no additional cost and consistent with the time-frame for providing materials for students without disabilities, accessible electronic files for printed instructional materials and non-printed instructional materials. Certification shall include all of the following:
 - a. The PEA purchased a copy of the printed instructional material or non-printed instructional material for use by a student who is blind or has a visual impairment in a course that the student is attending or registered to attend;
 - b. The student who will utilize the instructional materials in a specialized format has an IEP stating that such materials and/or equipment are necessary for the student to achieve stated expected competency gains; and
 - c. The instructional materials are for use by the student in connection with a course in which he or she is enrolled, as verified by the person overseeing the education of students who are blind or visually impaired.
 2. A PEA may access the materials maintained by the central repository, upon written request, for instructional use with a student with a visual impairment, as identified by R7-2-401(E)(6)(i), who requires the use of instructional

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materials in a specialized format pursuant to the student's IEP.

3. Nothing in this Section shall be construed to prohibit the central repository from assisting a student with a disability by using the electronic format version of instructional material provided pursuant to this Section solely to transcribe or arrange for the transcription of the printed instructional material into Braille or large print. In the event a Braille transcription is made, the central repository has the right to share the Braille copy of the printed instructional material with other eligible students with disabilities. The PEA will be required to return the specialized format version of the instructional material to the central repository when the student no longer needs the instructional material. The central repository may share the copies of the specialized format of the instructional material with other PEAs who have met the requirements of subsections (B) and (D) to provide services to students who require such services pursuant to R7-2-401(F)(5).

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2399, effective July 23, 2004 (Supp. 04-2). The word "rule" has been changed to "Section," and "of this Section" was removed to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-408. Extended School Year Programs for Children with Disabilities

- A. "Extended school year" (ESY) shall be as defined in A.R.S. § 15-881.
- B. Eligibility shall be determined by the Individualized Education Program (IEP) Team. Criteria for determining eligibility in an extended school year program shall be as defined in A.R.S. § 15-881.
- C. For a student with a disability currently enrolled in special education, eligibility for ESY services shall be determined no later than 45 calendar days prior to the last day of the school year.
- D. The availability of an extended school year program is required for all students for whom the IEP team has determined that it is necessary in order to ensure a free appropriate public education. Student participation in an ESY program is not compulsory. ESY services are not required for all students with a disability.
- E. Factors that are inappropriate for consideration. Eligibility for participation shall not be based on need or desire for any of the following:
 1. A day care or respite care service for students with a disability;
 2. A program to maximize the academic potential of a student with a disability; and
 3. A summer recreation program for students with a disability.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 4633, effective December 8, 2003 (Supp. 03-4).

ARTICLE 5. CAREER AND VOCATIONAL EDUCATION**R7-2-501. Repealed****Historical Note**

Not in original publication, correction, Section R7-2-501. Adopted effective July 2, 1974. Amended effective November 8, 1974. Amended effective August 11, 1975 (Supp. 75-1). Former Section R7-2-501 repealed, new Section R7-2-501 adopted effective December 4, 1978 (Supp. 78-6). Repealed effective February 20, 1997 (Supp. 97-1).

R7-2-502. Vocational Education Provisions and Standards

All eligible recipients receiving federal or state monies or services in support of vocational and technical education programs, courses, or classes shall comply with the applicable provisions and standards of the following plans, which are filed with the Secretary of State, which plans are incorporated herein by reference.

1. 1986-1988 Arizona State Plan for Vocational Education for Federal Funding as required by A.R.S. § 15-784; and
2. Arizona State Plan for Vocational Education for State Funding approved April 22, 1985, as required by A.R.S. § 15-787(C).

Historical Note

Adopted (FY 76) effective July 14, 1975 (Supp. 75-1). Adopted (FY 77) effective June 25, 1976 (Supp. 76-3). Former Section R7-2-502 repealed, new Section R7-2-502 adopted effective December 4, 1978 (Supp. 78-6). Former Section R7-2-502 repealed, new Section R7-2-502 adopted effective March 13, 1986 (Supp. 86-2). The Section heading has been updated to title case to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-503. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-504. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-505. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-506. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-507. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-508. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-509. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-510. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-511. Repealed

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Historical Note

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-512. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-513. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-514. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-515. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-516. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-517. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-518. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-519. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-520. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

ARTICLE 6. CERTIFICATION**R7-2-601. Definitions**

In this Article, the following definitions apply unless the context otherwise requires:

1. "Accredited institution" means a postsecondary institution that has accreditation that is recognized by the U.S. Department of Education. An institution based outside the United States shall be considered accredited if a Department-approved foreign document evaluation firm verifies that it has accreditation in the foreign country that is comparable to accreditation that is recognized by the U.S. Department of Education.
2. "Accredited training" means training provided by an organization that has accreditation from an association approved by the Board.
3. "Appropriately certified" means holding the certificate, endorsement and approved area that is required for a teaching assignment.
4. "Approved area" means a subject area denoted on a teaching certificate that is taught in Arizona public schools.
5. "Board" means the State Board of Education.
6. "Capstone experience" means a culminating professional experience in a PreK through 12 setting that may include

student teaching or internships in administration, counseling, or school psychology, or alternative path PreK through 12 teaching.

7. "CTE" means Career and Technical Education.
8. "Department" means the Arizona Department of Education.
9. "Practicum" means a period of structured observation and practice of the skills being learned, supervised by an individual trained in that area. The commonly used terms "student teaching," "internship," "residency," or "observation course" are included in this definition.
10. "Professional development" means training to increase skills related to the occupation of education.
11. "Self-contained classroom" means a classroom in which the teacher teaches multiple subjects to one class of students.
12. "Single subject classroom" means a classroom in which the teacher teaches one subject to one class of students.
13. "Teaching experience" means full-time employment which included full responsibility for the planning and delivery of instruction and evaluation of student learning. Except for meeting the capstone experience requirement when applying for a standard teaching certificate, substitute teaching is not considered full-time teaching experience.

Historical Note

Former Section R7-2-601 repealed, new Section R7-2-601 adopted effective December 4, 1978 (Supp. 78-6). Amended subsection (C) effective May 31, 1983 (Supp. 83-3). Amended subsection (I) effective September 12, 1989 (Supp. 89-3). Amended effective August 14, 1991 (Supp. 91-3). Amended effective July 30, 1992 (Supp. 92-3). Section repealed, new Section adopted effective March 10, 1994 (Supp. 94-1). Amended effective July 25, 1994 (Supp. 94-3). Amended effective September 20, 1996 (Supp. 96-3). Amended effective March 6, 1997 (Supp. 97-1). Typographical error corrected in subsection (A) (Supp. 97-3). Section repealed; new Section adopted effective December 3, 1998 (Supp. 98-4). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-602. Professional Teaching Standards

- A. The standards presented in this Section shall be the basis for approved teacher preparation programs, described in R7-2-604, and the Arizona Teacher Proficiency Assessment, described in R7-2-606.
- B. Standard 1. Learner Development: The teacher understands how learners grow and develop, recognizing that patterns of learning and development vary individually within and across the cognitive, linguistic, social, emotional, and physical areas, and designs and implements developmentally appropriate and challenging learning experiences. The teacher:
 1. Regularly assesses individual and group performance in order to design and modify instruction to meet learners' needs in each area of development (cognitive, linguistic, social, emotional, and physical) and scaffolds the next level of development.
 2. Creates developmentally appropriate instruction that takes into account individual learners' strengths, interests, and needs and that enables each learner to advance and accelerate his/her learning.

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3. Collaborates with families, communities, colleagues, and other professionals to promote learner growth and development.
 4. Understands how learning occurs – how learners construct knowledge, acquire skills, and develop disciplined thinking processes – and knows how to use instructional strategies that promote student learning.
 5. Understands that each learner's cognitive, linguistic, social, emotional, and physical development influences learning and knows how to make instructional decisions that build on learners' strengths and needs.
 6. Identifies readiness for learning, and understands how development in any one area may affect performance in others.
 7. Understands the role of language and culture in learning and, consistent with Arizona law, knows how to modify instruction to make language comprehensible and instruction relevant, accessible, and challenging.
 8. Respects learners' differing strengths and needs and is committed to using this information to further each learner's development.
 9. Is committed to using learners' strengths as a basis for growth, and their misconceptions as opportunities for learning.
 10. Takes responsibility for promoting learners' growth and development.
- C. Standard 2. Learning Differences: The teacher uses understanding of individual differences and diverse cultures and communities to ensure inclusive learning environments that enable each learner to meet high standards. The teacher:
1. Designs, adapts, and delivers instruction to address each student's diverse learning strengths and needs and creates opportunities for students to demonstrate their learning in different ways.
 2. Makes appropriate and timely provisions (e.g., pacing for individual rates of growth, task demands, communication, assessment, and response modes) for individual students with particular learning differences or needs.
 3. Designs instruction to build on learners' prior knowledge and experiences, allowing learners to accelerate as they demonstrate their understandings.
 4. Brings multiple perspectives to the discussion of content, including attention to learners' personal, family, and community experiences and cultural norms.
 5. Incorporates tools of language development into planning and instruction, including strategies for making content accessible to English language learners and for evaluating and supporting their development of English proficiency.
 6. Accesses resources, supports, and specialized assistance and services to meet particular learning differences or needs.
 7. Understands and identifies differences in approaches to learning and performance and knows how to design instruction that uses each learner's strengths to promote growth.
 8. Understands students with exceptional needs, including those associated with disabilities and giftedness, and knows how to use strategies and resources to address these needs.
 9. Knows about second language acquisition processes and knows how to incorporate instructional strategies and resources to support language acquisition.
 10. Understands that learners bring assets for learning based on their individual experiences, abilities, talents, prior learning, and peer and social group interactions, as well as language, culture, family, and community values.
11. Knows how to access information about the values of diverse cultures and communities and how to incorporate learners' experiences, cultures, and community resources into instruction.
 12. Believes that all learners can achieve at high levels and persists in helping each learner reach his/her full potential.
 13. Respects learners as individuals with differing personal and family backgrounds and various skills, abilities, perspectives, talents, and interests.
 14. Makes learners feel valued and helps them learn to value each other.
 15. Values diverse languages and dialects and seeks to integrate them into his/her instructional practice to engage students in learning.
- D. Standard 3. Learning Environments: The teacher works with others to create environments that support individual and collaborative learning, and that encourage positive social interaction, active engagement in learning, and self motivation. The teacher:
1. Collaborates with learners, families, and colleagues to build a safe, positive learning climate of openness, mutual respect, support, and inquiry.
 2. Develops learning experiences that engage learners in collaborative and self-directed learning and that extend learner interaction with ideas and people locally and globally.
 3. Collaborates with learners and colleagues to develop shared values and expectations for respectful interactions, rigorous academic discussions, and individual and group responsibility for quality work.
 4. Manages the learning environment to actively and equitably engage learners by organizing, allocating, and coordinating the resources of time, space, and learners' attention.
 5. Uses a variety of methods to engage learners in evaluating the learning environment and collaborates with learners to make appropriate adjustments.
 6. Communicates verbally and nonverbally in ways that demonstrate respect for and responsiveness to the cultural backgrounds and differing perspectives learners bring to the learning environment.
 7. Promotes responsible learner use of interactive technologies to extend the possibilities for learning locally and globally.
 8. Intentionally builds learner capacity to collaborate in face-to-face and virtual environments through applying effective interpersonal communication skills.
 9. Understands the relationship between motivation and engagement and knows how to design learning experiences using strategies that build learner self-direction and ownership of learning.
 10. Knows how to help learners work productively and cooperatively with each other to achieve learning goals.
 11. Knows how to collaborate with learners to establish and monitor elements of a safe and productive learning environment including norms, expectations, routines, and organizational structures.
 12. Understands how learner diversity can affect communication and knows how to communicate effectively in differing environments.

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13. Knows how to use technologies and how to guide learners to apply them in appropriate, safe, and effective ways.
 14. Is committed to working with learners, colleagues, families, and communities to establish positive and supportive learning environments.
 15. Values the role of learners in promoting each other's learning and recognizes the importance of peer relationships in establishing a climate of learning.
 16. Is committed to supporting learners as they participate in decision making, engage in exploration and invention, work collaboratively and independently, and engage in purposeful learning.
 17. Seeks to foster respectful communication among all members of the learning community.
 18. Is a thoughtful and responsive listener and observer.
- E. Standard 4. Content Knowledge: The teacher understands the central concepts, tools of inquiry, and structures of the discipline(s) he or she teaches and creates learning experiences that make these aspects of the discipline accessible and meaningful for learners to assure mastery of the content. The teacher:
1. Effectively uses multiple representations and explanations that capture key ideas in the discipline, guide learners through learning progressions, and promote each learner's achievement of content standards.
 2. Engages students in learning experiences in the discipline(s) that encourage learners to understand, question, and analyze ideas from diverse perspectives so that they master the content.
 3. Engages learners in applying methods of inquiry and standards of evidence used in the discipline.
 4. Stimulates learner reflection on prior content knowledge, links new concepts to familiar concepts, and makes connections to learners' experiences.
 5. Recognizes learner misconceptions in a discipline that interfere with learning, and creates experiences to build accurate conceptual understanding.
 6. Evaluates and modifies instructional resources and curriculum materials for their comprehensiveness, accuracy for representing particular concepts in the discipline, and appropriateness for his or her learners.
 7. Uses supplementary resources and technologies effectively to ensure accessibility and relevance for all learners.
 8. Creates opportunities for students to learn, practice, and master academic language in their content.
 9. Accesses school and/or district-based resources to evaluate the learner's content knowledge in his or her primary language.
 10. Understands major concepts, assumptions, debates, processes of inquiry, and ways of knowing that are central to the discipline(s) he or she teaches.
 11. Understands common misconceptions in learning the discipline and how to guide learners to accurate conceptual understanding.
 12. Knows and uses the academic language of the discipline and knows how to make it accessible to learners.
 13. Knows how to integrate culturally relevant content to build on learners' background knowledge.
 14. Has a deep knowledge of student content standards and learning progressions in the discipline(s) he or she teaches.
 15. Realizes that content knowledge is not a fixed body of facts but is complex, culturally situated, and ever evolving. The teacher keeps abreast of new ideas and understandings in the field, and ensures instruction is consistent with Arizona's adopted academic standards.
16. Appreciates multiple perspectives within the discipline and facilitates learners' critical analysis of these perspectives.
17. Recognizes the potential of bias in his or her representation of the discipline and seeks to appropriately address problems of bias.
18. Commits to work toward each learner's mastery of disciplinary content and skills.
- F. Standard 5. Application of Content: The teacher understands how to connect concepts and use differing perspectives to engage learners in critical thinking, creativity, and collaborative problem solving related to authentic local and global issues. The teacher:
1. Develops and implements projects that guide learners in analyzing the complexities of an issue or question using perspectives from varied disciplines and cross-disciplinary skills (e.g., a water quality study that draws upon biology and chemistry to look at factual information and social studies to examine policy implications).
 2. Engages learners in applying content knowledge to real world problems through the lens of interdisciplinary themes (e.g., financial literacy, environmental literacy).
 3. Facilitates learners' use of current tools and resources to maximize content learning in varied contexts.
 4. Engages learners in questioning and challenging assumptions and approaches in order to foster innovation and problem solving in local and global contexts.
 5. Develops learners' communication skills in disciplinary and interdisciplinary contexts by creating meaningful opportunities to employ a variety of forms of communication that address varied audiences and purposes.
 6. Engages learners in generating and evaluating new ideas and novel approaches, seeking inventive solutions to problems, and developing original work.
 7. Facilitates learners' ability to develop diverse social and cultural perspectives that expand their understanding of local and global issues and create novel approaches to solving problems.
 8. Develops and implements supports for learner literacy development across content areas.
 9. Understands the ways of knowing in his/her discipline, how it relates to other disciplinary approaches to inquiry, and the strengths and limitations of each approach in addressing problems, issues, and concerns.
 10. Understands how current interdisciplinary themes (e.g., civic literacy, health literacy, global awareness) connect to the core subjects and knows how to weave those themes into meaningful learning experiences.
 11. Understands the demands of accessing and managing information as well as how to evaluate issues of ethics and quality related to information and its use.
 12. Understands how to use digital and interactive technologies for efficiently and effectively achieving specific learning goals.
 13. Understands critical thinking processes and knows how to help learners develop high level questioning skills to promote their independent learning.
 14. Understands communication modes and skills as vehicles for learning (e.g., information gathering and processing) across disciplines as well as vehicles for expressing learning.

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15. Understands creative thinking processes and how to engage learners in producing original work.
 16. Knows where and how to access resources to build global awareness and understanding, and how to integrate them into the curriculum.
 17. Is constantly exploring how to use disciplinary knowledge as a lens to address local and global issues.
 18. Values knowledge outside his/her own content area and how such knowledge enhances student learning.
 19. Values flexible learning environments that encourage learner exploration, discovery, and expression across content areas.
- G. Standard 6. Assessment:** The teacher understands and uses multiple methods of assessment to engage learners in their own growth, to monitor learner progress, and to guide the teacher's and learner's decision making. The teacher:
1. Balances the use of formative and summative assessment as appropriate to support, verify, and document learning.
 2. Designs assessments that match learning objectives with assessment methods and minimizes sources of bias that can distort assessment results.
 3. Works independently and collaboratively to examine test and other performance data to understand each learner's progress and to guide planning.
 4. Engages learners in understanding and identifying quality work and provides them with effective descriptive feedback to guide their progress toward that work.
 5. Engages learners in multiple ways of demonstrating knowledge and skill as part of the assessment process.
 6. Models and structures processes that guide learners in examining their own thinking and learning as well as the performance of others.
 7. Effectively uses multiple and appropriate types of assessment data to identify each student's learning needs and to develop differentiated learning experiences.
 8. Prepares all learners for the demands of particular assessment formats and makes appropriate accommodations in assessments or testing conditions, especially for learners with disabilities and language learning needs.
 9. Continually seeks appropriate ways to employ technology to support assessment practice both to engage learners more fully and to assess and address learner needs.
 10. Understands the differences between formative and summative applications of assessment and knows how and when to use each.
 11. Understands the range of types and multiple purposes of assessment and how to design, adapt, or select appropriate assessments to address specific learning goals and individual differences, and to minimize sources of bias.
 12. Knows how to analyze assessment data to understand patterns and gaps in learning, to guide planning and instruction, and to provide meaningful feedback to all learners.
 13. Knows when and how to engage learners in analyzing their own assessment results and in helping to set goals for their own learning.
 14. Understands the positive impact of effective descriptive feedback for learners and knows a variety of strategies for communicating this feedback.
 15. Knows when and how to evaluate and report learner progress against standards.
 16. Understands how to prepare learners for assessments and how to make accommodations in assessments and testing conditions, especially for learners with disabilities and language learning needs.
17. Is committed to engaging learners actively in assessment processes and to developing each learner's capacity to review and communicate about their own progress and learning.
 18. Takes responsibility for aligning instruction and assessment with learning goals.
 19. Is committed to providing timely and effective descriptive feedback to learners on their progress.
 20. Is committed to using multiple types of assessment processes to support, verify, and document learning.
 21. Is committed to making accommodations in assessments and testing conditions, especially for learners with disabilities and language learning needs.
 22. Is committed to the ethical use of various assessments and assessment data to identify learner strengths and needs to promote learner growth.
- H. Standard 7. Planning for Instruction:** The teacher plans instruction that supports every student in meeting rigorous learning goals by drawing upon knowledge of content areas, curriculum, cross-disciplinary skills, and pedagogy, as well as knowledge of learners and the community context. The teacher:
1. Individually and collaboratively selects and creates learning experiences that are appropriate for curriculum goals and content standards, and are relevant to learners.
 2. Plans how to achieve each student's learning goals, choosing appropriate strategies and accommodations, resources, and materials to differentiate instruction for individuals and groups of learners.
 3. Develops appropriate sequencing of learning experiences and provides multiple ways to demonstrate knowledge and skill.
 4. Plans for instruction based on formative and summative assessment data, prior learner knowledge, and learner interest.
 5. Plans collaboratively with professionals who have specialized expertise (e.g., special educators, related service providers, language learning specialists, librarians, media specialists) to design and jointly deliver as appropriate learning experiences to meet unique learning needs.
 6. Evaluates plans in relation to short- and long-range goals and systematically adjusts plans to meet each student's learning needs and enhance learning.
 7. Understands content and content standards and how these are organized in the curriculum.
 8. Understands how integrating cross-disciplinary skills in instruction engages learners purposefully in applying content knowledge.
 9. Understands learning theory, human development, cultural diversity, and individual differences and how these impact ongoing planning.
 10. Understands the strengths and needs of individual learners and how to plan instruction that is responsive to these strengths and needs.
 11. Knows a range of evidence-based instructional strategies, resources, and technological tools and how to use them effectively to plan instruction that meets diverse learning needs.
 12. Knows when and how to adjust plans based on assessment information and learner responses.
 13. Knows when and how to access resources and collaborate with others to support student learning (e.g., special educators, related service providers, language learner specialists, librarians, media specialists, community organizations).

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14. Respects learners' diverse strengths and needs and is committed to using this information to plan effective instruction.
 15. Values planning as a collegial activity that takes into consideration the input of learners, colleagues, families, and the larger community.
 16. Takes professional responsibility to use short- and long-term planning as a means of assuring student learning.
 17. Believes that plans must always be open to adjustment and revision based on learner needs and changing circumstances.
- I.** Standard 8. Instructional Strategies: The teacher understands and uses a variety of instructional strategies to encourage learners to develop deep understanding of content areas and their connections, and to build skills to apply knowledge in meaningful ways. The teacher:
1. Uses appropriate strategies and resources to adapt instruction to the needs of individuals and groups of learners.
 2. Continuously monitors student learning, engages learners in assessing their progress, and adjusts instruction in response to student learning needs.
 3. Collaborates with learners to design and implement relevant learning experiences, identify their strengths, and access family and community resources to develop their areas of interest.
 4. Varies his/her role in the instructional process (e.g., instructor, facilitator, coach, audience) in relation to the content and purposes of instruction and the needs of learners.
 5. Provides multiple models and representations of concepts and skills with opportunities for learners to demonstrate their knowledge through a variety of products and performances.
 6. Engages all learners in developing higher order questioning skills and metacognitive processes.
 7. Engages learners in using a range of learning skills and technology tools to access, interpret, evaluate, and apply information.
 8. Uses a variety of instructional strategies to support and expand learners' communication through speaking, listening, reading, writing, and other modes.
 9. Asks questions to stimulate discussion that serves different purposes (e.g., probing for learner understanding, helping learners articulate their ideas and thinking processes, stimulating curiosity, and helping learners to question).
 10. Understands the cognitive processes associated with various kinds of learning (e.g., critical and creative thinking, problem framing and problem solving, invention, memorization and recall) and how these processes can be stimulated.
 11. Knows how to apply a range of developmentally, culturally, and linguistically appropriate instructional strategies to achieve learning goals.
 12. Knows when and how to use appropriate strategies to differentiate instruction and engage all learners in complex thinking and meaningful tasks.
 13. Understands how multiple forms of communication (oral, written, nonverbal, digital, visual) convey ideas, foster self expression, and build relationships.
 14. Knows how to use a wide variety of resources, including human and technological, to engage students in learning.
15. Understands how content and skill development can be supported by media and technology and knows how to evaluate these resources for quality, accuracy, and effectiveness.
 16. Is committed to deepening awareness and understanding the strengths and needs of diverse learners when planning and adjusting instruction.
 17. Values the variety of ways people communicate and encourages learners to develop and use multiple forms of communication.
 18. Is committed to exploring how the use of new and emerging technologies can support and promote student learning.
 19. Values flexibility and reciprocity in the teaching process as necessary for adapting instruction to learner responses, ideas, and needs.
- J.** Standard 9. Professional Learning and Ethical Practice: The teacher engages in ongoing professional learning and uses evidence to continually evaluate his/her practice, particularly the effects of his/her choices and actions on others (learners, families, other professionals, and the community), and adapts practice to meet the needs of each learner. The teacher:
1. Engages in ongoing learning opportunities to develop knowledge and skills in order to provide all learners with engaging curriculum and learning experiences based on local and state standards.
 2. Engages in meaningful and appropriate professional learning experiences aligned with his/her own needs and the needs of the learners, school, and system.
 3. Independently and in collaboration with colleagues, uses a variety of data (e.g., systematic observation, information about learners, research) to evaluate the outcomes of teaching and learning and to adapt planning and practice.
 4. Actively seeks professional, community, and technological resources, within and outside the school, as supports for analysis, reflection, and problem-solving.
 5. Reflects on his/her personal biases and accesses resources to deepen his/her own understanding of cultural, ethnic, gender, and learning differences to build stronger relationships and create more relevant learning experiences.
 6. Advocates, models, and teaches safe, legal, and ethical use of information and technology including appropriate documentation of sources and respect for others in the use of social media.
 7. Understands and knows how to use a variety of self-assessment and problem-solving strategies to analyze and reflect on his/her practice and to plan for adaptations/adjustments.
 8. Knows how to use learner data to analyze practice and differentiate instruction accordingly.
 9. Understands how personal identity, worldview, and prior experience affect perceptions and expectations, and recognizes how they may bias behaviors and interactions with others.
 10. Understands and adheres to laws related to learners' rights and teacher responsibilities (e.g., for educational equity, appropriate education for learners with disabilities, confidentiality, privacy, appropriate treatment of learners, reporting in situations related to possible child abuse).
 11. Knows how to build and implement a plan for professional growth directly aligned with his/her needs as a growing professional using feedback from teacher evalu-

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- ations and observations, data on learner performance, and school- and system-wide priorities.
12. Takes responsibility for student learning and uses ongoing analysis and reflection to improve planning and practice.
 13. Is committed to deepening understanding of his/her own frames of reference (e.g., culture, gender, language, abilities, ways of knowing), the potential biases in these frames, and their impact on expectations for and relationships with learners and their families.
 14. Sees him/herself as a learner, continuously seeking opportunities to draw upon current education policy and research as sources of analysis and reflection to improve practice.
 15. Understands the expectations of the profession including codes of ethics, professional standards of practice, and relevant law and policy.
- K. Standard 10. Leadership and Collaboration:** The teacher seeks appropriate leadership roles and opportunities to take responsibility for student learning, to collaborate with learners, families, colleagues, other school professionals, and community members to ensure learner growth, and to advance the profession. The teacher:
1. Takes an active role on the instructional team, giving and receiving feedback on practice, examining learner work, analyzing data from multiple sources, and sharing responsibility for decision making and accountability for each student's learning.
 2. Works with other school professionals to plan and jointly facilitate learning on how to meet diverse needs of learners.
 3. Engages collaboratively in the schoolwide effort to build a shared vision and supportive culture, identify common goals, and monitor and evaluate progress toward those goals.
 4. Works collaboratively with learners and their families to establish mutual expectations and ongoing communication to support learner development and achievement.
 5. Working with school colleagues, builds ongoing connections with community resources to enhance student learning and well being.
 6. Engages in professional learning, contributes to the knowledge and skill of others, and works collaboratively to advance professional practice.
 7. Uses technological tools and a variety of communication strategies to build local and global learning communities that engage learners, families, and colleagues.
 8. Uses and generates meaningful research on education issues and policies.
 9. Seeks appropriate opportunities to model effective practice for colleagues, to lead professional learning activities, and to serve in other leadership roles.
 10. Strives to meet the needs of learners and to strengthen the learning environment.
 11. Takes on leadership roles at the school, district, state, and/or national levels.
 12. Understands schools as organizations within a historical, cultural, political, and social context and knows how to work with others across the system to support learners.
 13. Understands that alignment of family, school, and community spheres of influence enhances student learning and that discontinuity in these spheres of influence interferes with learning.
 14. Knows how to work with other adults and has developed skills in collaborative interaction appropriate for both face-to-face and virtual contexts.
 15. Knows how to contribute to a common culture that supports high expectations for student learning.
 16. Actively shares responsibility for shaping and supporting the mission of his/her school as one of advocacy for learners and accountability for their success.
 17. Respects families' beliefs, norms, and expectations and seeks to work collaboratively with learners and families in setting and meeting challenging goals.
 18. Takes initiative to grow and develop with colleagues through interactions that enhance practice and support student learning.
 19. Takes responsibility for contributing to and advancing the profession.
 20. Embraces the challenge of continuous improvement and change.

Historical Note

Former Section R7-2-602 repealed, new Section R7-2-602 adopted effective December 4, 1978 (Supp. 78-6).

Amended by adding a new subsection (B) effective August 29, 1988 (Supp. 88-3). Amended effective December 15, 1989 (Supp. 89-4). Amended effective July 10, 1992 (Supp. 92-3). Amended effective March 6, 1997 (Supp. 97-1). Section repealed; new Section adopted effective December 3, 1998 (Supp. 98-4). Amended by exempt rulemaking at 18 A.A.R. 1029, effective December 5, 2011 (Supp. 12-2).

R7-2-602.01. Induction Program Standards for New Teachers

- A.** For the purposes of this Section, the following definitions apply:
1. "Induction" and "mentoring and retention programming" means a program of regular, job-embedded, in-person, one-on-one feedback that is focused on instruction and ensuring new classroom teacher quality, success and retention.
 2. "New classroom teacher" means a classroom teacher who is in the first, second, or third year of teaching.
- B.** The Arizona Teacher Induction Standards, and substantially similar programs developed by local education agencies, shall serve as the form and format of mentoring and retention programming for school districts, charter schools, the State Education System for Committed Youth, and the Arizona State Schools for the Deaf and the Blind who receive grant funds established pursuant to A.R.S. § 15-1281(D)(3). The standards and programs developed by local education agencies shall require that the equivalent of one full-time mentor may be assigned to not more than 15 new classroom teachers employed by the school district or charter school.
- C.** The Department shall:
1. Develop the induction program standards in consultation with state educators and experts in instruction and educator quality, success, and retention.
 2. Present the induction program standards and the development process to the Board for review and approval.
- D.** The Board shall adopt the Arizona Teacher Induction Standards in a meeting following the presentation of the standards to the Board.

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Historical Note

New Section made by final exempt rulemaking at 27
A.A.R. 743, effective April 26, 2021 (Supp. 21-2).

R7-2-602.02. Teacher Leader Professional Standards

- A. For the purposes of this Section, the following definition applies: “Teacher leadership” means practices and professional capacities in which teachers act or fulfill duties and roles that support school-system faculty, staff, and administrators to improve instruction and teaching practices to improve educator and student development and performance.
- B. The Arizona Teacher Leader Professional Standards are established. Teacher leader professional roles and professional learning programs developed by Arizona school districts, charter schools, the State Education System for Committed Youth, and the Arizona State Schools for the Deaf and the Blind who receive grant funds pursuant to A.R.S. § 15-1281(D)(3) may use the Arizona Teacher Leader Professional Standards to establish and align professional duties, plans, pathways, and development programs.
- C. The Board shall adopt Arizona Teacher Leader Professional Standards as follows:
 - 1. The Department shall develop teacher leader professional standards and guidance and resources in consultation with state educators and experts in instruction, educator quality, educator workforce development, success, leadership and retention;
 - 2. The Department shall present the teacher leader standards and the development process to the Board at a regularly scheduled Board meeting; and
 - 3. The Board shall adopt the Arizona Teacher Leader Professional Standards at a subsequent meeting.

Historical Note

New Section made by final exempt rulemaking at 29
A.A.R. 1401 (June 23, 2023), effective May 22, 2023
(Supp. 23-2).

R7-2-603. Professional Administrative Standards

- A. The standards presented in this Section shall be the basis for approved administrative preparation programs, described in R7-2-604. The Arizona Administrator Proficiency Assessment shall assess proficiency in the standards as a requirement for certification of supervisors, principals, and superintendents, as set forth in R7-2-616.
- B. Standard 1: Effective educational leaders develop, advocate, and enact a shared mission, vision, and core values of high-quality education and academic success and well-being of each student. Effective leaders:
 - 1. Develop an educational mission for the school to promote the academic success and well-being of each student.
 - 2. In collaboration with members of the school and the community and using relevant data, develop and promote a vision for the school on the successful learning and development of each child and on instructional and organizational practices that promote such success.
 - 3. Articulate, advocate, and cultivate core values that define the school’s culture and stress the imperative of child-centered education; high expectations and student support; equity, inclusiveness, and social justice; openness, caring, and trust; and continuous improvement.
 - 4. Strategically develop, implement, and evaluate actions to achieve the vision for the school.
 - 5. Review the school’s mission and vision and adjust them to changing expectations and opportunities for the school, and changing needs and situations of students.

- 6. Develop shared understanding of and commitment to mission, vision, and core values within the school and the community.
- 7. Model and pursue the school’s mission, vision, and core values in all aspects of leadership.
- C. Standard 2: Effective educational leaders act ethically and according to professional norms to promote each student’s academic success and well-being. Effective leaders:
 - 1. Act ethically and professionally in personal conduct, relationships with others, decision-making, stewardship of the school’s resources, and all aspects of school leadership.
 - 2. Act according to and promote the professional norms of integrity, fairness, transparency, trust, collaboration, perseverance, learning, and continuous improvement.
 - 3. Place children at the center of education and accept responsibility for each student’s academic success and well-being.
 - 4. Safeguard and promote the values of democracy, individual freedom and responsibility, equity, social justice, community, and diversity.
 - 5. Lead with interpersonal and communication skill, social-emotional insight, and understanding of all students’ and staff members’ backgrounds and cultures.
 - 6. Provide moral direction for the school and promote ethical and professional behavior among faculty and staff.
- D. Standard 3: Effective educational leaders strive for equity of educational opportunity and culturally responsive practices to promote each student’s academic success and well-being. Effective leaders:
 - 1. Ensure that each student is treated fairly, respectfully, and with an understanding of each student’s culture and context.
 - 2. Recognize, respect, and employ each student’s strengths, diversity, and culture as assets for teaching and learning.
 - 3. Ensure that each student has equitable access to effective teachers, learning opportunities, academic and social support, and other resources necessary for success.
 - 4. Develop student policies and address student misconduct in a positive, fair, and unbiased manner.
 - 5. Confront and alter institutional biases of student marginalization, deficit-based schooling, and low expectations associated with race, class, culture and language, gender and sexual orientation, and disability or special status.
 - 6. Promote the preparation of students to live productively in and contribute to the diverse cultural contexts of a global society.
 - 7. Act with cultural competence and responsiveness in their interactions, decision making, and practice.
 - 8. Address matters of equity and cultural responsiveness in all aspects of leadership.
- E. Standard 4: Effective educational leaders develop and support intellectually rigorous and coherent systems of curriculum, instruction, and assessment to promote each student’s academic success and well-being. Effective leaders:
 - 1. Implement coherent systems of curriculum, instruction, and assessment that promote the mission, vision, and core values of the school, embody high expectations for student learning, align with academic standards, and are culturally responsive.
 - 2. Align and focus systems of curriculum, instruction, and assessment within and across grade levels to promote student academic success, love of learning, the identities and habits of learners, and healthy sense of self.

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3. Promote instructional practice that is consistent with knowledge of child learning and development, effective pedagogy, and the needs of each student.
 4. Ensure instructional practice that is intellectually challenging, authentic to student experiences, recognizes student strengths, and is differentiated and personalized.
 5. Promote the effective use of technology in the service of teaching and learning.
 6. Employ valid assessments that are consistent with knowledge of child learning and development and technical standards of measurement.
 7. Use assessment data appropriately and within technical limitations to monitor student progress and improve instruction.
- F.** Standard 5: Effective educational leaders cultivate an inclusive, caring, and supportive school community that promotes the academic success and well-being of each student. Effective leaders:
1. Build and maintain a safe, caring, and healthy school environment that meets that the academic, social, emotional, and physical needs of each student.
 2. Create and sustain a school environment in which each student is known, accepted and valued, trusted and respected, cared for, and encouraged to be an active and responsible member of the school community.
 3. Provide coherent systems of academic and social supports, services, extracurricular activities, and accommodations to meet the range of learning needs of each student.
 4. Promote adult-student, student-peer, and school-community relationships that value and support academic learning and positive social and emotional development.
 5. Cultivate and reinforce student engagement in school and positive student conduct.
 6. Infuse the school's learning environment with the cultures and languages of the school's community.
- G.** Standard 6: Effective educational leaders develop the professional capacity and practice of school personnel to promote each student's academic success and well-being. Effective leaders:
1. Recruit, hire, support, develop, and retain effective and caring teachers and other professional staff and form them into an educationally effective faculty.
 2. Plan for and manage staff turnover and succession, providing opportunities for effective induction and mentoring of new personnel.
 3. Develop teachers' and staff members' professional knowledge, skills, and practice through differentiated opportunities for learning and growth, guided by understanding of professional and adult learning and development.
 4. Foster continuous improvement of individual and collective instructional capacity to achieve outcomes envisioned for each student.
 5. Deliver actionable feedback about instruction and other professional practice through valid, research-anchored systems of supervision and evaluation to support the development of teachers' and staff members' knowledge, skills, and practice.
 6. Empower and motivate teachers and staff to the highest levels of professional practice and to continuous learning and improvement.
7. Develop the capacity, opportunities, and support for teacher leadership and leadership from other members of the school community.
 8. Promote the personal and professional health, well-being, and work-life balance of faculty and staff.
 9. Tend to their own learning and effectiveness through reflection, study, and improvement, maintaining a healthy work-life balance.
- H.** Standard 7: Effective educational leaders foster a professional community of teachers and other professional staff to promote each student's academic success and well-being. Effective leaders:
1. Develop workplace conditions for teachers and other professional staff that promote effective professional development, practice, and student learning.
 2. Empower and entrust teachers and staff with collective responsibility for meeting the academic, social, emotional, and physical needs of each student, pursuant to the mission, vision, and core values of the school.
 3. Establish and sustain a professional culture of engagement and commitment to shared vision, goals, and objectives pertaining to the education of the whole child; high expectations for professional work; ethical and equitable practice; trust and open communication; collaboration, collective efficacy, and continuous individual and organizational learning and improvement.
 4. Promote mutual accountability among teachers and other professional staff for each student's success and the effectiveness of the school as a whole.
 5. Develop and support open, productive, caring, and trusting working relationships among leaders, faculty, and staff to promote professional capacity and the improvement of practice.
 6. Design and implement job-embedded and other opportunities for professional learning collaboratively with faculty and staff.
 7. Provide opportunities for collaborative examination of practice, collegial feedback, and collective learning.
 8. Encourage faculty-initiated improvement of programs and practices.
- I.** Standard 8: Effective educational leaders engage families and the community in meaningful, reciprocal, and mutually beneficial ways to promote each student's academic success and well-being. Effective leaders:
1. Are approachable, accessible, and welcoming to families and members of the community.
 2. Create and sustain positive, collaborative, and productive relationships with families and the community for the benefit of students.
 3. Engage in regular and open two-way communication with families and the community about the school, students, needs, problems, and accomplishments.
 4. Maintain a presence in the community to understand its strengths and needs, develop productive relationships, and engage its resources for the school.
 5. Create means for the school community to partner with families to support student learning in and out of school.
 6. Understand, value, and employ the community's cultural, social, intellectual, and political resources to promote student learning and school improvement.
 7. Develop and provide the school as a resource for families and the community.

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8. Advocate for the school and district, and for the importance of education and student needs and priorities to families and the community.
 9. Advocate publicly for the needs and priorities of students, families, and the community.
 10. Build and sustain productive partnerships with public and private sectors to promote school improvement and student learning.
- J. Standard 9: Effective educational leaders manage school operations and resources to promote each student's academic success and well-being. Effective leaders:**
1. Institute, manage, and monitor operations and administrative systems that promote the mission and vision of the school.
 2. Strategically manage staff resources, assigning and scheduling teachers and staff to roles and responsibilities that optimize their professional capacity to address each student's learning needs.
 3. Seek, acquire, and manage fiscal, physical, and other resources to support curriculum, instruction, and assessment; student learning community; professional capacity and community; and family and community engagement.
 4. Are responsible, ethical, and accountable stewards of the school's monetary and non-monetary resources, engaging in effective budgeting and accounting practices.
 5. Protect teachers' and other staff members' work and learning from disruption.
 6. Employ technology to improve the quality and efficiency of operations and management.
 7. Develop and maintain data and communication systems to deliver actionable information for classroom and school improvement.
 8. Know, comply with, and help the school community understand local, state, and federal laws, rights, policies, and regulations so as to promote student success.
 9. Develop and manage relationships with feeder and connecting schools for enrollment management and curricular and instructional articulation.
 10. Develop and manage productive relationships with the central office and school board.
 11. Develop and administer systems for fair and equitable management of conflict among students, faculty and staff, leaders, families, and community.
 12. Manage governance processes and internal and external politics toward achieving the school's mission and vision.
- K. Standard 10: Effective educational leaders act as agents of continuous improvement to promote each student's academic success and well-being. Effective leaders:**
1. Seek to make school more effective for each student, teachers and staff, families, and the community.
 2. Use methods of continuous improvement to achieve the vision, fulfill the mission, and promote the core values of the school.
 3. Prepare the school and the community for improvement, promoting readiness, an imperative for improvement, instilling mutual commitment and accountability, and developing the knowledge, skills, and motivation to succeed in improvement.
 4. Engage others in an ongoing process of evidence-based inquiry, learning, strategic goal setting, planning, implementation, and evaluation for continuous school and classroom improvement.
 5. Employ situationally-appropriate strategies for improvement, including transformational and incremental, adaptive approaches and attention to different phases of implementation.
 6. Assess and develop the capacity of staff to assess the value and applicability of emerging educational trends and the findings of research for the school and its improvement.
 7. Develop technically appropriate systems of data collection, management, analysis, and use, connecting as needed to the district office and external partners for support in planning, implementation, monitoring, feedback, and evaluation.
 8. Adopt a systems perspective and promote coherence among improvement efforts and all aspects of school organization, programs, and services.
 9. Manage uncertainty, risk, competing initiatives, and politics of change with courage and perseverance, providing support and encouragement, and openly communicating the need for, process for, and outcomes of improvement efforts.
 10. Develop and promote leadership among teachers and staff for inquiry, experimentation and innovation, and initiating and implementing improvement.

Historical Note

Former Section R7-2-603 repealed, new Section R7-2-603 adopted effective December 4, 1978 (Supp. 78-6). Amended effective July 21, 1980 (Supp. 80-4). Amended subsection (J) effective August 20, 1981 (Supp. 81-4). Amended subsections (D) and (E) effective April 10, 1984 (Supp. 84-2). Amended subsection (J)(8) and (9) effective October 10, 1984 (Supp. 84-5). Amended subsection (G) effective December 13, 1985. Amended subsection (J)(6), (7), (8) and (9) effective December 18, 1985 (Supp. 85-6). Editorial correction, amendment to subsections (D) and (E) shown effective April 10, 1984 should read Amended subsections (D) and (E) effective October 1, 1985. Amended by adding subsection (G)(9) and (10) effective January 31, 1986 (Supp. 86-1). Amended by adding subsection (R) effective April 24, 1986 (Supp. 86-2). Amended subsection (G), filed May 5, 1986, effective July 1, 1987 (Supp. 86-3). Amended by adding subsection (J)(10) and (11) effective July 2, 1986; amended by adding subsection (J)(12), (13) and (14), filed August 7, 1986, effective July 1, 1987 (Supp. 86-4). Amended subsection (H) effective September 16, 1987 (Supp. 87-3). Correction: subsection (G)(3), "Provisional" is corrected to read: "Principal" as certified effective December 3, 1985; amended subsection (B) effective July 13, 1988; amended subsection (J)(2) effective August 10, 1988; amended subsection (R)(2)(b) effective August 15, 1988 (Supp. 88-3). Amended effective August 9, 1989, and amended effective September 12, 1989 (Supp. 89-3). Amended effective December 15, 1989 (Supp. 89-4). Amended effective November 6, 1990; Amended effective December 12, 1990 (Supp. 90-4). Amended effective March 21, 1991 (Supp. 91-1). Amended effective May 2, 1991 (Supp. 91-2). Amended effective October 22, 1991 (Supp. 91-4). Section repealed, new Section adopted effective March 10, 1994 (Supp. 94-1). Amended effective December 19, 1996 (Supp. 96-4). Amended effective March 6, 1997 (Supp. 97-1). Typographical error corrected in subsection (J) (Supp. 97-4). Section repealed; new Section adopted effective December 4, 1998 (Supp. 98-4). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24,

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2010 (Supp. 10-4). Amended by exempt rulemaking at 18 A.A.R. 1029, effective December 5, 2011 (Supp. 12-2). Amended by final exempt rulemaking at 22 A.A.R. 3369, effective October 24, 2016 (Supp. 16-4).

R7-2-604. Definitions

In R7-2-604 through R7-2-604.05, unless the context otherwise requires:

1. "Accreditation" means a professional preparation institution's recognition by a national or regional agency or organization acknowledged for meeting identified standards or criteria.
2. "Alternative educator preparation program" means a program designed for individuals who are working as a PreK through 12 teacher or administrator while certified under an alternative teaching certificate or interim administrative certificate. Alternative educator preparation programs may have substantially different program sequences, designs, and/or formats than that of a traditional education preparation program.
3. "Biennial report" means a report submitted every two years to the Department by all Arizona State Board approved professional preparation institutions for each approved educator preparation program.
4. "Biennial status letter" means correspondence issued by the Department to the professional preparation institution within 30 days upon completion of the review of the biennial report, indicating the status of the educator preparation program(s).
5. "Board approved program" means a course of study that is approved by the Board and meets all relevant standards for teachers, administrators, school guidance counselors, or school psychologists.
6. "Capstone experience" means a culminating professional experience in a PreK through 12 setting. This experience may include student teaching or internships in administration, counseling, or school psychology, or alternative path PreK through 12 teaching.
7. "Classroom-based educator preparation program" means a program administered through a school district or charter school that is approved pursuant to R7-2-604.05.
8. "Educator preparation program" means a traditional or alternative educator preparation program that prepares PreK through 12 teachers, administrators, school counselors, and school psychologists for an institutional recommendation for an Arizona certificate.
9. "Field experience" means scheduled, directed, structured, supervised, frequent experiences in a PreK through 12 setting that occurs prior to the capstone experience. Field experiences must assist educator candidates in developing the knowledge, skills, and dispositions necessary to ensure all students learn, and provide evidence in meeting standards described in the Board approved professional teaching standards or professional administrative standards, and relevant Board approved academic standards.
10. "Institutional recommendation" means a form developed by the Department and issued by a professional preparation institution, that indicates an individual has completed a Board approved educator preparation program.
11. "Internship" means significant opportunities for candidates to practice and develop the skills identified in relevant state and national standards as measured by substantial and sustained work in real settings, appropriate for the certificate the candidate is seeking, performed under the direction of a supervising practitioner and a program supervisor.
12. "Locally based school leadership preparation program" means a program administered through a school district or charter school that is approved pursuant to R7-2-604.06.
13. "National standards" means written expectations for meeting a specified level of performance that are established by, but not limited to, the following organizations: Council for Accreditation of Counseling and Related Education Program (CACREP), Council for the Accreditation of Educator Preparation (CAEP), Council for Exceptional Children (CEC), The National Educational Leadership Preparation (NELP), Interstate New Teacher Assessment and Support Consortium (InTASC), Professional Standards for Educational Leadership (PSEL), International Society for Technology in Education (ISTE), National Association for the Education of Young Children (NAEYC), National Association of School Psychologists (NASP), National Council for Accreditation of Teacher Education (NCATE) or Teacher Education Accreditation Council (TEAC).
14. "Probationary educator preparation program" means a program with at least one deficiency identified in the biennial status letter issued by the Department, as a result of a Department review of the biennial report. Programs with the same deficiency(s) in two consecutive biennial status letters are subject to revocation of Board approval. A deficiency may include, but is not limited to, stakeholder surveys, completer data and student achievement data.
15. "Professional preparation institutions" means organizations that include, but are not limited to, universities and colleges, school districts, not for profit organizations, professional organizations, private businesses, charter schools, and regional training centers that oversee one or more educator preparation programs.
16. "Program completer" means a student who has met all the professional program institution's requirements of a Board approved educator preparation program necessary to obtain an institutional recommendation.
17. "Program supervisor" means an educator from the professional preparation institution under whose supervision the candidate for licensure practices during a capstone experience. The program supervisor's professional work experiences must be relevant to the license the candidate is seeking. Program supervisors must also have adequate training from the professional preparation institution.
18. "Review Team" means a committee that reviews educator preparation programs seeking Board approval that consists of representatives from the Department and at least three of the following entities: institutions under the jurisdiction of the Arizona Board of Regents, Arizona private institutions of higher education, Arizona community colleges, other organizations with a Board approved educator preparation program, professional educator associations, PreK through 12 administrators from local education agencies, National Board Certified Teachers, and a graduate or representative from an Arizona educator preparation program. For alternative educator preparation program applications, the review team shall include at least one graduate or representative from an Arizona alternative educator preparation program.

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19. "Student teaching" means a minimum of 12 weeks of rigorous field-based experiences, appropriate for the certificate the candidate is seeking, performed under the direction of a supervising practitioner and a program supervisor. The student teaching placement must be appropriate for the certification that the applicant is seeking.
20. "Supervising practitioner" means a standard certified educator, currently employed by a local education agency, private agency or other PreK through 12 setting who supervises the candidate during a capstone experience. Supervising practitioners must have:
 - a. A minimum of three full years of experience relevant to the license the candidate is seeking.
 - b. A current classification of highly effective or effective pursuant to A.R.S. §§ 15-341(A)(41), 15-189.06, when applicable.
 - c. Adequate training from the professional preparation institution.
21. "Traditional educator preparation program" means a program that includes courses, field experiences, and a capstone experience that is designed to prepare preservice PreK through 12 teachers, administrators, school counselors, and school psychologists."

Historical Note

New Section made by exempt rulemaking at 16 A.A.R. 318, effective August 29, 2006 (Supp. 09-1). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 21 A.A.R. 2047, effective October 27, 2014 (Supp. 15-3). Amended by final exempt rulemaking at 26 A.A.R. 66, effective December 13, 2019 (Supp. 19-4). Amended by final exempt rulemaking at 26 A.A.R. 1311, effective May 18, 2020 (Supp. 20-2). The word "twelve" has been changed to the numeral "12," the hyphen between "PreK-12" has been changed to the word "through" for consistency in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 29 A.A.R. 183 (January 13, 2023), effective December 9, 2022 (Supp. 22-4).

R7-2-604.01. Educator Preparation Programs

- A. Professional preparation institutions shall include evidence that the educator preparation program is aligned to standards described in the Board approved professional teaching standards or professional administrative standards and relevant national standards, and provides field experiences, and a capstone experience.
- B. Educator preparation programs of professional preparation institutions requesting Board approval shall be reviewed by the Department, and the Department shall recommend Board action. Upon the recommendation of the Department, the Board shall evaluate and may approve an educator preparation program. The Board may grant program approval for a period not to exceed six years.
- C. All educator preparation programs that lead to an Arizona certification must be approved by the Board pursuant to these rules. Board approval of educator preparation programs may be granted following the successful evaluation of the program. Board rules in effect at the time of the submission of a program for evaluation shall be the rules upon which the educator preparation program is evaluated.

Historical Note

New Section made by exempt rulemaking at 16 A.A.R. 318, effective August 29, 2006 (Supp. 09-1). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 21 A.A.R. 2047, effective October 27, 2014 (Supp. 15-3). This Section was inadvertently removed when Supp. 19-4 was published. It has been reinstated as last amended in Supp. 15-3 (Supp. 21-2).

R7-2-604.02. Educator Preparation Program Approval Procedures

- A. Professional preparation institutions with no Board approved educator preparation programs, seeking initial approval for an educator preparation program shall submit to the Department the information necessary to conduct a readiness review of the professional preparation institution. The Department shall prescribe forms to assist professional preparation institutions with providing all information required as part of the readiness review process. The required information, includes the following:
 1. An institutional profile demonstrating program and financial stability, a description of the educator preparation program seeking approval, a listing of national or regional accreditations the institution's governance and administrative structures and student demographic data.
 2. A description of the professional preparation institution's vision, mission, philosophy and goals, and a description of how this information is shared with students, relevant staff and other relevant stakeholders.
 3. Data regarding the professional preparation institution's relevant staff, including the following:
 - a. Demographic data relating to the relevant staff for each educator preparation program seeking approval, including, at a minimum, educational degrees, staff to student ratio, experience teaching in a PreK through 12 setting, and, if available, ethnicity and gender data.
 - b. Definitions of titles and clarification of roles of individuals responsible for courses, seminars, or modules of study; field experiences; capstone experiences; and administration.
 - c. A description of the professional preparation institution's employment policies, including procedures for determining staff assignments, evaluation procedures and professional development opportunities and requirements.
- B. The Department shall provide professional preparation institutions written notification, within 60 days of receiving readiness review materials, either indicating readiness to submit educator preparation programs for review or specifying any deficiencies. The institution has 30 days from receipt of the notice to supply the Department with all required information regarding identified deficiencies.
- C. The Department shall initiate a review of the specific educator preparation programs being considered for Board approval. The Department shall prescribe forms to assist institutions with providing all information required as part of the educator preparation programs review. Professional Preparation Institutions with accreditation may submit accreditation documentation to be considered as part of the review process. To facilitate this review, institutions shall provide the Department with the following:
 1. A description of the educator preparation programs being considered for Board approval. This shall include, at a

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minimum, the criteria for student entry into the program; a summary of the program courses, seminars, or modules of study; field experiences; and capstone experiences. The professional preparation institution must verify that it requires courses, seminars, or modules of study necessary to obtain a full Structured English Immersion endorsement if required for the certificate the candidate is seeking.

2. A description of the field experience and capstone experience policies for the educator preparation programs being considered for Board approval. The review team shall verify that the field experience and capstone experience includes evidence of engagement in the application of relevant standards as articulated in the Board approved professional teaching standards or professional administrative standards and relevant national standards. Educator preparation programs applying for approval in school psychology and guidance counseling shall only be required to demonstrate compliance with applicable national standards.
 3. Evidence that candidates are provided instruction and practice in how to gather, evaluate, and synthesize multiple data sources and how to effectively use data in educational and classroom instructional decisions.
 4. Provide the Department with evidence that candidates are provided instruction and practice in how to appropriately integrate technology when working with students.
 5. A description of the assessment plan for measuring each candidate's competencies as they progress through courses, seminars, or modules of study and field experiences to ensure readiness for a capstone experience. The plan shall require, at a minimum, that candidates demonstrate competencies as articulated in the Board approved professional teaching standards or professional administrative standards, relevant Board approved academic standards, and relevant national standards. The plan shall also describe processes for utilizing performance-based assessments and for providing candidates with necessary remediation. Programs applying for approval in school psychology and guidance counseling shall only be required to demonstrate compliance with relevant national standards.
 6. A description of the procedures used to monitor and evaluate the operation, scope and quality of the educator preparation program being considered for approval. This shall include the use of internal and external evaluations, and may include stakeholder surveys, program completer employment information, and PreK through 12 student achievement data.
 7. An educator preparation program matrices demonstrating that program course, seminar, or module assessments, field experiences and capstone experiences measure candidates' success in meeting the Board approved professional teaching standards or professional administrative standards. Educator preparation programs applying for approval in school psychology and guidance counseling shall only be required to demonstrate compliance with relevant national standards.
 8. A plan for how the education preparation program will notify and assist program participants and partner schools if the educator preparation program closes.
- D.** The Department may schedule and conduct an onsite visit upon completion of the educator preparation programs review for professional preparation institutions seeking initial approval. The onsite visit may include a tour of the professional preparation institution; a review of documentation and related evidence; and interviews of relevant staff, educator candidates, and local education agency, private agency or other PreK through 12 administrators who employ program completers.
- E.** Upon completion of the review, and onsite review if applicable, the Department shall, within 90 days, provide the professional preparation institution with a program report of the Department's findings. This report shall cite any evidence showing deviation from each relevant standard Board approved professional teaching standard, professional administrative standard, and relevant national standard that applies to the educator preparation program. The professional preparation institution shall have 30 days from receipt of the Department's program report to submit a response addressing any identified deficiencies.
- F.** Based upon the Department's program report, the Department shall recommend to the Board that the educator preparation program be approved or denied.
- G.** The Board may grant educator preparation program approval for a period not to exceed six years or deny program approval.
- H.** Within 60 days of the Board's action, a professional preparation institution may request reconsideration of the Board's decision to deny an educator preparation program.
- I.** Professional preparation institutions with Board approval shall make available to the public a statement indicating the valid period for which the educator preparation program has been approved.
- J.** Professional preparation institutions with Board approved educator preparation programs shall comply with the reporting requirements established by Title II of the Higher Education Act (P.L. 110-315).
- K.** Each approved professional preparation institution shall submit a biennial report with the Department documenting educator preparation program activities for the previous two years. The biennial report shall include the following:
1. A description of any substantive changes in courses, seminars, modules, assessments, field experiences or capstone experiences in Board approved educator preparation programs;
 2. Electronic access to relevant educator preparation program information;
 3. The name, title and original signature of the certification officer for the professional preparation institution;
 4. Relevant data on the educator preparation program, relevant staff, and candidates, which may include, but is not limited to, stakeholder surveys, completer data, and student achievement data required as a condition of initial or continuing program approval.
- L.** The Department shall provide annual updates to the Board and make publicly available information summarizing the biennial reports to include, but not limited to, program status, deficiencies, and commendations.
- M.** Board approved educator preparation programs shall provide their program completers with an institutional recommendation for issuance of the appropriate Arizona certification within 45 days.
- N.** To maintain Board educator preparation program approval, the professional preparation institution shall be in continuous operation and training candidates in accordance with its mission and program objectives, fulfill all reporting requirements,

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and maintain compliance with all applicable local, state, tribal and federal requirements.

- O. The Department shall provide a timeline for professional preparation institutions to submit educator preparation programs for approval.
- P. Professional preparation Institutions seeking renewal of educator preparation program approval shall submit the required preliminary documents for review at least six month prior to the program expiration date.

Historical Note

New Section made by exempt rulemaking at 16 A.A.R. 318, effective August 29, 2006 (Supp. 09-1). Amended by final exempt rulemaking at 21 A.A.R. 2047, effective October 27, 2014 (Supp. 15-3). The hyphen between "PreK-12" was replaced with the word "through" for consistency in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 29 A.A.R. 183 (January 13, 2023), effective December 9, 2022 (Supp. 22-4).

R7-2-604.03. Alternative Educator Preparation Program Approval Process

- A. An organization that includes, but is not limited to, universities under the jurisdiction of the Arizona Board of Regents, community colleges in this state, private postsecondary institutions licensed by this state, school districts, charter schools, professional organizations, nonprofit organizations, private entities and regional training centers that oversee one or more educator preparation program which wishes to offer a program for an alternative route for the certification of teachers and administrators in this State shall apply to the Department of Education for review to become an approved provider of such a program. The Department of Education shall convene a review team to review the application, using a rubric approved by the Board, and submit a recommendation to the Board. The application shall include:
 - 1. The name and location of the applicant;
 - 2. The name of the program;
 - 3. If the applicant is accredited, the name of the regional accrediting body and the accreditation status of the applicant;
 - 4. If the applicant is a private postsecondary educational institution, evidence that the applicant is licensed to operate by the State Board of Private Postsecondary Education pursuant to A.R.S. § 32-3021;
 - 5. A description of the budget of the program;
 - 6. A list of all staff members responsible for the administration of the program, the roles and responsibilities of each person and his or her credentials;
 - 7. The areas of certification for which the applicant will offer the program;
 - 8. A description of the program, which shall include:
 - a. The way in which the elements of the program will comply with the requirements of this Section and R7-2-602, R7-2-603 as applicable and A.R.S. § 15-501.01;
 - b. The application and review process for persons to enroll in the program, including a copy of all forms that will be used in the process;
 - c. A summary of the program courses, seminars, or modules of study; and
 - d. The supervised, school-based experiences the applicant will provide, including:

- i. The name of each school and school district that will participate in the supervised, school-based experience, evidenced by a letter or other communication from the school or school district that demonstrates interest in participating;
 - ii. The length of time for which a candidate will be required to participate in the supervised, school-based experience, including any orientation that the candidate must complete;
 - iii. The manner by which candidates will be mentored by an effective or highly effective teacher and evaluated during the supervised, school-based experience;
 - iv. How the supervised, school-based experience will promote the effectiveness of teachers and administrators, as appropriate; and
 - v. A copy of all forms that will be used for the supervised, school-based experience process;
- 9. If available, data on the efficacy of its preparation program which may include stakeholder surveys, completer data, and student achievement data;
- 10. A statement of the estimated time it will take a candidate enrolled in the program to complete the program, which shall allow for completion of the program within one year but not more than three years;
- 11. A description of the manner by which the applicant will evaluate the success or failure of each candidate enrolled in the program and track the progress of each such candidate, including a copy of all forms that will be used for the evaluation and tracking;
- 12. A description of how the applicant will evaluate the success of the program, which must include the information required for the evaluation pursuant to R7-2-604.02(K)(4);
- 13. A plan for how the education preparation program will notify and assist program participants and partner schools if the educator preparation program closes.
- B. Upon receipt of an application for approval as an approved provider pursuant to subsection (A), the Department of Education shall convene a review team that shall:
 - 1. Examine the application;
 - 2. Determine whether to recommend that the State Board of Education grant its approval of the application based upon the requirements of this Section and the Board-approved rubric without any additional requirements; and
 - 3. Submit its recommendation to the State Board of Education within 90 days of receipt of the application.
- C. The State Board of Education shall review the recommendation of the review team and provide to the applicant written notice of its approval or denial. The State Board of Education may grant provisional approval to an applicant pursuant to subsection (D). If the State Board of Education denies an application, the applicant may correct any deficiencies identified in the notice of denial and resubmit the application for review by the Department within 30 days of the denial. The review team shall review the resubmitted application and submit its recommendation to the Board within 60 days of receipt of the resubmitted application.
- D. If the State Board of Education grants an applicant provisional approval, the applicant may offer the program for an alternative route to certification described in the application for the period prescribed by the State Board of Education. The applicant must remove all the provisions under which the approval was issued before the expiration of the provisional approval. If

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the applicant removes the provisions within the prescribed time, the State Board of Education will grant nonprovisional approval to the applicant as an approved provider. Provisional approval is valid for two years after the date on which the State Board of Education granted provisional approval. If an applicant does not remove all the provisions within the prescribed time, the provisional approval is automatically revoked.

- E. Except as otherwise provided in subsection (D), if an applicant is approved as an approved provider pursuant to this Section, the approval is valid for six years after the date of approval. To continue the approval, the qualified provider must submit an application for renewal before the expiration of the approval to the Department of Education. If the application for renewal is approved by the State Board of Education, the renewal is valid for six years after the date of the approval.
- F. If an approved provider intends to offer a program for an alternative route to certification for an area of certification that is different from the area of certification for which the qualified provider has been approved, the qualified provider must submit a new application pursuant to subsection (A) to offer a program for an alternative route to certification for that area of certification.
- G. An approved provider shall provide its program completers with an institutional recommendation for issuance of the appropriate Arizona alternative path certification within 45 days. An approved provider seeking renewal of its program approval shall submit the required renewal application for review at least 90 days prior to the program expiration date.
- H. Each qualified provider must submit a report once every two years which includes:
 - 1. A description of any substantive changes in courses, seminars, modules or assessments in the Board approved educator preparation programs;
 - 2. The name, title and original signature of the certification officer for the professional preparation institution; and
 - 3. Relevant data on the educator preparation program, relevant staff, and candidates, which may include, but is not limited to, stakeholder surveys, completer data, and student achievement data required as a condition of continuing program approval.
- I. The Department shall:
 - 1. Present the results of the report to the State Board of Education; and
 - 2. After the results have been presented to the State Board of Education, post the report on the Department's website.
- J. Each qualified provider shall cooperate with the State Board of Education and the Department in the evaluation of the effectiveness of this Section.

Historical Note

New Section made by exempt rulemaking at 16 A.A.R. 728, effective March 22, 2010 (Supp. 10-3). Amended by final exempt rulemaking at 21 A.A.R. 2047, effective October 27, 2014 (Supp. 15-3). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 25 A.A.R. 965, effective March 25, 2019 (Supp. 19-1). Amended by final exempt rulemaking at 26 A.A.R. 1311, effective May 18, 2020 (Supp. 20-2). Amended by final exempt rulemaking at 29 A.A.R. 183 (January 13, 2023), effective December 9, 2022 (Supp. 22-4).

R7-2-604.04. Revocation of Approval of Qualified Provider:**Notification of Intent; Requirements of Exit Plan**

- A. The State Board of Education may revoke its approval of an approved provider if the Board determines that the program for an alternative route to certification offered by the qualified provider does not meet the applicable requirements of R7-2-604.03.
- B. Before the Board revokes its approval of an approved provider, the Board will notify the qualified provider of its intent to revoke approval. The notice must include the specific reasons upon which the Board is basing its decision. Not later than 30 days after the date on which the qualified provider receives the notice, the qualified provider may submit a written response to the Board which sets forth the reasons why approval should not be revoked. The Board will review the notice and any response submitted by the qualified provider and will determine whether to:
 - 1. Revoke the approval of the qualified provider;
 - 2. Allow the qualified provider to continue providing the program for an alternative route to certification if certain enumerated conditions are met; or
 - 3. Allow the continued approval of the qualified provider without conditions.
- C. If the Board revokes its approval of an approved provider, the qualified provider must provide an exit plan which includes a description of how the qualified provider will assist candidates enrolled in the program for an alternative route to certification in completing another program with a different qualified provider at no cost to the candidate.

Historical Note

New Section made by exempt rulemaking at 16 A.A.R. 728, effective March 22, 2010 (Supp. 10-3). Amended by final exempt rulemaking at 21 A.A.R. 2047, effective October 27, 2014 (Supp. 15-3). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1).

R7-2-604.05. Classroom-Based Alternative Preparation Program Approval Process

- A. A school district or charter school may apply to the Board for approval as a classroom-based alternative preparation program provider. The Department shall facilitate the Board approval process and prescribe an application form that shall include the following:
 - 1. The name of the program and the school district or charter school applying;
 - 2. The areas of certification for which the applicant will offer the program;
 - 3. Verification that individuals enrolled in the program will have a bachelor's degree from an accredited institution, or will meet all of the following criteria:
 - a. Will be currently enrolled in an accredited public or private postsecondary institution's bachelor's degree program;
 - b. Will not be a contracted or permanent full-time teacher or teacher of record for any classroom of students, except those enrollees may be employed by the school district or charter school; and
 - c. Will not regularly instruct students without the presence of a full-time teacher, certificated teacher, instructional coach or instructional mentor unless the individual possesses other means of certification.
 - 4. Verification that individuals to be enrolled in the program will meet the background requirements and have a valid

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fingerprint card issued by the Arizona Department of Public Safety pursuant to A.R.S. § 15-534;

5. Data supporting the efficacy of its teacher preparation program, which may include stakeholder surveys, completer data and student achievement data. The school district or charter school may contract with a third party provider to provide the classroom-based alternative preparation program and may use that program's efficacy data to meet this requirement.
 6. A list of all staff members responsible for administering the program and the roles and responsibilities of each person;
 7. A description of the program, which shall include the following:
 - a. A program sequence or training schedule; and
 - b. Information regarding the mentoring and coaching of teacher candidates.
 8. The school district or charter school may provide information on professional expectations, professional requirements, or student achievement requirements that exceed expectations and requirements of this Section, including requiring candidates to complete specified coursework or trainings.
 9. A plan for how the program will notify and assist program participants if the program or school closes.
- B.** Upon receipt of an application for approval as a classroom-based preparation program provider, the Department shall convene a review team that shall:
1. Examine the application;
 2. Determine whether to recommend that the Board grant its approval of the application based upon the requirements of this Section and a Board-approved rubric; and
 3. Submit its recommendation to the State Board of Education within 90 days of receipt of the application.
- C.** The State Board of Education shall review the recommendation of the review team and provide to the applicant written notice of its approval or denial.
- D.** If the Board denies an applicant for program approval, the applicant may correct any deficiencies identified in the notice of denial and resubmit the application for review by the Department within 30 days of the denial. The review team shall review the resubmitted application and submit its recommendation to the Board within 60 days of receipt of the resubmitted application.
- E.** If the Board approves an applicant as a classroom-based preparation program provider, the approval is valid for six years after the date of approval. To continue as a program provider, the school district or charter school shall apply for renewal before the expiration of its current approval. If the application for renewal is approved by the Board, the renewal is valid for six years after the date of the approval.
- F.** Approved classroom-based alternative preparation program providers shall submit a new application pursuant to subsection (A) to offer a program in an additional certification area.
- G.** Each qualified provider shall submit a report once every two years that includes:
1. A description of any substantive changes in courses, seminars, modules or assessments in the Board approved classroom-based preparation programs;
 2. The name, title and original signature of the certification officer for the approved program provider;
 3. Relevant data on the educator preparation program, relevant staff, and candidates, which may include, but is not limited to, stakeholder surveys, completer data, and stu-

dent achievement data required as a condition of continuing program approval.

- H.** Classroom-based preparation program providers shall provide program completers with an institutional recommendation for the appropriate Classroom-Based Standard Teaching Certificate within 45 days of program completion.

Historical Note

New Section made by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 26 A.A.R. 1311, effective May 18, 2020 (Supp. 20-2). Amended by final exempt rulemaking at 29 A.A.R. 183 (January 13, 2023), effective December 9, 2022 (Supp. 22-4).

R7-2-604.06. Locally Based School Leadership Preparation Program Approval Process

- A.** A school district or charter school may apply to the Board for approval as a locally based school leadership preparation program provider. The Department shall administer the Board approval process and prescribe an application form, which shall include the following:
1. The name of the program and the school district or charter school applying;
 2. A list of all staff members responsible for administering the program and the roles and responsibilities of each person;
 3. The areas of certification for which the applicant will offer the program;
 4. A description of the program, which shall include the following:
 - a. A program sequence or training schedule; and
 - b. Information regarding the learning experiences, mentoring and coaching of school leader candidates.
 5. Evidence supporting the efficacy of the school district's or charter school's preparation program. A school district or charter school may contract with a third party provider to provide or assist in the preparation in the preparation program and may use that program's efficacy evidence to meet this requirement.
 6. Verification that individuals enrolled in the program will have a bachelor's degree from an accredited institution;
 7. Verification that individuals enrolled in the program will meet the background requirements and have a valid fingerprint card issued by the Arizona Department of Public Safety pursuant to A.R.S. § 15-534.
 8. A plan for how the program will notify and assist program participants if the program or school closes.
- B.** Upon receipt of an application for approval as a locally-based school leadership preparation program provider, the Department shall convene a review team that shall:
1. Examine the application;
 2. Determine whether to recommend that the Board grant its approval of the application based upon the requirements of this Section and a Board-approved rubric; and
 3. Submit its recommendation to the State Board of Education within 90 days of receipt of the application.
- C.** The State Board of Education shall review the recommendation of the review team and provide to the applicant written notice of its approval or denial.
- D.** If the Board denies an applicant for program approval, the applicant may correct any deficiencies identified in the notice of denial and resubmit the application for review by the Department within 30 days of the denial. The review team

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shall review the resubmitted application and submit its recommendation to the Board within 60 days of receipt of the resubmitted application.

- E. If the Board approves an applicant as a locally based school leadership preparation program provider, the approval is valid for six years after the date of approval. To continue as a locally based school leadership program provider, the school district or charter school shall apply for renewal before the expiration of its current approval. If the application for renewal is approved by the Board, the renewal is valid for six years after the date of the approval.
- G. Locally based leadership program providers shall provide program completers with an institutional recommendation for the appropriate locally based pathway standard administrative certificate within 45 days of program completion.

Historical Note

New Section made by final exempt rulemaking at 29 A.A.R. 183 (January 13, 2023), effective December 9, 2022 (Supp. 22-4).

R7-2-605. Certification Responsibility

The Superintendent of Public Instruction or the Superintendent's designee shall be responsible for the issuance and evaluation of the appropriate certificates based on the applicant's compliance with the statutes and rules.

Historical Note

Repealed effective December 4, 1978 (Supp. 78-6). New Section R7-2-605 adopted effective April 10, 1984 (Supp. 84-2). Editorial correction, new Section R7-2-605 shown adopted effective April 10, 1984 should read new Section R7-2-605 adopted effective October 1, 1985.

Amended by adding a new subsection (B) effective December 18, 1985 (Supp. 85-6). Amended by adding subsection (C), filed May 5, 1986, effective July 1, 1987; amended by adding subsection (D) effective June 30, 1986 (Supp. 86-3). Correction to Historical Note dated June 30, 1986, second part should have read: "...amended by adding subsections (D), (E), (F), (G) and (H) effective June 30, 1986"; amended subsection (A) effective August 10, 1988 (Supp. 88-3). Amended effective September 12, 1989 (Supp. 89-3). Amended effective November 6, 1990; Amended effective December 12, 1990 (Supp. 90-4). Amended effective March 10, 1994 (Supp. 94-1). Section repealed; new Section adopted effective December 4, 1998 (Supp. 98-4). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4).

R7-2-606. Proficiency Assessments

- A. The Arizona Teacher Proficiency Assessment is adopted as the proficiency assessment for applicants for teaching certificates. The Arizona Administrator Proficiency Assessment is adopted as the proficiency assessment for applicants for administrative certificates.
- B. The subject knowledge portion of the Arizona Teacher Proficiency Assessment shall assess proficiency as described in R7-2-602 related to the teacher's knowledge of the certification subject area or areas.
- C. The professional knowledge portion of the Arizona Teacher Proficiency Assessment shall assess proficiency as described in R7-2-602 related to the teacher's pedagogical knowledge.
- D. The Arizona Administrator Proficiency Assessment shall assess professional knowledge as described in R7-2-603 as a requirement for certification of administrators, supervisors, principals, and superintendents.

- E. The passing score for each assessment shall be determined by the Board using the results of validity and reliability studies. The passing score for each assessment shall be reviewed by the Board at least every three years.

- F. The proficiency assessments for professional knowledge and subject knowledge for a certificate, endorsement, or approved area shall be approved by the Board.

Historical Note

Repealed effective December 4, 1978 (Supp. 78-6). New Section adopted effective March 10, 1994 (Supp. 94-1). Amended effective March 6, 1997 (Supp. 97-1). Section repealed; new Section adopted effective December 4, 1998 (Supp. 98-4). Section R7-2-606 amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 2562, effective May 23, 2002 for a period of 180 days (Supp. 02-2). Emergency Section R7-2-606 amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 3739, effective August 5, 2002 for a period of 180 days (Supp. 02-3). May 23, 2002 emergency rulemaking renewed under A.R.S. § 41-1026 at 8 A.A.R. 5132, effective November 19, 2002 for a period of 180 days (Supp. 02-4). August 5, 2002 emergency rulemaking renewed under A.R.S. § 41-1026 at 9 A.A.R. 522, effective January 31, 2003 for a period of 180 days (Supp. 03-1). Amended by final rulemaking at 9 A.A.R. 1605, effective May 5, 2003 (Supp. 03-2). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 24 A.A.R. 1427, effective April 23, 2018 (Supp. 18-2).

R7-2-607. General Certification Provisions

- A. The evaluation to determine qualification for certification shall not begin until an institutional recommendation or application for certification and official transcripts, and the appropriate fees have been received by the Department. Course descriptions, verification of employment, and other documents may also be required for the evaluation.
- B. Unless otherwise specified, a standard certificate shall be issued for 12 years and may be issued with deficiencies. Applicants may receive a standard certificate with the following deficiencies of requirements to be completed within three years: research-based phonics; reading instruction including for students with dyslexia; professionalism and ethics; and U.S. and Arizona Constitutions. If an applicant fails to meet these requirements within the prescribed time period, the Department of Education or the Board shall temporarily suspend the standard certificate, but the suspension is not considered a disciplinary action and the individual shall be allowed to correct the deficiency within the remaining time of the standard certification.
- C. The effective date of a new certificate shall be the date the evaluation is completed by the Department. The effective date of a renewed certificate shall be the date the evaluation for renewal is completed by the Department.
- D. Unless otherwise specified, all certificates and provisional endorsements issued for three years or less shall expire on the date of issuance in the year of expiration. All certificates issued for more than three years shall expire on the holder's birth date in the year of expiration.
- E. Only those degrees awarded by an accredited institution shall be considered to satisfy the requirements for certification.
- F. Professional preparation programs, courses, practica, and examinations required for certification shall be taken at an

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accredited institution or a Board-approved teacher preparation program.

- G. Only those courses in which the applicant received a passing grade or credit shall be considered to satisfy the requirements for certification.
- H. All certificates issued by the Department are considered to have been issued in conformance with these rules, except on a finding that an applicant submitted falsified or misrepresented documents, records, or facts in an application for certification or on a finding that a certificate was issued in error due to an error by the verifying authority or issuing authority. If the Department makes a finding pursuant to this subsection, the Department shall provide notice to the applicant of the finding. Within 60 days of the date of the notice, the applicant shall submit proof to the Department that the applicant meets the requirements for the certification. If the applicant is unable to provide proof they meet the requirements within 60 days of receipt of notice, the Department shall reclaim the certificate. Reclaiming a certificate pursuant to this subsection is not considered a disciplinary action but the Department shall refer the case for investigation pursuant to R7-2-1308 for findings that an applicant submitted falsified or misrepresented documents, records, or facts.
- I. The Department shall issue a comparable standard Arizona certificate described in R7-2-608, R7-2-609, R7-2-610, R7-2-611, R7-2-612 or R7-2-613 to an applicant who holds a valid certification from the National Board for Professional Teaching Standards, possess a valid fingerprint clearance card issued by the Arizona Department of Public Safety, and holds a bachelor's, master's or doctoral degree from an accredited institution. These applicants are exempt from all portions of the Arizona Teacher Proficiency Assessment.
- J. An applicant is not required to take any portion of the Arizona Teacher Proficiency Assessment if the applicant has at least three years of full-time teaching experience in any state, including this state, in the comparable area of certification or endorsement in which the person is applying for certification, regardless of whether the applicant was certified or uncertified. An applicant is not required to take any portion of the Arizona Administrator Proficiency Assessment if the person has at least three years of full-time experience in a school leadership position in any state, including this state, regardless of whether the applicant was certified or uncertified.
- K. An applicant is exempt from the testing requirements for Arizona certificates if the applicant passed corresponding portions of a professional or subject knowledge examinations, or administrator examination adopted by a state agency in another state that are similar to the Arizona Teacher Proficiency Assessments or the Arizona Administrator Proficiency Assessment.
- L. An applicant is exempt from the subject knowledge portion of the Arizona Teacher Proficiency Assessment if:
 1. The applicant provides verification of teaching courses relevant to a content area or subject matter for the last two consecutive years, and for a total of at least three years at one or more accredited postsecondary institutions; or
 2. The applicant obtained a bachelor's, master's or doctoral degree from an accredited institution in a relevant subject area; or
 3. The applicant provides verification of a minimum of five years of work experience that is relevant to a subject area of certification.
- M. Unless otherwise specified, individuals who hold a valid Arizona elementary, middle grades or secondary certificate, or a special education certificate that includes grades six through 12, may add an approved area to their certificate by passing the appropriate subject area portion of the Arizona Teacher Proficiency Assessment or as provided in subsections (J), (K) and (L). Any approved area shall be specified on the certificate. If a proficiency assessment is not offered in a subject area, an approved area shall consist of a minimum of 24 semester hours of courses in the subject.
- N. If a language assessment is not offered through the Arizona Teacher Proficiency Assessment, a passing score on a nationally accredited test of a foreign language approved by the Board may demonstrate proficiency of that foreign language in lieu of the 24 semester hours of courses in that subject.
- O. A teacher's language proficiency in a Native American language shall be verified by a person, persons, or entity designated by the appropriate tribe in lieu of the 24 semester hours of courses in that subject.
- P. Teachers of homebound students shall hold the same certificate that is required of a classroom teacher.
- Q. Fingerprint clearance cards shall be issued by the Arizona Department of Public Safety.
- R. A person who surrenders their teaching certificate for any reason shall not submit an application for certification with the Board for a period of five years. A person re-applying after the five-year ban must apply under the current rules at the time of re-application.
- S. Notwithstanding any other provision, an individual with a deficiency in the Arizona and U.S. Constitutions who teaches an academic course that focuses primarily on history, government, social studies, citizenship, law or civics shall be issued a standard certificate subject to suspension in one year if that deficiency is not removed. The suspension is not considered a disciplinary action and the individual shall be allowed to correct that deficiency within the remaining time of the standard certification.
- T. As used in this Article, unless otherwise provided, "work experience" means paid or unpaid work, including teaching experience as a certificated or noncertificated educator at a public or private school, which demonstrates knowledge or skill relevant to a subject area. Work experience, and its relevance to a subject area, shall be verified with one of the following:
 1. A letter from a superintendent or personnel director that the applicant demonstrates knowledge or skill in the subject area that is comparable to holding a bachelor's degree, master's degree, or doctoral degree in that subject area, as identified in a resume;
 2. A letter from a public or private school superintendent or personnel director, in this state or in another state, that the applicant has the requisite experience teaching the most advanced Arizona academic standards, or comparable out-of-state standards, in the subject area sought; or
 3. If an applicant is unable to obtain a letter described in subsections (T)(1) or (2), the applicant may submit a letter from a current or former supervisor verifying that the applicant demonstrates knowledge or skill in the subject area that is comparable to holding a bachelor's degree, master's degree, or doctoral degree in that subject area, as determined by the Department.
- U. Single subject classroom teachers in grades six through 12 are required to be appropriately certified for the subject they teach for the greater part of their instructional schedule. If a teacher is assigned to two or more subjects for equal parts of their

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instructional schedule, the teacher is required to be appropriately certified in each subject.

- V. The requirements to be considered appropriately certified for a self-contained, single subject, or other classroom shall be established in the Certification Guidelines for Teaching Assignments, which shall be approved by the Board and on file with the Department.

Historical Note

Adopted effective December 5, 1977 (Supp. 77-6).
 Repealed effective December 4, 1978 (Supp. 78-6). New Section adopted effective May 3, 1993 (Supp. 93-2).
 Amended effective March 6, 1997 (Supp. 97-1). Section repealed; new Section adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1).
 Amended by exempt rulemaking at 16 A.A.R. 102, effective May 1, 2009 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 160, effective October 26, 2009 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 324, effective January 25, 2010 (Supp. 10-3).
 Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 21 A.A.R. 2054, effective December 8, 2014 (Supp. 15-3). Amended by final exempt rulemaking at 22 A.A.R. 648, effective January 25, 2016 (Supp. 16-1). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 27 A.A.R. 2353, (October 22, 2021), effective September 27, 2021 (Supp. 21-4).
 Amended by final exempt rulemaking at 29 A.A.R. 183 (January 13, 2023), effective December 9, 2022 (Supp. 22-4).

R7-2-607.01 Subject Areas – Waiver

Notwithstanding any other provision in this Article, any individual with a valid Elementary or Secondary certificate, or a Special Education certificate that includes grades six through 12, issued prior to August 1, 2016 may add one or more approved areas to the certificate prior to August 1, 2017 without any additional requirements provided the individual received an evaluation in the top two levels of performance on the most recent teacher evaluation related to one or more of the subject areas and meets one of the following requirements:

1. The individual was teaching in one or more subject areas based on a verified Arizona High, Objective, Uniform, State Standard of Evaluation (HOUSSSE) rubric as highly qualified to teach the subject area(s) as defined under the No Child Left Behind Act; or
2. The individual has completed of a minimum of 24 semester hours of courses in the subject area(s).

Historical Note

New Section made by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1).

R7-2-608. Early Childhood Teaching Certificates

- A. A standard early childhood education certificate shall be required for individuals teaching in public school early childhood education programs, except as provided in R7-2-611 or in R7-2-615(N). For individuals teaching in grades kindergarten through three, this certificate is optional. An Early Childhood Special Education certificate as described in R7-2-611 is not required for individuals who hold the Early Childhood Teaching Certificate as described in this Section in combina-

tion with an Arizona cross-categorical mild-moderate disabilities, specialized special education, or moderate to severe disabilities teaching certificate as described in R7-2-611.

- B. For the purposes of this Section, public school early childhood education programs means education programs provided by local education agencies, including their sub-grantees and contracted providers, for children birth through age 8 for the purpose of providing academically and developmentally appropriate learning opportunities that are standards-based with defined curriculum and comprehensive in content to include all appropriate developmental and academic areas as defined by the Arizona Early Childhood Education Standards or the Arizona K through 12 Academic Standards approved by the Board.
- C. Except as noted, all certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619.
- D. Standard Professional Early Childhood Education Certificate – birth through age 8 or through grade three. The requirements are:
1. A bachelor's degree, and
 2. One of the following:
 - a. Completion of a teacher preparation program in early childhood education from an accredited institution or a teacher preparation program approved by the Board, or
 - b. Early childhood education coursework and practicum experience which teaches the knowledge and skills described in R7-2-602 and includes both of the following:
 - i. Thirty-seven semester hours of early childhood education courses to include all of the following areas of study:
 - (1) Foundations of early childhood education;
 - (2) Child guidance and classroom management;
 - (3) Characteristics and quality practices for typical and atypical behaviors of young children;
 - (4) Child growth and development, including health, safety and nutrition;
 - (5) Child, family, cultural and community relationships;
 - (6) Developmentally appropriate instructional methodologies for teaching language, math, science, social studies and the arts;
 - (7) Early language and literacy development;
 - (8) Assessing, monitoring and reporting progress of young children; and
 - ii. A minimum of eight semester hours of practicum, including:
 - (1) A minimum of four semester hours in a supervised field experience, practicum, internship or student teaching setting serving children birth through preschool. One year of full-time verified teaching experience with children in birth through preschool may substitute for this student teaching experience. This verification may come from a school-based education program or center-based program licensed by the Department of Health Services or regulated by tribal or military authorities; and

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- (2) A minimum of four semester hours in a supervised student teaching setting serving children in kindergarten through grade three. One year of full-time verified teaching experience with children in kindergarten through grade three in an accredited school may substitute for this student teaching experience; or
 - c. A valid early childhood education certificate from another state.
 3. A valid Fingerprint Clearance Card issued by the Arizona Department of Public Safety, and
 4. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment once that portion of the AEPA is adopted by the Board, and
 5. A passing score on the early childhood subject knowledge portion of the Arizona Teacher Proficiency Assessment unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge examination.
- E. Standard Professional Early Childhood Education Certificate – birth through age 8 or through grade three for applications received on and after August 1, 2018.
 1. The requirements include all of the following:
 - a. A bachelor's degree;
 - b. Completion of a teacher preparation program in early childhood education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training addressing the following topics and any others as required by law:
 - i. Research-based systematic phonics, including early language and literacy development;
 - ii. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
 - iii. Foundations of early childhood education;
 - iv. Teaching students with exceptionalities;
 - v. Child guidance and classroom management, including characteristics and quality practices for typical and atypical behaviors of young children;
 - vi. Child growth and development, including health, safety and nutrition;
 - vii. Child, family, cultural and community relationships;
 - viii. Developmentally appropriate instructional methodologies for teaching language, math, science, social studies and the arts;
 - ix. Assessing, monitoring and reporting progress of young children;
 - x. Instructional design and lesson planning, including modifications and accommodations;
 - xi. Practicum as described in R7-2-604 serving children birth through preschool;
 - xii. Professional responsibility and ethical conduct; and
 - xiii. Twelve-week capstone experience as described in R7-2-604 children in kindergarten through grade three, which may be completed during the valid period of a teaching intern or student teaching intern certificate. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
 - c. A valid Fingerprint Clearance Card issued by the Arizona Department of Public Safety;
 - d. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment; and
 - e. A passing score on the early childhood subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge examination.
2. Applicants may meet the requirements in subsection (E)(1)(b) with the submission of an application for the Standard Professional Early Childhood Education certificate that includes evidence of two years of verified full-time teaching experience serving children birth through grade three, and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (E)(1)(b)(i) through (xii). One year of verified full-time teaching experience serving children in kindergarten through grade three may be substituted for the capstone experience.

Historical Note

Adopted effective May 20, 1994 (Supp. 94-2). Section repealed; new Section adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Section R7-2-608 amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 2562, effective May 23, 2002 for a period of 180 days (Supp. 02-2). May 23, 2002 emergency rulemaking renewed under A.R.S. § 41-1026 at 8 A.A.R. 5132, effective November 19, 2002 (Supp. 02-4). Amended by final rulemaking at 9 A.A.R. 1605, effective May 5, 2003 (Supp. 03-2). Former Section R7-2-608 recodified to R7-2-609 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). New Section R7-2-608 made by exempt rulemaking at 16 A.A.R. 52, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 119, effective September 21, 2009 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 235, effective December 7, 2009 (Supp. 10-3). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1).

R7-2-609. Elementary Teaching Certificates

- A. Except as noted, all certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619.
- B. Standard Professional Elementary Certificate – grades K through eight. The requirements are:
 1. A bachelor's degree,
 2. One of the following:
 - a. Completion of a teacher preparation program in elementary education from an accredited institution or a Board-approved teacher preparation program, described in R7-2-604; or

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- b. Forty-five semester hours of education courses which teach the knowledge and skills described in R7-2-602, including at least eight semester hours of practicum in grades K through eight. Two years of verified teaching experience in grades Prekindergarten through eight may be substituted for the eight semester hours of practicum; or
 - c. A valid elementary certificate from another state.
 - 3. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - 4. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment;
 - 5. A valid fingerprint card issued by the Arizona Department of Public Safety; and
 - 6. Forty-five hours or three semester hours of instruction in research-based systematic phonics. An accredited institution or other provider may provide this instruction.
- C. Standard Professional Elementary Certificate – grades kindergarten through eight for applications received on and after August 1, 2018.
 - 1. The requirements include all of the following:
 - a. A bachelor's degree;
 - b. Completion of a teacher preparation program in elementary education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training, addressing the following topics and any others as required by law:
 - i. At least forty-five hours or three semester hours of instruction in research-based systematic phonics, including language and literacy development;
 - ii. For applications received on and after October 15, 2020, at least forty-five hours or three semester hours of instruction in research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
 - iii. Developmentally appropriate instructional delivery, facilitation and methodologies for teaching language, math, science, social studies and the arts;
 - iv. Instructional design and lesson planning, including modifications, and accommodations;
 - v. The learning environment, including classroom management;
 - vi. Assessing, monitoring and reporting progress;
 - vii. Teaching students with exceptionalities;
 - viii. Professional responsibility and ethical conduct; and
 - ix. Twelve weeks of capstone experience as described in R7-2-604 in grades kindergarten through eight, which may be completed during the valid period of a teaching intern or student teaching intern certificate. One year of verified full-time teaching experience in grades kindergarten through eight may be substituted for the capstone experience requirement. For individuals seeking dual certification, any capstone

experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.

- c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - d. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment; and
 - e. A valid fingerprint card issued by the Arizona Department of Public Safety.
 - 2. Applicants may meet the requirements in subsection (C)(1)(b) with the submission of an application for the Standard Professional Elementary certificate that includes evidence of two years of verified full-time teaching experience in grades kindergarten through eight, and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (C)(1)(b)(i) through (viii).

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Section R7-2-609 amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 2562, effective May 23, 2002 for a period of 180 days (Supp. 02-2). May 23, 2002 emergency rulemaking renewed under A.R.S. § 41-1026 at 8 A.A.R. 5132, effective November 19, 2002 (Supp. 02-4). Amended by final rulemaking at 9 A.A.R. 1605, effective May 5, 2003 (Supp. 03-2). Former R7-2-609 recodified to R7-2-610; new R7-2-609 recodified from R7-2-608 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). R7-2-609 "Pre-kindergarten" corrected to "PreK" at request of the Board, Office File No. M09-444, filed November 24, 2009 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 235, effective December 7, 2009 (Supp. 10-3). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 24 A.A.R. 2947, effective September 24, 2018 (Supp. 18-3).

R7-2-609.01. Middle Grades Teaching Certificate

- A. Except as noted, all certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619.
- B. Standard Professional Middle Grades Certificate – grades five through nine
 - 1. The requirements include all of the following:
 - a. A bachelor's degree;
 - b. Completion of a teacher preparation program in middle grades education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training, addressing the following topics and any others as required by law:
 - i. Early adolescent psychology;
 - ii. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to

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- support readers of varying ages and ability levels, including students with dyslexia;
 - iii. Instructional design and lesson planning, including modifications and accommodations;
 - iv. The learning environment, including classroom management;
 - v. Developmentally appropriate instructional delivery, facilitation and methodologies;
 - vi. Assessing, monitoring and reporting progress;
 - vii. Teaching students with exceptionalities;
 - viii. Professional responsibility and ethical conduct; and
 - ix. Twelve weeks of capstone experience as described in R7-2-604 in grades five through nine, which may be completed during the valid period of a teaching intern or student teaching intern certificate. One year of verified full-time teaching experience in grades five through nine may be substituted for the capstone experience requirement. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
 - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - d. A passing score on at least one subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in the relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment; and
 - e. A valid fingerprint card issued by the Arizona Department of Public Safety.
 - 2. Applicants may meet the requirements in subsection (B)(1)(b) with the submission of an application for the Standard Professional Middle Grades certificate that includes evidence of two years of verified full-time teaching experience in grades five through nine, and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (B)(1)(b)(i) through (viii).
- Historical Note**
- New Section by final exempt rulemaking at 24 A.A.R. 791, effective March 26, 2018 (Supp. 18-1).
- R7-2-610. Secondary Teaching Certificates**
- A. Except as noted, all certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619.
 - B. Standard Professional Secondary Certificate – grades six through 12. The requirements are:
 - 1. A bachelor's degree;
 - 2. One of the following:
 - a. Completion of a teacher preparation program in secondary education from an accredited institution or a Board-approved teacher preparation program, described in R7-2-604; or
 - b. Thirty semester hours of education courses which teach the knowledge and skills described in R7-2-602, including at least eight semester hours of practicum in grades six through 12. Two years of verified teaching experience in grades six through postsecondary may substitute for the eight semester hours of practicum; or
 - c. A valid secondary certificate from another state.
 - 3. A passing score on one or more subject knowledge portions of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant subject area or otherwise qualifies for a waiver of the subject knowledge exam;
 - 4. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment; and
 - 5. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 - C. Standard Professional Secondary Certificate – grades six through 12 for applications received on and after August 1, 2018.
 - 1. The requirements include all of the following:
 - a. A bachelor's degree;
 - b. Completion of a teacher preparation program in secondary education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training, addressing the following topics and any others as required by law:
 - i. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
 - ii. Instructional design and lesson planning, including modifications and accommodations;
 - iii. The learning environment, including classroom management;
 - iv. Developmentally appropriate instructional delivery, facilitation and methodologies;
 - v. Assessing, monitoring and reporting progress;
 - vi. Teaching students with exceptionalities;
 - vii. Professional responsibility and ethical conduct;
 - viii. Twelve weeks of capstone experience as described in R7-2-604 in grades six through postsecondary, which may be completed during the valid period of a teaching intern or student teaching intern certificate; one year of verified full-time teaching experience in grades six through postsecondary may substitute for the capstone experience requirement. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
 - c. A passing score on one or more subject knowledge portions of the Arizona Teacher Proficiency Assessment unless the applicant has a bachelor's, master's or doctoral degree in a relevant subject area or otherwise qualifies for a waiver of the subject knowledge exam;
 - d. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment; and
 - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 - 2. Applicants may meet the requirements in subsection (C)(1)(b) with the submission of an application for the Standard Professional Secondary certificate that includes evidence of two years of verified full-time teaching experience

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rience in grades six through postsecondary, and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (C)(1)(b)(i) through (vii). One year of verified full-time teaching experience in grades six through postsecondary may be substituted for the capstone experience.

- D.** Notwithstanding any other provision, individuals seeking a secondary certificate with an approved area in science, technology, engineering or mathematics are exempted from the requirements of a passing score on one or more subject knowledge portions of the Arizona Teacher Proficiency Assessment based on:

1. Verified work experience of five or more years in science, technology, engineering or mathematics; and
2. Demonstrated adequate knowledge of science, technology, engineering or mathematics by:
 - a. A master's or a doctoral degree in an academic subject that is specific to science, technology, engineering or mathematics; or
 - b. Twenty-four semester hours of relevant coursework in an academic subject that is specific to science, technology, engineering or mathematics.

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Section R7-2-610 amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 2562, effective May 23, 2002 for a period of 180 days (Supp. 02-2). May 23, 2002 emergency rulemaking renewed under A.R.S. § 41-1026 at 8 A.A.R. 5132, effective November 19, 2002 (Supp. 02-4). Amended by final rulemaking at 9 A.A.R. 1605, effective May 5, 2003 (Supp. 03-2). Amended by final rulemaking at 10 A.A.R. 2399, effective July 23, 2004 (Supp. 04-2). Amended by exempt rulemaking at 15 A.A.R. 1838, effective August 29, 2006 (Supp. 09-1). Former R7-2-610 recodified to R7-2-611; new R7-2-610 recodified from R7-2-609 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 235, effective December 7, 2009 (Supp. 10-3). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 21 A.A.R. 2054, effective December 8, 2014 (Supp. 15-3). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1).

R7-2-610.01. Specialized Secondary Teaching Certificates

Specialized Secondary Certificate – Science, Technology, Engineering or Mathematics – grades six through 12

- A.** The requirements are:

1. One of the following:
 - a. Demonstrate expertise in the subject matter knowledge through:
 - i. A bachelor's, master's or a doctoral degree and 24 semester hours of relevant coursework in an academic subject that is specific to science, technology, engineering or mathematics; or
 - ii. Verified teaching experience for the last two consecutive years, and for a total of at least three years at one or more accredited postsecondary institutions in science, technology, engineering or mathematics

2. Verified work experience of five or more years in science, technology, engineering or mathematics
3. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

- B.** An individual who meets the requirements of this Section is exempt from the competency requirements of the United States and Arizona Constitutions, and the professional knowledge and the subject knowledge portions of the Arizona Teacher Proficiency Assessments.

Historical Note

New Section made by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1).

R7-2-610.02. Subject Matter Expert Standard Teaching Certificate

Subject Matter Expert Standard Teaching Certificate – grades six through 12

- A.** The requirements are:

1. A bachelor's degree and one of the following:
 - a. Verified teaching experience for the last two consecutive years, and for a total of at least three years at one or more accredited postsecondary institutions in the relevant subject area of certification. An individual seeking certification pursuant to this subdivision is exempt from passing the professional knowledge portion of the Arizona Teacher Proficiency Assessment; or
 - b. A bachelor's, master's or doctoral degree from an accredited postsecondary institution in the specific subject area of certification that is directly relevant to a content area or subject matter taught in public schools; or
 - c. Verification of expertise through work experience of a minimum of five years in the relevant area of certification.
2. A passing score on the professional knowledge Arizona Teacher Proficiency Assessment within two years except as provided by subsection (A)(1)(a). If an applicant fails to meet this requirement within two years, the Department of Education or the Board shall temporarily suspend the standard certificate, but the suspension is not considered a disciplinary action and the individual shall be allowed to correct the deficiency within the remaining time of the standard certification.
3. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
4. Verification that the applicant has reviewed and attests to reviewing the best practices for social media and cellular telephone use between students and school personnel adopted by the Board.
5. Completion of Board-approved training in professionalism and ethics within two years. If an applicant fails to meet this requirement within two years, the Department or the Board shall temporarily suspend the standard certificate, but the suspension is not considered a disciplinary action and the individual shall be allowed to correct the deficiency within the remaining time of the standard certification.

- B.** An individual who meets the requirements of this Section is exempt from the competency requirements of the United States and Arizona Constitutions and the subject knowledge portion of the Arizona Teacher Proficiency Assessment.

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New Section made by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 24 A.A.R. 2947, effective September 24, 2018 (Supp. 18-3). Amended by final exempt rulemaking at 29 A.A.R. 183 (January 13, 2023), effective December 9, 2022 (Supp. 22-4).

R7-2-611. Special Education Teaching Certificates

- A. Except as noted, all certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619. An Early Childhood Special Education certificate as described in this Section is not required for individuals who hold the Early Childhood endorsement as described in R7-2-615 in combination with an Arizona cross-categorical, specialized special education, or moderate/severe disabilities teaching certificate as described in this Section. An Early Childhood Special Education certificate as described in this Section is not required for individuals who hold the Early Childhood Teaching Certificate as described in R7-2-608 in combination with an Arizona cross-categorical, specialized special education, or moderate/severe disabilities teaching certificate as described in this Section.
- B. Terms used in this Section are defined in A.R.S. § 15-761.
- C. Standard Professional Mild/Moderate Disabilities Certificate - grades K through 12.
 1. The holder is qualified to teach students with mild/moderate disabilities as documented by student needs in the individualized education program and the following categories, including: autism, mild/moderate intellectual disabilities, traumatic brain injury, emotional disability, specific learning disability, orthopedic impairments, developmental delay and/or other health impairments.
 2. The requirements are:
 - a. A bachelor's degree;
 - b. One of the following:
 - i. Completion of a teacher preparation program in special education from an accredited institution which included courses in the instruction and behavior management of students with mild/moderate disabilities; or
 - ii. Forty-five semester hours of education courses which teach the standards described in R7-2-602, including a minimum of 37 semester hours of special education courses and eight semester hours of practicum with students with mild/moderate disabilities. Special education courses shall include foundations of special education, legal aspects, effective collaboration and communication practices, research-based instruction in mathematics, research-based instruction in English language arts, classroom management and behavior analysis, assessment and eligibility, language development and disorders, and electives. Two years of verified teaching experience in mild/moderate special education, grades K through 12 may substitute for the eight semester hours of practicum.
 - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - d. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in mild/moderate special education or otherwise qualifies for a waiver of the subject knowledge examination; and
 - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- D. Standard Professional Mild/Moderate Disabilities Certificate - grades K through 12 for applications received on or after August 1, 2018.
 1. The holder is qualified to teach students with mild/moderate disabilities as documented by student needs in the individualized education program and the following categories, including: autism, mild/moderate intellectual disabilities, traumatic brain injury, emotional disability, specific learning disability, orthopedic impairments, developmental delay and/or other health impairments.
 2. The requirements include all of the following:
 - a. A bachelor's degree;
 - b. Completion of a teacher preparation program in mild/moderate disabilities special education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training addressing the following topics and any others as required by law:
 - i. Research-based systematic phonics;
 - ii. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
 - iii. Instructional design and lesson planning, including specially designed instruction;
 - iv. The learning environment, including classroom and behavioral management;
 - v. Instructional delivery, facilitation and methodologies;
 - vi. Legal aspects of special education, including individualized education programs and transition planning;
 - vii. Effective collaboration and communication practices, including modifications and accommodations;
 - viii. Research-based instruction in math;
 - ix. Research-based instruction in English language arts;
 - x. Assessment and eligibility, including monitoring and reporting requirements;
 - xi. Language development and disorders;
 - xii. Professional responsibility and ethical conduct;
 - xiii. Twelve weeks of capstone experience as described in R7-2-604 in mild/moderate special education in grades K through 12, which may be completed during the valid period of a teaching intern certificate. One year of verified teaching experience in mild/moderate special education in grades K through 12 may substitute for the capstone experience requirement. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
 - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - d. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

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3. Applicants may meet the requirements in subsection (D)(2)(b) with the submission of an application for the Standard Professional Mild/Moderate Disabilities Certificate grades K through 12 that includes evidence of two years of verified full-time teaching experience in mild/moderate disabilities special education in grades K through 12 and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (D)(2)(b)(i) through (xii).
4. Board approved educator preparation programs leading to dual certification in mild/moderate disabilities and elementary, middle school, or secondary education may exempt a student from the mild/moderate special education capstone experience upon the completion of the following:
 - a. Verification from the applicable district or charter school administrator that the student was employed continuously as a paraprofessional whose primary responsibility was working with students in mild/moderate special education classrooms for the two years preceding commencement of the capstone experience in elementary, middle school, or secondary education;
 - b. Verification from the applicable district or charter school administrator that the student received evaluations, in each of the preceding two years of employment as a paraprofessional, indicating effectiveness in performance; and
 - c. Completion of the capstone experience in elementary, middle school or secondary education and demonstration of all of the following competencies during the dual certification educator preparation program:
 - i. Participation on a multi-disciplinary evaluation team;
 - ii. Participation in and drafting of an acceptable individualized education program; and
 - iii. Planning and delivery of specially designed instruction for a class of students.
- E. Provisional Specialized Special Education Certificate – grades K through 12.**
 1. The certificate is valid for three years and is not renewable.
 2. No new applications for a Provisional Specialized Education Certificate will be accepted after December 31, 2015.
 3. The holder is qualified to teach students with intellectual disabilities, emotional disability, specific learning disability, orthopedic impairments or other health impairments, as specified on the certificate.
- F. Standard Professional Specialized Special Education Certificate – grades K through 12.**
 1. The certificate is valid for 12 years and may be renewed.
 2. The holder is qualified to teach students with intellectual disabilities, emotional disability, specific learning disability, orthopedic impairments or other health impairments, as specified on the certificate.
 3. The requirements are:
 - a. A valid Arizona Provisional Specialized Special Education certificate, or a Provisional Specialized Special Education certificate which has not expired for more than one year;
 - b. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- G. Standard Professional Moderate/Severe Disabilities Certificate – grades K through 12.**
 1. The holder is qualified to teach students with moderate/severe disabilities as documented by student needs in the individualized education program and the following categories, including: autism, moderate/severe intellectual disabilities, traumatic brain injury, emotional disability, orthopedic impairments, and/or other health impairments.
 2. The requirements are:
 - a. A bachelor's degree,
 - b. One of the following:
 - i. Completion of a teacher preparation program in moderate/severe disabilities education from an accredited institution; or
 - ii. Forty-five semester hours of education courses which teach the standards described in R7-2-602, including a minimum of 37 semester hours of special education courses and eight semester hours of practicum with students with moderate/severe disabilities. Special education courses shall include foundations of low incidence disabilities, legal aspects, effective collaboration and communication practices, adaptive communication, instructional strategies across the curriculum, classroom management and behavior analysis, assessment and eligibility, and electives. Two years of verified special education teaching experience in with students with moderate/severe disabilities, grades K through 12 may substitute for the eight semester hours of practicum.
 - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment,
 - d. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in moderate/severe special education or otherwise qualifies for a waiver of the subject knowledge examination, and
 - e. A valid fingerprint card issued by the Arizona Department of Public Safety.
- H. Standard Professional Moderate/Severe Disabilities Certificate – grades K through 12 for applications received on or after August 1, 2018.**
 1. The holder is qualified to teach students with moderate/severe disabilities as documented by student needs in the individualized education program and the following categories, including: autism, moderate/severe intellectual disabilities, traumatic brain injury, emotional disability, orthopedic impairments, and/or other health impairments.
 2. The requirements include all of the following:
 - a. A bachelor's degree;
 - b. Completion of a teacher preparation program in moderate/severe disabilities education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training addressing the following topics and any others as required by law:
 - i. Research-based systematic phonics;
 - ii. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;

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- iii. Instructional design and lesson planning, including specially designed instruction;
 - iv. The learning environment, including classroom and individual behavioral management;
 - v. Instructional delivery, facilitation and methodologies for teaching research-based instruction in math and English language arts;
 - vi. Legal aspects of special education, including individualized education programs and transition planning;
 - vii. Effective collaboration and communication practices, including modifications and accommodations;
 - viii. Adaptive communication, including language development and disorders;
 - ix. Assessment and eligibility, including monitoring and reporting requirements;
 - x. Professional responsibility and ethical conduct;
 - xi. Twelve weeks of capstone experience as described in R7-2-604 in special education in moderate/severe disabilities grades K through 12, which may be completed during the valid period of a teaching intern certificate. One year of verified full-time teaching experience in special education in moderate/severe disabilities grades K through 12 may substitute for the capstone experience requirement. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
 - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - d. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment unless the applicant has a bachelor's, master's or doctoral degree in moderate/severe special education or otherwise qualifies for a waiver of the subject knowledge examination, and
 - e. A valid fingerprint card issued by the Arizona Department of Public Safety.
3. Applicants may meet the requirements in subsection (H)(2)(b) with the submission of an application for the Standard Professional Moderate/Severe Disabilities Certificate grades K through 12 that includes evidence of two years of verified full-time teaching experience in moderate/severe disabilities special education in grades K through 12 and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (H)(2)(b)(i) through (x).
- I.** Standard Professional Hearing Impaired Certificate – birth through grade 12. The requirements are:
- 1. A bachelor's degree;
 - 2. One of the following:
 - a. Completion of a teacher preparation program in hearing impaired education from an accredited institution; or
 - b. Forty-five semester hours of education courses which teach the knowledge and skills described in R7-2-602, including 21 semester hours of special education courses for the hearing impaired and eight semester hours of practicum. Special education courses shall include survey of exceptional students, teaching methodologies for students with hearing impairment, foundations of instruction of students with hearing impairment, and diagnostic and assessment procedures for the hearing impaired. Two years of verified teaching experience in the area of hearing impaired in grade PreK through 12 may be substituted for the eight semester hours of practicum.
 - 3. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - 4. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment unless the applicant has a bachelor's, master's or doctoral degree in hearing impaired special education or otherwise qualifies for a waiver of the subject knowledge examination, and
 - 5. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- J.** Standard Professional Hearing Impaired Certificate – birth through grade 12 for applications received on or after August 1, 2018.
- 1. The requirements include all of the following:
 - a. A bachelor's degree;
 - b. Completion of a teacher preparation program in hearing impaired education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training addressing the following topics and any others as required by law:
 - i. Research-based systematic phonics;
 - ii. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
 - iii. Survey of exceptional students;
 - iv. Teaching methodologies for students with hearing impairment;
 - v. Foundations of instruction of students with hearing impairment;
 - vi. Diagnostic and assessment procedures for the hearing impaired;
 - vii. Professional responsibility and ethical conduct;
 - viii. Twelve weeks of capstone experience as described in R7-2-604 in hearing impaired special education birth through grade 12, which may be completed during the valid period of a teaching intern certificate. One year of verified full-time teaching experience in the area of hearing impaired in birth through grade 12 may be substituted for the capstone experience requirement. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
 - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - d. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment unless the applicant has a bachelor's, master's or doctoral degree in hearing impaired special education or otherwise qualifies for a waiver of the subject knowledge examination; and

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- e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- 2. Applicants may meet the requirements in subsection (J)(1)(b) with the submission of an application for the Standard Professional Hearing Impaired Certificate – birth through grade 12 that includes evidence of receipt of two years of verified full-time teaching experience in hearing impaired special education birth through grade 12 and training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (J)(1)(b)(i) through (vii).
- K. Standard Professional Visually Impaired Certificate – birth through grade 12. The requirements are:**
 - 1. A bachelor's degree,
 - 2. One of the following:
 - a. Completion of a teacher preparation program in visual impairment from an accredited institution; or
 - b. Forty-five semester hours of education courses which teach the knowledge and skills described in R7-2-602, including 21 semester hours of special education courses for the visually impaired and eight semester hours of practicum. Special education courses shall include survey of exceptional students, teaching methodologies for students with visual impairment, foundations of instruction of students with visual impairment, and diagnostic and assessment procedures for the visually impaired. Two years of verified teaching experience in the area of visually impaired in grades PreK through 12 may be substituted for the eight semester hours of practicum.
 - 3. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment,
 - 4. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment, and
 - 5. Demonstration of competency in Braille through one of the following:
 - a. A passing score on the original version of the National Library of Congress certification exam, or
 - b. A valid certificate for a literary Braille transcriber issued by the National Library of Congress, or
 - c. A passing score on a Braille exam administered by another state, or
 - d. A passing score on the Braille exam developed and administered by the University of Arizona. Individuals who take this test and are not students at the University of Arizona may be assessed a fee.
 - 6. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- L. Standard Professional Visually Impaired Certificate – birth through grade 12 for applications received on or after August 1, 2018.**
 - 1. The requirements include all of the following:
 - a. A bachelor's degree;
 - b. Completion of a teacher preparation program in visual impairment from a Board-approved educator preparation program or from an accredited institution offering substantially similar training addressing the following topics and any others as required by law:
 - i. Research-based systematic phonics;
 - ii. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
 - iii. Survey of exceptional students;
 - iv. Teaching methodologies for students with visual impairment;
 - v. Foundations of instruction of students with visual impairment;
 - vi. Diagnostic and assessment procedures for the visually impaired;
 - vii. Professional responsibility and ethical conduct;
 - viii. Twelve weeks of capstone experience as described in R7-2-604 in visually impaired special education birth through grade 12, which may be completed during the valid period of a teaching intern certificate. One year of verified full-time teaching experience in the area of visually impaired in birth through grade 12 may be substituted for the capstone experience requirement. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
 - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment,
 - d. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment,
 - e. Demonstration of competency in Braille through one of the following:
 - i. A passing score on the original version of the National Library of Congress certification exam, or
 - ii. A valid certificate for a literary Braille transcriber issued by the National Library of Congress, or
 - iii. A passing score on a Braille exam administered by another state, or
 - iv. A passing score on the Braille exam developed and administered by the University of Arizona. Individuals who take this test and are not students at the University of Arizona may be assessed a fee.
 - f. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- 2. Applicants may meet the requirements in subsection (L)(1)(b) with the submission of an application for the Standard Professional Visually Impaired Certificate – birth through grade 12 that includes evidence of two years of verified full-time teaching experience in visually impaired special education birth through grade 12 and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (L)(1)(b)(i) through (vii).
- M. Standard Professional Early Childhood Special Education Certificate – Birth through age 8 or grade three.**
 - 1. The requirements are:
 - a. A bachelor's degree,
 - b. Completion of a teacher preparation program in early childhood special education from an accredited institution,
 - c. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in early childhood special education or other-

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- wise qualifies for a waiver of the subject knowledge examination,
- d. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment,
 - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
2. Applicants may meet the requirements in subsection (M)(1)(b) with completion of the following:
 - a. Thirty-seven semester hours of early childhood education which teach the standards described in R7-2-602 which include the following areas of study:
 - i. Foundations early childhood education and special education;
 - ii. Behavioral interventions for children with and without disabilities;
 - iii. Characteristics and quality practices for typical and atypical behaviors of young children;
 - iv. Typical and atypical child growth and development, including health, safety and nutrition with an emphasis on special health care needs for children birth through grade three;
 - v. Child, family, cultural and community relationships including community organizations that support and assist children with disabilities and their families;
 - vi. Developmentally appropriate instructional and inclusive methodologies for teaching social and emotional development, language arts, math, science, social studies, and the arts;
 - vii. Diagnosis and remediation of learning difficulties;
 - viii. Early language and literacy development including communication methods in early childhood education/special education;
 - ix. Assessment and evaluation for early childhood special education to include observing, assessing, monitoring and reporting on the progress of young children;
 - x. A minimum of four semester hours in a supervised field experience, practicum, internship or student teaching setting serving children with identified special needs birth through preschool or one year of full-time teaching experience with children identified with special needs birth through preschool; and
 - xi. A minimum of four semester hours in a supervised student teaching setting serving children with identified special needs in kindergarten through grade three or one year of full time teaching experience with children identified with special needs kindergarten through grade three.
- N. Standard Professional Early Childhood Special Education Certificate – birth through age 8 or grade three for applications received on or after August 1, 2018.
1. The requirements include all of the following:
 - a. A bachelor's degree;
 - b. Completion of a teacher preparation program in early childhood special education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training addressing the following topics and any others as required by law:
 - i. Research-based systematic phonics;
 - ii. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
 - iii. Teaching students with exceptionalities;
 - iv. Characteristics and quality practices for typical and atypical behaviors of young children, including behavioral interventions for children with and without disabilities;
 - v. Typical and atypical child growth and development, including health, safety and nutrition with an emphasis on special health care needs for children birth through grade three;
 - vi. Child, family, cultural and community relationships including community organizations that support and assist children with disabilities and their families;
 - vii. Developmentally appropriate instructional and inclusive methodologies for teaching social and emotional development, language arts, math, science, social studies, the arts and diagnosis and remediation of learning difficulties;
 - viii. Early language and literacy development including communication methods in early childhood education/special education;
 - ix. Assessment and evaluation for early childhood special education to include observing, assessing, monitoring and reporting on the progress of young children;
 - x. Substantial experience in practicum as described in R7-2-604 serving children with exceptionalities birth through preschool and kindergarten through grade three;
 - xi. Professional responsibility and ethical conduct; and
 - xii. Twelve weeks of capstone experience as described in R7-2-604 serving children with exceptionalities in birth through grade three, which may be completed during the valid period of a teaching intern certificate. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
- c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment,
 - d. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment unless the applicant has a bachelor's, master's or doctoral degree in early childhood special education or otherwise qualifies for a waiver of the subject knowledge examination, and
 - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
2. Applicants may meet the requirements in subsection (N)(1)(b) with the submission of an application for the Standard Professional Early Childhood Special Education Certificate – birth through age 8 or grade three that includes two years of verified full-time teaching experience in early childhood special education serving children birth through prekindergarten and kindergarten through grade three and Board-approved or accredited training or coursework which teaches the knowledge and

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skills described in R7-2-602 and subsections (N)(1)(b)(i) through (xi).

3. Board approved educator preparation programs leading to dual certification in early childhood special education and early childhood teaching may exempt a student from the early childhood special education capstone experience upon completion of the following:
 - a. Verification from the applicable district or charter school administrator that the student was employed continuously as a paraprofessional whose primary responsibility was working with students in early childhood special education for two years preceding commencement of the early childhood teaching capstone experience;
 - b. Verification from the applicable district or charter school administrator that the student received evaluations, in each of the preceding two years of employment as a paraprofessional, indicating effectiveness in performance; and
 - c. Completion of the capstone experience in early childhood education and demonstration of all of the following competencies during the dual certification educator preparation program:
 - i. Participation on a multi-disciplinary evaluation team;
 - ii. Participation in and drafting of an acceptable individualized education program; and
 - iii. Planning and delivery of specially designed instruction for a class of students.
- O. Provisional Cross-Categorical Special Education Certificate – grades K through 12
 1. No new applications for the Provisional Cross-Categorical Special Education certificate are accepted as of December 31, 2015.
 2. Individuals who hold a valid Provisional Cross-Categorical Special Education certificate are qualified to teach students with mild to moderate autism, intellectual disabilities, traumatic brain injury, emotional disability, specific learning disability, orthopedic impairments, developmental delay and/or other health impairments.
 3. The Provisional certificate may not be renewed or extended. Individuals who hold a valid Provisional Cross-Categorical Special Education certificate, or a Provisional Cross-Categorical certificate which has not expired for more than one year, may apply for a Standard Professional Cross-Categorical Special Education certificate.
- P. Standard Professional Cross-Categorical Special Education Certificate – grades K through 12.
 1. The Standard Professional Cross-Categorical is valid for 12 years and may be renewed.
 2. Individuals who hold a valid Standard Professional Cross-Categorical Special Education certificate are qualified to teach students with autism, intellectual disabilities, traumatic brain injury, emotional disability, specific learning disability, orthopedic impairments, developmental delay and/or other health impairments.
 3. The requirements are:
 - a. An Arizona Provisional Cross-Categorical Special Education Certificate that is either valid or has not expired for more than one year.
 - b. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 5139, effective November 19, 2002 for a period of 180 days (Supp. 02-4). Emergency rulemaking renewed under A.R.S. § 41-1026(D) at 9 A.A.R. 1547, effective April 29, 2003 for a period of 180 days (Supp. 03-2). Emergency rulemaking repealed under A.R.S. § 41-1026(E) and permanent R7-2-611 amended by final rulemaking at 9 A.A.R. 3950, effective October 21, 2003 (Supp. 03-3). Former R7-2-611 recodified to R7-2-612; new R7-2-611 recodified from R7-2-610 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). R7-2-611 “Prekindergarten” corrected to “PreK” at request of the Board, Office File No. M09-444, filed November 24, 2009 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 119, effective September 21, 2009 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 235, effective December 7, 2009 (Supp. 10-3). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 21 A.A.R. 2056, effective December 2, 2013 (Supp. 15-3). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 24 A.A.R. 1427, effective April 23, 2018 (Supp. 18-2). The word “kindergarten” has been changed to the letter “K,” the term, “grade 3” has been changed to “grade three,” the word “twelve” has been changed to the numeral “12,” and “age eight” has been changed to “age 8” for consistency in this Section at the request of the Board (Supp. 21-2).

R7-2-612. Career and Technical Education Teaching Certificates

- A. Except as noted, all certificates are subject to the general certification provisions in R7-2-607, and the renewal requirements in R7-2-619.
- B. For purposes of this Section, the following definitions apply:
 1. “Career and Technical Education means a field of study in any area relating to a CTE program approved by the Arizona Department of Education as described in the Guidance on CTE Teacher Certification, which is on file with the Arizona Department of Education.
 2. “Occupational Area” means employment in any area relating to a CTE program approved by the Department as described in the Guidance on CTE Teacher Certification, which is on file with the Arizona Department of Education.
 3. “Verified Work Experience” means written documentation from a current or former supervisor for paid or unpaid work, a current school superintendent, or the Department of Education Career and Technical Education Programmatic State Supervisor indicating that an applicant for a career and technical education certificate performed work in a business or industry setting related to an approved CTE program occupational area.
- C. Standard Career and Technical Education (CTE) Certificate – CTE Field of Study – grades K through 12
 1. The requirements include all of the following:
 - a. Within three years, obtain a passing score on the professional knowledge portion of the Arizona

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Teacher Proficiency Assessment or qualification for a waiver of this assessment.

- b. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 - c. At least one of the following options:
 - i. Option A – Bachelor’s degree in the specified CTE field of study – requirements include all of the following:
 - (1) A bachelor’s or more advanced degree in the specified CTE field of study from an accredited institution.
 - (2) Thirty semester hours of courses in the specified CTE field of study.
 - (3) Two hundred forty clock hours of verified work experience in the specified CTE occupational area. Hours may have been accumulated before obtaining a certification.
 - (4) Within three years, complete 15 semester hours of courses in professional knowledge in career and technical education, to include any of the following areas: principles/philosophy of career and technical education, developmentally appropriate instructional delivery, facilitation and methodologies, instructional technology, instructional design and lesson planning, including modifications and accommodations, assessing, monitoring and reporting progress, the learning environment, including classroom management, teaching students with exceptionalities, or professional responsibility and ethical conduct. Hours may be obtained prior to issuance of the standard career and technical education certificate in the specified CTE field of study. Fifteen semester hours may be obtained through Department or Board-CTE approved professional development. Fifteen clock hours equals one semester hour.
 - ii. Option B – Valid non-CTE Arizona Provisional or Standard teaching certificate or an Arizona CTE teaching certificate in another CTE field of study – requirements include all of the following:
 - (1) A valid Arizona provisional or standard teaching certificate for teachers in birth through grade 12 issued pursuant to this Article.
 - (2) One year of the most recent teacher evaluation(s) approved by a certificated administrator, or the administrator’s designee, in a grades PreK through 12 school setting and issued during the term of the Arizona teaching certificate exhibiting satisfactory performance in the classroom.
 - (3) Three semester hours of courses in professional knowledge in career and technical education to include any of the following areas: principles/philosophy of career and technical education, developmentally appropriate instructional delivery, facilitation and methodologies for career and technical education, or instructional technology. Three semester hours may be obtained through Department or Board-CTE approved professional development. Fifteen clock hours equals one semester hour.
 - iii. Option C – Business and industry professional - requirements include 6,000 clock hours of verified work experience in an occupational area. Within three years, complete 15 semester hours of courses in professional knowledge in career and technical education to include any of the following areas: principles/philosophy of career and technical education, developmentally appropriate instructional delivery, facilitation and methodologies, instructional design and lesson planning, including modifications and accommodations, assessing, monitoring and reporting progress, instructional technology, the learning environment, including classroom management, teaching students with exceptionalities, or professional responsibility and ethical conduct. Fifteen semester hours may be obtained through Department or Board-CTE approved professional development. Fifteen clock hours equals one semester hour; and
 - iv. Option D – Bachelor’s degree in the specified CTE field of study teacher preparation program – requirements include both of the following:
 - (1) A bachelor’s or more advanced degree that included completion of a Board approved teacher preparation program in the CTE field of study or from an accredited institution offering substantially similar training, addressing the following topics in career and technical education and any others as required by law: Principles/philosophy of career and technical education, instructional design and lesson planning, including modifications and accommodations; the learning environment, including classroom management; developmentally appropriate instructional delivery, facilitation and methodologies; assessing, monitoring and reporting progress; teaching students with exceptionalities; professional responsibility and ethical conduct; and
 - (2) Two hundred forty clock hours of verified work experience in the specified occupational area. Hours shall have been accumulated before obtaining a certification.
2. If an applicant fails to meet these requirements within the prescribed time period, the Department of Education or the Board shall temporarily suspend the standard certificate, but the suspension is not considered a disciplinary

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action and the individual shall be allowed to correct the deficiency within the remaining time of the standard certification.

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4).
Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Section R7-2-612 amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 2562, effective May 23, 2002 for a period of 180 days (Supp. 02-2). May 23, 2002 emergency rulemaking renewed under A.R.S. § 41-1026 at 8 A.A.R. 5132, effective November 19, 2002 (Supp. 02-4). Amended by final rulemaking at 9 A.A.R. 1605, effective May 5, 2003 (Supp. 03-2). Amended by final rulemaking at 11 A.A.R. 1885, effective June 26, 2005 (Supp. 05-2). Amended by exempt rulemaking at 15 A.A.R. 1292, effective June 26, 2006 (Supp. 09-1). Amended by exempt rulemaking at 15 A.A.R. 1893, effective September 25, 2006 (Supp. 09-2). Amended by exempt rulemaking at 15 A.A.R. 2086, effective May 19, 2008 (Supp. 09-3). Former R7-2-612 recodified to R7-2-613 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). New Section made by exempt rulemaking at 15 A.A.R. 2143, effective August 25, 2008 (Supp. 09-4). Former R7-2-612 recodified to R7-2-613; new R7-2-612 recodified from R7-2-611 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 102, effective May 1, 2009 (Supp. 10-1). Amended by final exempt rulemaking at 21 A.A.R. 2063, effective August 26, 2013 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 23 A.A.R. 694, effective February 26, 2018 (Supp. 18-1). The word “fifteen” has been changed to the numeral “15,” the words “six thousand” have been changed to the numeral “6,000,” and the word “rule” has been changed to “Section” to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-612.01. Standard Specialized Career and Technical Education (CTE) Certificates – grades K through 12

- A. Standard Specialized CTE certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619.
- B. The holder is qualified to teach in an area that is specified on the certificate relating to a CTE program approved by the Arizona Department of Education as described in Guidance on CTE Teacher Certification which is on file with the Arizona Department of Education.
- C. The requirements are:
 1. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 2. Demonstration of expertise in the specified CTE area through one of the following:
 - a. A Bachelor's, master's or doctoral degree in the specified CTE area; or
 - b. A Bachelor's or more advanced degree and completion of 24 semester hours of coursework in the specified CTE area; or
 - c. An Associate's degree in the specified CTE area; or
 - d. An industry certification, license, or credential in the specified CTE area approved by the appropriate

Department of Education Career and Technical Education Program Specialist or Career and Technical Education Program Services Director; or

- e. Verified teaching experience for the last two consecutive years, and for a total of at least three years at one or more accredited postsecondary institutions in a subject that is specific to the CTE course being taught.
3. Verification of five years of work experience in the specified CTE occupational area.
4. An individual who meets the requirements of this Section is exempt from the competency requirements of the United States and Arizona Constitutions, the professional knowledge and subject knowledge portions of the Arizona Teacher Proficiency Assessments, and structured English immersion endorsement requirements.

Historical Note

New Section made by final exempt rulemaking at 22 A.A.R. 2617, effective August 22, 2016 (Supp. 16-4). Amended by final exempt rulemaking at 23 A.A.R. 694, effective February 26, 2018 (Supp. 18-1). The term “twenty-four” has been changed to the numeral “24,” the hyphen between “PreK-12” has been replaced with the word “through” in the Section heading for consistency in Chapter style and format (Supp. 21-1).

R7-2-613. PreK through 12 Teaching Certificates

- A. Except as noted, all certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619.
- B. Standard Professional PreK through 12 Arts Education Certificate: art, dance, dramatic arts or music. The requirements are:
 1. A bachelor's degree.
 2. One of the following:
 - a. Completion of a teacher preparation program in PreK through 12 arts education in one of the following approved areas: art, dance, dramatic arts or music from a Board-approved teacher preparation program, described in R7-2-604; or
 - b. Completion of a teacher preparation program in PreK through 12 arts education in one of the following approved areas: art, dance, dramatic arts or music from an institution accredited by the National Association of Schools of Art and Design, National Association of Schools of Dance, National Association of Schools of Theatre, the National Association of Schools of Music, or National Council for Accreditation of Teacher Education; or
 - c. Thirty semester hours of education or arts education courses which teach the knowledge and skills described in R7-2-602, including at least eight semester hours of elementary and secondary methods in the certificate area and 12 semester hours of practicum in the certificate area grades PreK through 12. Two years of verified full-time teaching experience in the certificate area in grades PreK through 12 may substitute for the 12 semester hours of practicum; or
 - d. A valid PreK through 12 arts education certificate from another state.
 3. A passing score on the appropriate subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies

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for a waiver of the subject knowledge assessment. If a proficiency assessment is not offered in a subject area, an approved area shall consist of a minimum of 24 semester hours of courses in the subject.

4. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment.
 5. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- C. Standard Professional PreK through 12 Arts Education Certificate for applications received on or after August 1, 2018.**
1. The requirements include all of the following:
 - a. A bachelor's degree;
 - b. Completion of a teacher preparation program in PreK through 12 arts education from a Board-approved teacher educator preparation program or from an accredited institution offering substantially similar training, addressing the following topics and any others as required by law:
 - i. Studio art;
 - ii. Art history and analysis;
 - iii. Advanced work in studio or art application areas;
 - iv. Technical processes;
 - v. Instructional design and lesson planning, including modifications, and accommodations;
 - vi. The learning environment, including classroom management;
 - vii. Assessing, monitoring and reporting progress;
 - viii. Professional responsibility and ethical conduct;
 - ix. Twelve weeks of capstone experience as described in R7-2-604 in grades PreK through 12 arts education, which may be completed during the valid period of a teaching intern or student teaching intern certificate. One year of verified full-time teaching experience in the certificate area in grades PreK through 12 arts education may substitute for the capstone experience requirement;
 - c. A passing score on the appropriate subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment.
 - d. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment and
 - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 2. Applicants may meet the requirements in subsection (C)(1)(b) with the submission of an application for the Standard Professional PreK through 12 Arts Education certificate that includes evidence of two years of verified full-time teaching experience in grades PreK through 12 arts education, and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (C)(1)(b)(i) through (vii). One year of verified full-time teaching experience in grades PreK through 12 arts education may be substituted for the capstone experience.
- D. Standard Professional PreK through 12 Dance Education Certificate**
1. The requirements include all of the following:
 - a. A bachelor's degree;
 - b. Completion of a teacher preparation program in PreK through 12 dance education from an accredited institution offering substantially similar training, addressing the following topics and any others as required by law:
 - i. Performance;
 - ii. Choreography;
 - iii. Theoretical and historical studies of dance;
 - iv. Technical processes;
 - v. Instructional design and lesson planning, including modifications, and accommodations;
 - vi. The learning environment, including classroom management;
 - vii. Assessing, monitoring and reporting progress;
 - viii. Professional responsibility and ethical conduct; and
 - ix. Twelve weeks of capstone experience as described in R7-2-604 in grades PreK through 12 dance education, which may be completed during the valid period of a teaching intern or student teaching intern certificate. One year of verified full-time teaching experience in grades PreK through 12 dance education may substitute for the capstone experience requirement; and
 - c. A passing score on the appropriate subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment.
 - d. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment; and
 - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 2. Applicants may meet the requirements in subsection (D)(1)(b) with the submission of an application for the Standard Professional PreK through 12 Dance Education certificate that includes evidence of two years of verified full-time teaching experience in grades PreK through 12 dance education, and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (D)(1)(b)(i) through (viii). One year of verified full-time teaching experience in grades PreK through 12 dance education may be substituted for the capstone experience.
- E. Standard Professional PreK through 12 Theatre Education Certificate**
1. The requirements include all of the following:
 - a. A bachelor's degree;
 - b. Completion of a teacher preparation program in PreK through 12 theatre education from an accredited institution offering substantially similar training, addressing the following topics and any others as required by law:
 - i. Foundations of production;
 - ii. Aesthetics, theatre history, literature, theory and criticism;
 - iii. Advanced work in theatre performance;
 - iv. Instructional design and lesson planning, including modifications, and accommodations;
 - v. The learning environment, including classroom management;

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- vi. Assessing, monitoring and reporting progress;
- vii. Professional responsibility and ethical conduct and;
- viii. Twelve weeks of capstone experience as described in R7-2-604 in grades PreK through 12 theatre education, which may be completed during the valid period of a teaching intern or student teaching intern certificate. One year of verified full-time teaching experience in grades PreK through 12 theatre education may substitute for the capstone experience requirement; and
- c. A passing score on the appropriate subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment.
- d. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment; and
- e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- 2. Applicants may meet the requirements in subsection (E)(1)(b) with the submission of an application for the Standard Professional PreK through 12 Theatre Education certificate that includes evidence of two years of verified full-time teaching experience in grades PreK through 12 theatre education, and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (E)(1)(b)(i) through (vii). One year of verified full-time teaching experience in grades PreK through 12 theatre education may be substituted for the capstone experience.
- F. Standard Professional PreK through 12 Music Education Certificate**
 - 1. The requirements include all of the following:
 - a. A bachelor's degree;
 - b. Completion of a teacher preparation program in PreK through 12 music education from an accredited institution offering substantially similar training, addressing the following topics and any others as required by law:
 - i. Performance;
 - ii. Musicianship skills and analysis;
 - iii. Composition and improvisation;
 - iv. Music history and repertoire;
 - v. Instructional design and lesson planning, including modifications, and accommodations;
 - vi. The learning environment, including classroom management;
 - vii. Assessing, monitoring and reporting progress;
 - viii. Professional responsibility and ethical conduct; and
 - ix. Twelve weeks of capstone experience as described in R7-2-604 in grades PreK through 12 music education, which may be completed during the valid period of a teaching intern or student teaching intern certificate. One year of verified full-time teaching experience in grades PreK through 12 music education may substitute for the capstone experience requirement; and
- c. A passing score on the appropriate subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment.
- d. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment; and
- e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- 2. Applicants may meet the requirements in subsection (F)(1)(b) with the submission of an application for the Standard Professional PreK through 12 Music Education certificate that includes evidence of two years of verified full-time teaching experience in grades PreK through 12 music education, and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (F)(1)(b)(i) through (viii). One year of verified full-time teaching experience in grades PreK through 12 music education may be substituted for the capstone experience.
- G. Standard Professional PreK through 12 Physical Education Certificate. The requirements are:**
 - 1. A bachelor's degree.
 - 2. One of the following:
 - a. Completion of a teacher preparation program in PreK through 12 physical education, including 12 semester practicum hours evenly split between elementary and secondary physical education from an accredited institution or a Board-approved teacher preparation program; or
 - b. Thirty-three semester hours of education or physical education courses, including:
 - i. At least nine semester hours of elementary, secondary and adaptive physical education methods;
 - ii. Foundational coursework in the areas of Growth and Motor Development, Movement Activities, Lifelong Physical Fitness and Comprehensive School Physical Activity Programming; and
 - iii. Twelve semester hours of practicum in physical education in PreK through 12 grades, evenly split between elementary and secondary physical education, and supervised by a licensed or certified physical education teacher. Two years of verified full-time teaching experience in the certificate area in grades PreK through 12 may substitute for the 12 semester hours of practicum; or
 - c. A valid PreK through 12 physical education certificate from another state.
 - 3. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment.
 - 4. A passing score on the Physical Education subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment.
 - 5. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

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H. Standard Professional PreK through 12 Physical Education Certificate for applications received on or after August 1, 2018.

1. The requirements include all of the following:
 - a. A bachelor's degree;
 - b. Completion of a teacher preparation program in PreK through 12 physical education a Board-approved educator preparation program or from an accredited institution offering substantially similar training, addressing the following topics and any others as required by law:
 - i. Elementary, secondary and adaptive physical education methods;
 - ii. Foundational coursework in the areas of Growth and Motor Development;
 - iii. Movement Activities;
 - iv. Lifelong Physical Fitness;
 - v. Instructional design and lesson planning, including modifications, and accommodations;
 - vi. The learning environment, including classroom management;
 - vii. Assessing, monitoring and reporting progress;
 - viii. Professional responsibility and ethical conduct and;
 - ix. Twelve weeks of capstone experience as described in R7-2-604 in grades PreK through 12 physical education, serving students in elementary and secondary physical education, which may be completed during the valid period of a teaching intern or student teaching intern certificate. One year of verified full-time teaching experience in the certificate area in grades PreK through 12 physical education may substitute for the capstone experience requirement;
 - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - d. A passing score on the Physical Education subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment; and
 - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
2. Applicants may meet the requirements in subsection (H)(1)(b) with the submission of an application for the Standard Professional PreK through 12 Physical Education certificate that includes evidence of two years of verified full-time teaching experience in grades PreK through 12 physical education, and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (H)(1)(b)(i) through (viii). One year of verified full-time teaching experience in grades PreK through 12 physical education may be substituted for the capstone experience.

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4).
 Amended by final rulemaking at 10 A.A.R. 4581, effective December 18, 2004 (Supp. 04-4). Amended by final rulemaking at 11 A.A.R. 1885, effective June 26, 2005 (Supp. 05-2). Amended by exempt rulemaking at 15 A.A.R. 1225, effective December 5, 2006 (Supp. 09-1).

Amended by exempt rulemaking at 15 A.A.R. 1259, effective March 26, 2007 (Supp. 09-2). Amended by exempt rulemaking at 15 A.A.R. 1298, effective July 18, 2007 (Supp. 09-3). Former R7-2-613 recodified to R7-2-614; new R7-2-613 recodified from R7-2-612 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). Former R7-2-613 recodified to R7-2-614; new R7-2-613 recodified from R7-2-612 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 235, effective December 7, 2009 (Supp. 10-3). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 21 A.A.R. 0073, effective June 22, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). The hyphen between "PreK-12" has been changed to the word "through" in the Section heading and subsections for consistency in Chapter style and format (Supp. 21-1).

R7-2-614. Other Teaching Certificates

- A.** Except as noted, all certificates are subject to the general certification provisions in R7-2-607.
- B.** Substitute Certificate - PreK through 12
 1. The certificate is valid for six years and renewable by reapplication.
 2. The certificate entitles the holder to substitute in the temporary absence of a regular contract teacher. A person holding only a substitute certificate shall not be assigned a contract teaching position.
 3. An individual who holds a valid teaching or administrator certificate shall not be required to hold a substitute certificate to be employed as a substitute teacher.
 4. The requirements for issuance are:
 - a. A bachelor's degree, and
 - b. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 5. Substitute certificates previously issued as valid for life under this Section shall remain valid for life.
- C.** Emergency Substitute Certificate - PreK through 12
 1. The certificate is valid for two school years or part thereof. The expiration date shall be July 1 in the year of expiration.
 2. The certificate entitles the holder to substitute only in the district that has a verified emergency employment situation.
 3. The certificate entitles the holder to substitute in the temporary absence of a regular contract teacher. A person holding only an emergency substitute certificate shall not be assigned a contract teaching position.
 4. The holder of an emergency substitute certificate shall be limited to 120 days of substitute teaching in the same school each school year. A person holding an emergency substitute certificate may be exempt from the limit on teaching 120 days in the same school each school year if the school district superintendent provides verification to the Department that the position has been continuously advertised on a statewide basis at a minimum of three sites with at least one being a higher education institution and that an employable candidate was not found. An exemption from teaching 120 days shall not be granted to the same individual more than three times.
 5. The requirements for initial issuance are:
 - a. A high school diploma, General Education diploma, or associate's degree;

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- b. Verification from the school district superintendent that an emergency employment situation exists; and
 - c. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- 6. The requirements for each reissuance are:
 - a. Two semester hours of academic courses completed since the last issuance of the Emergency Substitute Certificate. District in-service programs designed for professional development may substitute for academic courses. Fifteen clock hours of in-service is equivalent to one semester hour. In-service hours shall be verified by the district superintendent or personnel director. Academic courses and in-service programs completed pursuant to this Section may include classroom management and professionalism and ethics. Individuals who have earned 30 or more semester hours are exempt from this requirement,
 - b. Verification from the school district superintendent that an emergency employment situation exists, and
 - c. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- D. Emergency Teaching Certificate - birth through grade 12
 - 1. The emergency teaching certificate is valid one school year or part thereof. The expiration date shall be the following July 1. Excluding an emergency teaching certificate issued under subsection (D)(6), an emergency teaching certificate shall not be issued more than three times to an individual.
 - 2. The emergency teaching certificate entitles the holder to enter into a teaching contract.
 - 3. Emergency teaching certificates shall be issued for early childhood, elementary and secondary certificates required by A.R.S. § 15-502(B) and required endorsements.
 - 4. The emergency teaching certificate entitles the holder to teach only in the district or charter school that verifies that an emergency employment situation exists.
 - 5. The requirements for initial issuance are:
 - a. A bachelor's degree,
 - b. Verification from the school district superintendent or charter school administrator that an emergency employment situation exists, and
 - c. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 - 6. Notwithstanding this subsection, an emergency teaching certificate entitling the holder to teach in any Arizona school district or charter school may be issued for early childhood, elementary, middle grades, secondary, special education, and PreK through 12 teaching certificates for applicants who meet the following requirements:
 - a. A bachelor's degree,
 - b. Completion of a teacher preparation program in the certification area, as described in R7-2-608, R7-2-609, R7-2-609.01, R7-2-610, R7-2-611 and R7-2-613, from a Board-approved educator preparation program or from an accredited institution offering substantially similar training,
 - c. Verification that the applicant was unable to take one or all portions of the proficiency assessments required for the requested certificate as the result of a public health emergency declared by the governor or a public health official, and
 - d. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- 7. Emergency teaching certificates issued pursuant to subsection (D)(6) shall not be renewed or re-issued.
- E. Alternative Teaching Certificate - PreK through 12
 - 1. The certificate is valid for two years from the date of initial issuance and may be extended yearly for no more than two consecutive years at no cost to the applicant if the provisions in subsection (E)(5) are met.
 - 2. The alternative teaching certificate entitles the holder to enter into a teaching contract while completing the requirements for an Arizona teaching certificate. During the valid period of the alternative teaching certificate the holder may teach in a Structured English Immersion classroom, or in any subject area in which the holder has passed the appropriate Arizona Teacher Proficiency Assessment. Alternative Teaching certificate holders who teach in a Structured English Immersion classroom shall hold a valid Provisional or full Structured English Immersion Endorsement, an English as a Second Language Endorsement, or a Bilingual Endorsement, if applicable. The candidate shall be enrolled in a Board authorized alternative path to certification program or a Board approved teacher educator preparation program.
 - 3. An individual is not eligible to hold the alternative teaching certificate more than once in a five year period.
 - 4. The requirements for initial issuance of the alternative teaching certificate are:
 - a. A bachelor's degree or higher from an accredited institution;
 - b. Verification of enrollment in a Board approved alternative path to certification program, or a Board approved educator preparation program; and
 - c. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 - 5. The requirements for the extension of the alternative teaching certificate are:
 - a. The alternative teaching certificate outlined in subsection (E)(4),
 - b. Verification from the educator preparation program in which the alternative teaching certificate holder is enrolled, that the certificate holder has made adequate progress toward completion of the program,
 - c. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 - 6. The holder of the alternative teaching certificate may apply for a Standard teaching certificate upon completion of the following:
 - a. Successful completion of a Board authorized alternative path to certification program or a Board-approved educator preparation program.
 - b. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment as applicable;
 - c. A passing score on one or more subject knowledge portions of the Arizona Teacher Proficiency Assessment that corresponds to the Board approved alternative path to certification program in which the applicant is enrolled, unless the applicant has a bachelor's, master's or doctoral degree in the corresponding content area;
 - d. The submission of an application for a Standard teaching certificate to the Department;
 - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

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7. Placement decisions of alternative teaching certificate holders shall only be based on agreements between the educator preparation provider, the provider's partner organizations and the local education agency except as otherwise provided in this subsection.
- F. Standard Adult Education Certificate**
1. The holder is qualified to teach Adult Basic Education, Adult Secondary Education, English Language Acquisition for Adults, or Citizenship.
 2. The requirements are:
 - a. A valid fingerprint clearance card issued by the Arizona Department of Public Safety, and
 - b. A bachelor's degree.
 3. The renewal requirements are completion of a professional development program, described in R7-2-619.
- G. Junior Reserve Officer Training Corps Teaching Certificate - grades nine through 12**
1. The standard certificate is valid at any local education agency which conducts an approved Junior Reserve Officer Training Corps program of the Air Force, Army, Navy, or Marine Corps.
 2. The requirements are:
 - a. Verification by the district of an approved Junior Reserve Officer Training Corps program of instruction in which the applicant will be teaching,
 - b. Verification by the district that the applicant meets the work experience required by the respective military service, and
 - c. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- H. Athletic coaching certificate - grades seven through 12**
1. The standard certificate entitles the holder to perform coaching duties in interscholastic and extracurricular athletic activities. It is not required for teachers who hold a valid elementary, secondary or special education certificate.
 2. The requirements are:
 - a. Valid certification in first aid and Coronary and Pulmonary Resuscitation (CPR);
 - b. Completion of courses, Board-approved or accredited seminars or modules of study which shall include the following:
 - i. Methods of coaching,
 - ii. Anatomy and physiology,
 - iii. Sports psychology,
 - iv. Adolescent psychology,
 - v. The prevention and treatment of athletic injuries; and
 - vi. Signs of physical abuse, emotional abuse, sexual abuse, neglect, bullying, hazing and cyberbullying.
 - c. Two hundred fifty hours of verified coaching experience in the sport to be coached. Coaching experience may include experience as a head coach or assistant coach in a school program or in an organized athletic league; and
 - d. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 4. Renewal requirements are:
 - a. Completion of a professional development program described in R7-2-619,
 - b. Valid certification in first aid and CPR.
- I. International Teaching Certificate**
1. The International Teaching certificate is issued to teachers from foreign countries who are contracted through the foreign teacher program as authorized by federal statutes enacted by the Congress of the United States or other foreign teacher recruitment programs approved by the United States Department of State or the United States Citizenship and Immigration Services.
 2. This certificate is valid for the length of the certificate holder's visa, not to exceed 12 years.
 3. The requirements are:
 - a. Verification that the applicant has completed teacher preparation in the home country or country of legal residence that is comparable to the requirements to qualify for an Arizona teaching certificate as provided in R7-2-608, R7-2-609, R7-2-610, R7-2-610.01, R7-2-610.02, R7-2-611 and R7-2-613.
 - b. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 - c. A valid non-immigrating visa issued by the United States Department of State or the United States Citizenship and Immigration Services for international teachers.
 - d. Verification that the applicant has been contracted by an Arizona school through a foreign teacher program.
 4. An individual with an international teaching certificate may qualify for a certificate to instruct students in a language other than English with submission of a letter from a department chair or dean of an accredited institution in another country or in the United States verifying that the applicant is proficient in the language.
 5. The international teaching certificate may be extended with the following:
 - a. Verification of an extended visa issued by the United States Department of State or the United States Citizenship and Immigration Services for international teachers. The certificate may be extended to the new expiration date of the visa not to exceed 12 years.
 - b. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- J. Native American Language Certificate**
1. The standard certificate is optional and issued to individuals to teach only a Native American language in grades PreK through 12.
 2. The requirements are:
 - a. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 - b. Language proficiency in a Native American Language. Proficiency shall be verified on official letterhead by a person, persons, or entity designated by the appropriate tribe.
 3. The certificate may be renewed upon completion of professional development, as prescribed in R7-2-619.
- K. Student Teaching Intern Certificate - PreK through 12**
1. The student teaching intern certificate is optional and is not a requirement for participation in a student teaching capstone experience.
 2. The certificate entitles the holder to perform teaching duties under the supervision of a program supervisor as defined in R7-2-604(14) and is only valid in the school district or charter school requesting the certificate.
 3. The certificate is valid for one year from date of initial issuance and may be extended for one year at no cost to

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the applicant if the provisions in subsection (K)(4) are met.

4. The requirements are:
 - a. Verification of enrollment in the culminating student teaching capstone experience of a Board approved educator preparation program pursuant to R7-2-604.01,
 - b. Verification documenting completed coursework with a minimum GPA of 3.0 on a 4.0 scale or the equivalent,
 - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment that corresponds to the teaching certificate the student teaching intern is pursuing,
 - d. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment that corresponds to the teaching certificate the student teaching intern is pursuing,
 - e. A request for issuance of the student teaching intern certificate from the district superintendent or charter school superintendent and the educator preparation program.
 - f. Verification from the educator preparation provider that a written supervision plan, approved by the Board, includes the following:
 - i. The educator preparation provider's roles and responsibilities for the Program Supervisor, and
 - ii. The onsite mentorship and induction provided by the Local Education Agency.
 - g. A valid fingerprint card issued by the Arizona Department of Public Safety.
5. Placement decisions of student teaching intern certificate holders shall only be based on collaborative agreements between the Board approved educator preparation provider and the local education agency. Notwithstanding any other provision, a student teaching intern certificate holder may not teach in a special education classroom unless the certificate holder has a bachelor's degree.
6. The holder of the student teaching certificate may apply for an Arizona Teaching Certificate upon completion of the following:
 - a. Successful completion of a Board approved educator preparation program.
 - b. The submission of an application, and all required documentation including an institutional recommendation, for the Arizona teaching certificate to the Department.

L. Classroom-Based Standard Teaching Certificate

1. The requirements are:
 - a. A bachelor's degree;
 - b. Successful completion of a Board-approved Classroom-Based Alternative Preparation Program;
 - c. Verification of satisfactory progress and achievement with students;
 - d. Demonstration of subject knowledge proficiency with:
 - i. Verification of teaching courses relevant to a content area or subject matter for the last two consecutive years, and for a total of at least three years at one or more accredited postsecondary institutions; or
 - ii. A bachelor's, master's or doctoral degree from an accredited institution in the applicable subject area; or

- iii. Verification of a minimum of five years of work experience in the applicable subject area of certification; or
- iv. Three years of verified teaching experience in the same area of certification in which the individual is applying for certification; or
- v. A passing score on the applicable subject knowledge portion of the Arizona Teacher Proficiency Assessment;
- e. Demonstration of professional knowledge proficiency with:
 - i. Three years of verified teaching experience in the same area of certification in which the individual is applying for certification; or
 - ii. A passing score on the applicable professional knowledge portion of the Arizona Teacher Proficiency Assessment;
- f. An individual seeking certification who was teaching courses or subjects tested by the statewide assessment must also provide:
 - i. Verified evidence of two years of full-time teaching; and
 - ii. Verified evidence that the individual's students performed at grade level; or
 - iii. Verified evidence that the individual's students achieved at least one year of academic growth at a rate equivalent to the state average for the students' associated peer groups;
- g. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4).
 Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Section R7-2-614 amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 3739, effective August 5, 2002 for a period of 180 days (Supp. 02-3). Emergency rulemaking renewed under A.R.S. § 41-1026 at 9 A.A.R. 522, effective January 31, 2003 for a period of 180 days (Supp. 03-1). Amended by final rulemaking at 9 A.A.R. 1605, effective May 5, 2003 (Supp. 03-2). Amended by exempt rulemaking at 15 A.A.R. 1304, effective June 26, 2006 (Supp. 09-1).
 Amended by exempt rulemaking at 15 A.A.R. 1898, effective April 28, 2008 (Supp. 09-2). Former R7-2-614 recodified to R7-2-615; new R7-2-614 recodified from R7-2-613 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). Former R7-2-614 recodified to R7-2-615; new R7-2-614 recodified from R7-2-613 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 52, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 63, effective June 22, 2009 (Supp. 10-2).
 Amended by exempt rulemaking at 16 A.A.R. 728, effective March 22, 2010 (Supp. 10-3). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). R7-2-614(J) amended by final exempt rulemaking at 21 A.A.R. 2073, effective August 27, 2012; R7-2-614(I) amended by final exempt rulemaking at 21 A.A.R. 2073, effective June 24, 2013; R7-2-614(B)(C)(E) amended by final exempt rulemaking at 21 A.A.R. 2073, effective January 26, 2015 (Supp. 15-3).
 Amended by final exempt rulemaking at 22 A.A.R. 667, effective January 25, 2016; filed in the Office March 1, 2016 (Supp. 16-3). Amended by final exempt rulemaking

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at 22 A.A.R. 2617, effective August 22, 2016 (Supp. 16-4). Amended by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 24 A.A.R. 2947, effective September 24, 2018 (Supp. 18-3). Amended by final exempt rulemaking at 26 A.A.R. 1311, effective May 18, 2020 (Supp. 20-2). The hyphen between “PreK-12” has been changed to the word “through,” and the word “rule” has been changed to “Section” to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 28 A.A.R. 366 (February 11, 2022), with an immediate effective date of January 24, 2022 (Supp. 22-1).

R7-2-615. Endorsements

- A.** An endorsement shall be automatically renewed with the certificate on which it is posted.
- B.** Except as noted, all endorsements are subject to the general certification provisions in R7-2-607.
- C.** Endorsements which are optional as specified herein may be required by local governing boards.
- D.** Special subject endorsements, grades Pre-K through 12
 1. Special subject endorsements shall be issued in the area of art, computer science, dance, dramatic arts, music, or physical education.
 2. Special subject endorsements are optional.
 3. The requirements are:
 - a. An Arizona elementary, secondary, or special education certificate;
 - b. One course in the methods of teaching the subject at the elementary level and one course in the methods of teaching the subject at the secondary level; and
 - c. One of the following:
 - i. Thirty semester hours of courses in the subject area which may include the courses listed in subsection (D)(3)(b);
 - ii. A passing score on the subject area portion of the Arizona Teacher Proficiency Assessment, if an assessment has been adopted by the Board; or
 - iii. A passing score on a comparable out-of-state subject area assessment.
- E.** Mathematics Specialist Endorsement, grades K through eight. This subsection is valid until June 30, 2011.
 1. The mathematics specialist endorsement is optional.
 2. The requirements are:
 - a. An Arizona elementary or special education certificate,
 - b. Three semester hours of courses in the methods of teaching elementary school mathematics, and
 - c. Fifteen semester hours of courses in mathematics education for teachers of elementary or middle school mathematics.
- F.** Mathematics Endorsement, grades K through eight. This subsection becomes effective on July 1, 2011.
 1. The mathematics endorsement is optional for all K through eight teachers, but recommended for an individual in the position of mathematics specialist, consultant, interventionist, or coach. Nothing in this Section prevents school districts from requiring certified staff to obtain a mathematics endorsement as a condition of employment. The mathematics endorsement does not waive the requirements set forth in R7-2-607.
 2. The requirements are:
 - a. An Arizona elementary or special education certificate;
 - b. Three years of full-time teaching experience in grades K through eight; and
 - c. Eighteen semester hours to include:
 - i. Three semester hours of data analysis, probability, and discrete mathematics;
 - ii. Three semester hours of geometry and measurement;
 - iii. Six semester hours of patterns, algebra, and functions; and
 - iv. Six semester hours of number and operations.
 - d. Six semester hours to include:
 - i. Three semester hours of mathematics classroom assessment;
 - ii. Three semester hours of research-based practices, pedagogy, and instructional leadership in mathematics.
 - e. A passing score on the middle school mathematics knowledge portion of the Arizona Educator Proficiency Assessment may be substituted for the 18 semester hours described in subsection (F)(2)(c).
 - f. Completion of a comparable valid mathematics specialist certificate or endorsement from another state may be substituted for the requirements described in subsection (F)(2)(c) and (d).
- G.** Reading Specialist Endorsement, grades K through 12. This subsection is valid until June 30, 2011.
 1. The reading specialist endorsement shall be required of an individual in the position of reading specialist, reading consultant, remedial reading teacher, special reading teacher, or in a similar position.
 2. The requirements are:
 - a. An Arizona elementary, secondary, or special education certificate; and
 - b. Fifteen semester hours of courses to include decoding, diagnosis and remediation of reading difficulties, and practicum in reading.
- H.** Reading Endorsement. This subsection becomes effective on July 1, 2011.
 1. A reading endorsement shall be required of an individual in the position of reading or literacy specialist, reading or literacy coach, and reading or literacy interventionist.
 2. Reading Endorsement for grades K through eight. The requirements are:
 - a. A valid Arizona elementary special education or early childhood certificate,
 - b. Three years of full-time teaching experience,
 - c. Three semester hours of a supervised field experience or practicum in reading completed for the grades K through eight, and
 - d. One of the following:
 - i. Twenty-one semester hours beyond requirements of initial provisional or standard teaching certificate to include the following:
 - (1) Three semester hours in the theoretical and research foundations of language and literacy;
 - (2) Three semester hours in the essential elements of elementary reading and writing instruction (grades K through eight);
 - (3) Three semester hours in the elements of elementary content area reading and writ-

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- ing (grades K through eight);
 - (4) Six total semester hours in reading assessment systems;
 - (5) Three semester hours in leadership; and
 - (6) Three semester hours of elective courses in an area of focus that will deepen knowledge in the teaching of reading to elementary students, such as children's literature, or teaching reading to English Language Learners.
 - ii. Proof of a comparable valid reading specialist certificate or endorsement from another state may be substituted for the requirements described in subsections (H)(2)(c) and (d)(i).
 - e. A passing score on the reading endorsement subject knowledge portion of the Arizona Educator Proficiency Assessment for grades K through eight may be substituted for 21 semester hours of reading endorsement coursework as described in subsection (H)(2)(d)(i).
- 3. Reading Endorsement for grades six through 12. The requirements are:
 - a. A valid Arizona elementary, secondary, or special education certificate;
 - b. Three years of full-time teaching experience;
 - c. Three semester hours of supervised field experience or practicum in reading completed for the grades six through 12; and
 - d. One of the following:
 - i. Twenty-one semester hours beyond requirements of initial provisional or standard teaching certificate to include the following:
 - (1) Three semester hours in the theoretical and research foundations of language and literacy;
 - (2) Three semester hours in the essential elements of reading and writing instruction for adolescents (grades six through 12);
 - (3) Three semester hours in the elements of content area reading and writing for adolescents (grades six through 12);
 - (4) Six total semester hours in reading assessment systems;
 - (5) Three semester hours in leadership; and
 - (6) Three semester hours of elective courses in an area of focus that will deepen knowledge in the teaching of reading such as adolescent literature, or teaching reading to English Language Learners.
 - ii. Proof of a comparable valid reading specialist certificate or endorsement from another state may be substituted for the requirements described in subsections (H)(3)(c) and (d)(i).
 - e. A passing score on the reading endorsement subject knowledge portion of the Arizona Educator Proficiency Assessment for grades six through 12 may be substituted for 21 semester hours of reading endorsement coursework as described in subsection (H)(3)(d)(i).
- 4. Reading Endorsement, grades K through 12. The requirements are:
 - a. A valid Arizona elementary, secondary, special education certificate or early childhood certificate;
 - b. Three years of full-time teaching experience;
 - c. Three semester hours of a supervised field experience or practicum in reading completed for the grades K through five;
 - d. Three semester hours of a supervised field experience or practicum in reading completed for the grades six through 12; and
 - e. One of the following:
 - i. Twenty-four semester hours beyond requirements of initial provisional or standard teaching certificate to include the following:
 - (1) Three semester hours in the theoretical and research foundations of language and literacy,
 - (2) Three semester hours in the essential elements of elementary reading and writing instruction (grades K through eight),
 - (3) Three semester hours in the essential elements of reading and writing instruction for adolescents (grades six through 12),
 - (4) Three semester hours in the elements of elementary content area reading and writing (grades K through eight),
 - (5) Three semester hours in the elements of content area reading and writing for adolescents (grades six through 12),
 - (6) Six total semester hours in reading assessment systems, and
 - (7) Three semester hours in leadership,
 - ii. Proof of a comparable valid reading specialist certificate or endorsement from another state may be substituted for the requirements described in subsections (H)(4)(c), (d) and (e)(i).
 - f. A passing score on the reading endorsement subject knowledge portion of the Arizona Educator Proficiency Assessment for grades K through eight and a passing score on the reading endorsement professional knowledge portion of the Arizona Educator Proficiency Assessment for grades six through 12 may be substituted for 24 semester hours of reading endorsement coursework as described in subsection (H)(4)(e)(i).
- I. Elementary Foreign Language Endorsement, grades K through eight
 - 1. The elementary foreign language endorsement is optional.
 - 2. The requirements are:
 - a. An Arizona elementary, secondary or special education certificate.
 - b. Proficiency in speaking, reading, and writing a language other than English, verified by the appropriate language department of an accredited institution. American Indian language proficiency shall be verified by an official designated by the appropriate tribe.
 - c. Three semester hours of courses in the methods of teaching a foreign language at the elementary level.
- J. Bilingual Endorsements, PreK through 12
 - 1. A provisional bilingual endorsement or a bilingual endorsement is required of an individual who is a bilingual classroom teacher, bilingual resource teacher, bilingual specialist, or otherwise responsible for providing bilingual instruction.

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2. The provisional bilingual endorsement is valid for three years and is not renewable. The requirements are:
 - a. An Arizona elementary, secondary, supervisor, principal, superintendent, special education, early childhood, arts education or CTE certificate; and
 - b. Proficiency in a spoken language other than English, verified by one of the following:
 - i. A passing score on the Arizona Classroom Spanish Proficiency exam;
 - ii. A passing score on a foreign language subject knowledge portion of the Arizona Teacher Proficiency Assessment or a comparable foreign language subject knowledge exam from another state;
 - iii. If an exam in the language is not offered through the Arizona Teacher Proficiency Assessment or the American Council on the Teaching of Foreign Languages, proficiency may be verified by the language department of an accredited institution. A minimum passing score of "Advanced Low" is required on the American Council on the Teaching of Foreign Languages for Speaking and Writing Exams in the foreign language;
 - iv. Proficiency in American Indian languages shall be verified by an official designated by the appropriate tribe; or
 - c. Proficiency in sign language is verified through 24 hours of coursework from an accredited institution.
3. The holder of the bilingual endorsement is also authorized to teach English as a Second Language.
4. The requirements are:
 - a. An Arizona elementary, secondary, supervisor, principal, superintendent, special education, early childhood, arts education or CTE certificate;
 - b. Completion of a bilingual education program from an accredited institution or the following courses:
 - i. Three semester hours of foundations of instruction for non-English-language-background students;
 - ii. Three semester hours of bilingual methods;
 - iii. Three semester hours of English as a Second Language for bilingual settings;
 - iv. Three semester hours of courses in bilingual materials and curriculum, assessment of limited-English-proficient students, teaching reading and writing in the native language, or English as a Second Language for bilingual settings;
 - v. Three semester hours of linguistics to include psycholinguistics, sociolinguistics, first language acquisition, and second language acquisition for language minority students, or American Indian language linguistics;
 - vi. Three semester hours of courses dealing with school, community, and family culture and parental involvement in programs of instruction for non-English-language-background students; and
 - vii. Three semester hours of courses in methods of teaching and evaluating handicapped children from non-English-language backgrounds. These hours are only required for bilingual endorsements on special education certificates.
 - c. A valid bilingual certificate or endorsement from another state may be substituted for the courses described in subsection (J)(4)(b);
 - d. Practicum in a bilingual program or two years of verified bilingual teaching experience; and
 - e. Proficiency in a spoken language other than English, verified by one of the following:
 - i. A passing score on the Arizona Classroom Spanish Proficiency exam;
 - ii. A passing score on a foreign language subject knowledge portion of the Arizona Teacher Proficiency Assessment or a comparable foreign language subject knowledge exam from another state;
 - iii. If an exam in the language is not offered through the Arizona Teacher Proficiency Assessment or the American Council on the Teaching of Foreign Languages, proficiency may be verified by the language department of an accredited institution. A minimum passing score of "Advanced Low" is required on the American Council on the Teaching of Foreign Languages for Speaking and Writing Exams in the foreign language;
 - iv. Proficiency in American Indian languages shall be verified by an official designated by the appropriate tribe; or
 - f. Proficiency in sign language is verified through 24 hours of coursework from an accredited institution.
- K. English as a Second Language (ESL) Endorsements, grades Pre-K through 12**
 1. An ESL or bilingual endorsement is required of an individual who is an ESL classroom teacher, ESL specialist, ESL resource teacher, or otherwise responsible for providing ESL instruction.
 2. The provisional ESL endorsement is valid for three years and is not renewable. The requirements are:
 - a. An Arizona elementary, secondary, supervisor, principal, superintendent, special education, early childhood, arts education or CTE certificate; and
 - b. Six semester hours of courses specified in subsection (K)(3)(b), including at least one course in methods of teaching ESL students.
 3. The requirements for the ESL endorsement are:
 - a. An Arizona elementary, secondary, supervisor, principal, superintendent, special education, early childhood, arts education or CTE certificate;
 - b. Completion of an ESL education program from an accredited institution or the following courses:
 - i. Three semester hours of courses in foundations of instruction for non-English-language-background students. Three semester hours of courses in the nature and grammar of the English language, taken before January 1, 1999, may be substituted for this requirement;
 - ii. Three semester hours of ESL methods;
 - iii. Three semester hours of teaching of reading and writing to limited-English-proficient students;
 - iv. Three semester hours of assessment of limited-English-proficient students;
 - v. Three semester hours of linguistics; and
 - vi. Three semester hours of courses dealing with school, community, and family culture and

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- parental involvement in programs of instruction for non-English-language-background students.
- vii. A passing score on a foreign language subject knowledge portion of the Arizona Teacher Proficiency Assessment or a comparable foreign language subject knowledge exam from another state; or
 - c. Three semester hours of a practicum or two years of verified ESL or bilingual teaching experience, verified by the district superintendent;
 - d. Second language learning experience, which may include sign language. Second language learning experience may be documented by any of the following:
 - i. Six semester hours of courses in a single second language, or the equivalent, verified by the department of language, education, or English at an accredited institution;
 - ii. Completion of intensive language training by the Peace Corps, the Foreign Service Institute, or the Defense Language Institute;
 - iii. Placement by the language department of an accredited institution in a third-semester level;
 - iv. Placement at level 1-intermediate/low or more advanced score on the Oral Proficiency Interview, verified by the American Council for the Teaching of Foreign Languages;
 - v. Passing score on the Arizona Classroom Spanish Proficiency Examination approved by the Board; or
 - vi. Proficiency in an American Indian language, verified by an official designated by the appropriate tribe.
 - vii. A passing score on a foreign language subject knowledge portion of the Arizona Teacher Proficiency Assessment or a comparable foreign language subject knowledge exam from another state; or
 - e. A valid ESL certificate or endorsement from another state may be substituted for the requirements described in subsection (K)(3)(b), (c) and (d).
- L. Structured English Immersion (SEI) Endorsement, Pre-K through 12.** A Provisional or full Structured English Immersion (SEI) endorsement, or an English as a Second Language or Bilingual endorsement, shall be required of a teacher who is instructing students in a sheltered English immersion or structured English immersion model.
- 1. The provisional SEI endorsement is valid for three years and is not renewable. The requirements are:
 - a. An Arizona elementary, secondary, special education, CTE, early childhood, Pre-K through 12 teaching, supervisor, principal or superintendent certificate; and
 - b. One semester hour or 15 clock hours of professional development in Structured English Immersion methods of teaching English Language Learner (ELL) students, including but not limited to instruction in SEI strategies, teaching with the ELL Proficiency Standards adopted by the Board and monitoring ELL student academic progress using a variety of assessment tools through a training program that meets the requirements of A.R.S. § 15-756.09(B).
 - 2. The requirements for the SEI endorsement are: an Arizona elementary, secondary, special education, CTE, early childhood, Pre-K through 12 teaching, supervisor, principal, or superintendent certificate; and one of the following:
 - a. Three semester hours of courses related to the teaching of the English Language Learner Proficiency Standards adopted by the Board, including but not limited to instruction in SEI strategies, teaching with the ELL Proficiency Standards adopted by the Board and monitoring ELL student academic progress using a variety of assessment tools; or
 - b. Completion of 45 clock hours of professional development in the teaching of the English Language Learner Proficiency Standards adopted by the Board, including but not limited to instruction in SEI strategies, teaching with the ELL Proficiency Standards adopted by the Board and monitoring ELL student academic progress using a variety of assessment tools through a training program that meets the requirements of A.R.S. § 15-756.09(B).
 - c. A passing score on the Structured English Immersion portion of the Arizona Teacher Proficiency Assessment.
 - 3. Nothing in this Section prevents a school district or charter school from requiring certified staff to obtain an SEI, ESL or bilingual endorsement as a condition of employment.
- M. Gifted Endorsements, grades Pre-K through 12**
- 1. The gifted endorsements authorize the holder to teach gifted students within the grade range and subject area of the prerequisite certificate. A gifted endorsement is required for all district teachers who have primary responsibility for teaching gifted pupils.
 - 2. The provisional gifted endorsement is valid for three years and is not renewable. The requirements are:
 - a. A valid Arizona International or Standard Professional teaching certificate.
 - b. One of the following:
 - i. Six semester hours of courses in gifted education; or
 - ii. Verification from a public school superintendent or personnel director that the applicant completed a minimum of 90 clock hours of inservice training in gifted education, or the equivalent through competency-based credentials, that is aligned to the Teacher Preparation Standards in Gifted and Talented Education adopted by the National Association for Gifted Children and the Council for Exceptional Children.
 - 3. Requirements for the gifted endorsement are:
 - a. A valid Arizona International or Standard Professional teaching certificate;
 - b. One of the following:
 - i. Verification from a public school superintendent or personnel director that the applicant completed a minimum of 180 clock hours of inservice training in gifted education, or the equivalent through competency-based credentials, that is aligned to the Teacher Preparation Standards in Gifted and Talented Education adopted by the National Association for Gifted

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- Children and the Council for Exceptional Children; or
- ii. Completion of 12 semester hours of courses in gifted education. No more than six semester hours of courses in gifted education may be obtained through completion of in-service training that is aligned to the Teacher Preparation Standards in Gifted and Talented Education adopted by the National Association for Gifted Children and the Council for Exceptional Children. Fifteen clock hours of in-service is equivalent to one semester hour. In-service hours shall be verified by the district superintendent or personnel director.
- N. Early Childhood Education Endorsements, birth through age eight**
1. When combined with an Arizona elementary education teaching certificate or an Arizona special education teaching certificate, the early childhood endorsement may be used in lieu of an early childhood education certificate as described in R7-2-608. When combined with an Arizona cross-categorical, specialized special education, or severe and profound teaching certificate as described in R7-2-611, the early childhood endorsement may be used in lieu of an Early Childhood Special Education certificate.
 2. The provisional early childhood endorsement is valid for three years and is not renewable. The requirements are:
 - a. A valid Arizona elementary teaching certificate as provided in R7-2-609 or a valid Arizona special education teaching certificate as provided in R7-2-611, and
 - b. A passing score on the early childhood subject knowledge portion of the Arizona Teacher Proficiency Assessment.
 3. The requirements for the early childhood endorsement are:
 - a. A valid Arizona elementary education teaching certificate as provided in R7-2-609 or a valid Arizona special education teaching certificate as provided in R7-2-611, and
 - b. Early childhood education coursework and practicum experience which includes both of the following:
 - i. Twenty-one semester hours of early childhood education courses to include all of the following areas of study:
 - (1) Foundations of early childhood education;
 - (2) Child guidance and classroom management;
 - (3) Characteristics and quality practices for typical and atypical behaviors of young children;
 - (4) Child growth and development, including health, safety and nutrition;
 - (5) Child, family, cultural and community relationships;
 - (6) Developmentally appropriate instructional methodologies for teaching language, math, science, social studies and the arts;
 - (7) Early language and literacy development;
 - (8) Assessing, monitoring and reporting progress of young children; and
 - ii. A minimum of eight semester hours of practicum including:
 - (1) A minimum of four semester hours in a supervised field experience, practicum, internship or student teaching setting serving children birth through preschool. One year of full-time verified teaching experience with children in birth through preschool may substitute for this student teaching experience. This verification may come from a school-based education program or center-based program licensed by the Department of Health Services or regulated by tribal or military authorities; and
 - (2) A minimum of four semester hours in a supervised student teaching setting serving children in kindergarten through grade three. One year of full-time verified teaching experience with children in kindergarten through grade three in an accredited school may substitute for this student teaching experience;
 - c. A valid fingerprint clearance card issued by the Arizona Department of Public Safety, and
 - d. A passing score on the early childhood professional knowledge portion of the Arizona Educator Proficiency Assessment may be substituted for the 21 semester hours of early childhood education courses as described in subsection (N)(3)(b)(i); and
 - e. A passing score on the early childhood subject knowledge portion of the Arizona Educator Proficiency Assessment.
- 4. Teachers with a valid Arizona elementary education certificate or Arizona special education certificate meet the requirements of this Section with evidence of the following:**
- a. A minimum of three years infant/toddler, preschool or kindergarten through grade three classroom teaching experience; and
 - b. A passing score on the early childhood subject knowledge portion of the Arizona Educator Proficiency Assessment.
- O. Library-Media Specialist Endorsement, grades Pre-K through 12**
1. The library-media specialist endorsement is optional.
 2. Requirements are:
 - a. An Arizona elementary, secondary, early childhood or special education certificate;
 - b. A passing score on the Library Media Specialist portion of the Arizona Teacher Proficiency Assessment. A master's degree in Library Science may be substituted for a passing score on the assessment; and
 - c. One year of teaching experience.
- P. Middle Grade Endorsement, grades five through nine**
1. The middle grade endorsement is optional. The middle grade endorsement may expand the grades a teacher is authorized to teach on an elementary or secondary certificate.
 2. The requirements are:
 - a. An Arizona elementary or secondary certificate, and
 - b. Six semester hours of courses in middle grade education to include:
 - i. One course in early adolescent psychology;
 - ii. One course in middle grade curriculum; and

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- iii. A practicum or one year of verified teaching experience, in grades five through nine.
- Q. Drivers Education Endorsement**
- The drivers education endorsement is optional.
 - The requirements are:
 - An Arizona teaching certificate,
 - A valid Arizona driver's license,
 - One course in each of the following:
 - Safety education,
 - Driver and highway safety education, and
 - Driver education laboratory experience, and
 - A driving record with less than seven violation points and no revocation or suspension of driver's license within the two years preceding application.
 - For the purposes of this Section, a course is defined as a three hour semester course offered by an accredited institution of higher learning or 45 clock hours of educational classes approved by the Department. Each semester hour of courses shall be equivalent to 15 clock hours of training. If semester hours are used, the required documentation for the semester hours shall be an official transcript.
- R. Cooperative Education Endorsement, grades K through 12**
- The cooperative education endorsement is required for individuals who coordinate or teach CTE.
 - The requirements are:
 - A provisional or standard CTE certificate in the areas of agriculture, business, family and consumer sciences, health occupations, marketing, or industrial technology; and
 - One course in CTE.
- S. Computer Science, PreK through eight Endorsement**
- The computer science, PreK through eight endorsement authorizes the holder to teach computer science in prekindergarten through grade eight.
 - The requirements are:
 - An Arizona Standard Professional Early Childhood, Elementary, Middle Grades, Secondary, Special Education, or PreK through 12 Teaching certificate;
 - Three semester hours in foundations for teaching computer science which addresses the following topics:
 - Introduction to computer science;
 - Inclusive recruitment, retention, and pedagogical strategies in computing education;
 - Computational thinking;
 - Instructional planning based on the Arizona state standards for computer science, or comparable computer science standards.
 - Six semester hours in computer science to include the following:
 - Three semester hours in teaching and learning programming for educators; and
 - Three semester hours in a computer science elective which may include, but is not limited to, physical computing or mobile computing.
 - Completion of a training program through an Arizona public local education agency or an accredited institution may substitute for the semester hours required in subsections (S)(2)(b) and (c). Fifteen clock hours of training, or the equivalent competency-based credential, is equivalent to one semester hour of college coursework. Training programs shall be verified by a superintendent or personnel director of the Arizona local education agency or the appropriate administrator of an accredited institution.
- T. Computer Science, grades six through 12 Endorsement**
- The computer science, grades six through 12 endorsement authorizes the holder to teach computer science in grades six through 12.
 - The requirements are:
 - A valid Arizona Standard Professional Elementary, Middle Grades, Secondary, Hearing Impaired, Visually Impaired, Mild/Moderate Disabilities, Moderate/Severe Disabilities, or PreK through 12 Teaching certificate;
 - Three semester hours in foundations for teaching computer science which addresses the following topics:
 - Introduction to computer science;
 - Inclusive recruitment, retention, and pedagogical strategies in computing education;
 - Computational thinking;
 - Instructional planning based on the Arizona state standards for computer science or comparable computer science standards.
 - Nine semester hours of courses in computer science to include the following:
 - Three semester hours in teaching and learning programming for educators; and
 - Six semester hours in computer science electives which may include, but is not limited to, computer programming, cybersecurity, algorithms and data structures, operating systems, artificial intelligence, machine learning, database development and management, computer networks, and data mining and analytics.
 - Completion of a training program through an Arizona public local education agency or an accredited institution may substitute for the semester hours required in subsections (T)(2)(b) and (c). Fifteen clock hours of training, or the equivalent competency-based credential, is equivalent to one semester hour of college coursework. Training programs shall be verified by a superintendent or personnel director of the Arizona local education agency or the appropriate administrator of an accredited institution.
- U. Literacy, K through five Endorsement**
- For the purposes of this Section, the following definitions apply:
 - "Literacy instruction" means instruction in English language arts provided by a teacher.
 - "Science of reading instruction" means instruction which includes a focus on the elements of structured literacy, to include oral language, phonological awareness, phonics, fluency, vocabulary, comprehension, and foundational writing skills, including spelling and handwriting.
 - "Teaching certificate" means an Alternative Teaching certificate, International Teaching certificate, Classroom-Based Standard Teaching certificate, or Standard Professional teaching certificate.
 - An individual who receives a teaching certificate in early childhood education, elementary education, middle grades education, or special education issued on or before August 1, 2025, and who provides literacy instruction in kindergarten programs or in any of grades one through five must obtain a Literacy, K through five endorsement, a Reading Specialist endorsement, grades K through 12, a Reading endorsement for grades K through 12, or a Read-

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- ing endorsement for grades K through eight by August 1, 2028.
3. An individual who receives a teaching certificate in early childhood education, elementary education, middle grades education, or special education issued after August 1, 2025, and who provides literacy instruction in kindergarten or in any of grades one through five must obtain a Literacy, K through five endorsement, a Reading Specialist endorsement, grades K through 12, a Reading endorsement for grades K through 12, or a Reading endorsement for grades K through eight within three years after the teaching certificate is issued.
 4. Literacy, K through Five Endorsement
 - a. The Literacy, K through five Endorsement authorizes the holder to provide literacy instruction within the grade range and subject area of the teaching certificate it endorses. The requirements are:
 - i. A valid teaching certificate in early childhood education, elementary education, middle grades education, or special education;
 - ii. Three semester hours in the science of reading instruction, including systematic phonics instruction;
 - iii. Three semester hours in reading instruction, including assessments, instructional practices, and interventions to improve student reading proficiency for struggling readers, including students with the characteristics of dyslexia;
 - iv. A passing score on a literacy instruction assessment approved by the Board for the Literacy, K through five endorsement.
 - b. Completion of Department-approved training may substitute for the semester hours required in subsections (U)(4)(a)(ii) and (iii). Fifteen clock hours of training, or the equivalent competency-based credential, is equivalent to one semester hour.
 5. Applicants may meet the requirements described in subsections (U)(4)(a)(ii), (iii), and (iv) with verification from an Arizona public school superintendent, principal or personnel director that the applicant meets the following requirements: The applicant is a teacher who provides literacy instruction in kindergarten through grade five and has demonstrated through classroom observations and student achievement data across subgroups using evidence-based measures for at least three consecutive years, based on criteria established by the Board, that the teacher possesses the instructional knowledge and skills to:
 - a. Effectively teach foundational reading skills, phonological awareness, phonics, fluency, vocabulary, and comprehension; and
 - b. Implement reading instruction using high-quality instructional materials; and
 - c. Provide effective instruction and interventions for students with reading deficiencies, including students with characteristics of dyslexia.
- recodified from R7-2-614 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). Former R7-2-615 recodified to R7-2-616; new R7-2-615 recodified from R7-2-614 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 52, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 119, effective September 21, 2009 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 129, effective September 21, 2009 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 734, effective July 1, 2011 (Supp. 10-3). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by exempt rulemaking at 16 A.A.R. 1496, effective July 1, 2011 (Supp. 11-1). Amended by final exempt rulemaking at 22 A.A.R. 227, effective June 23, 2014; filed in the Office January 20, 2016 (Supp. 16-2). Amended by final exempt rulemaking at 22 A.A.R. 1912, effective October 1, 2011; filed in the Office July 1, 2016 (Supp. 16-3). Amended by final exempt rulemaking at 22 A.A.R. 219, effective June 5, 2015; filed in the Office January 20, 2016 (Supp. 16-4). Amended by final exempt rulemaking at 22 A.A.R. 233, effective September 28, 2015 and filed in the Office January 20, 2016 (Supp. 17-1). Amended by final exempt rulemaking at 22 A.A.R. 670, effective January 1, 2016, filed in the Office March 2, 2016; amended by final exempt rulemaking at 22 A.A.R. 2241, effective August 6, 2016, filed in the Office August 5, 2016 (Supp. 17-2). Amended by final exempt rulemaking at 25 A.A.R. 1552, effective May 20, 2019 (Supp. 19-2). The hyphen between “6-12,” “PreK-8,” and “PreK-12” have been corrected to the word “through,” the numeral “6” has been changed to “six,” and the numeral “8” has been changed to “eight” for consistency in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021; amended by final exempt rulemaking at 28 A.A.R. 180, (January 14, 2022) effective January 25, 2022 (Supp. 21-4).
- R7-2-615.01 Special Education Endorsements**
- A. Except as noted, special education endorsements are subject to the general certification provisions in R7-2-607.
 - B. Mild/Moderate Disabilities Endorsement:
 1. The endorsement authorizes the holder to teach students with mild/moderate disabilities in preschool through grade 12.
 2. A provisional mild/moderate disabilities endorsement is valid for three years and is not renewable. The requirements are:
 - a. A valid Arizona Standard Professional Early Childhood, Elementary, Middle Grades, Secondary, Visually Impaired, Hearing Impaired, Early Childhood Special Education, or Moderate/Severe Disabilities certificate;
 - b. Three years of full-time teaching experience in preschool through grade 12;
 - c. Six semester hours of special education courses to include both of the following:
 - i. Behavior management for students with disabilities; and
 - ii. Special education assessment and individualized education program planning.

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4).
 Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by exempt rulemaking at 15 A.A.R. 1838, effective August 29, 2006 (Supp. 09-1). Amended by exempt rulemaking at 15 A.A.R. 1306, effective September 26, 2006 (Supp. 09-1).
 Former R7-2-615 recodified to R7-2-616; new R7-2-615

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- d. Completion of 15 clock hours of practicum in mild/moderate disabilities special education that may be included in the courses listed in (B)(2)(c).
- 3. The requirements for the mild/moderate disabilities endorsement are:
 - a. A valid Arizona Standard Professional Early Childhood, Elementary, Middle Grades, Secondary, Visually Impaired, Hearing Impaired, Early Childhood Special Education, or Moderate/Severe Disabilities certificate;
 - b. Three years of full-time teaching experience in pre-school through grade 12;
 - c. Fifteen semester hours of special education courses to include all of the following:
 - i. Methods for teaching students with disabilities;
 - ii. Behavior management for students with disabilities;
 - iii. Special education law;
 - iv. Special education assessment and individualized education program planning;
 - v. Language development and disorders.
 - d. Completion of 45 clock hours of practicum in mild/moderate disabilities special education that may be included in the courses listed in (B)(3)(c).
- C. Moderate/Severe Disabilities Endorsement
 - 1. The endorsement authorizes the holder to teach students with moderate/severe disabilities in preschool through grade 12.
 - 2. A provisional moderate/severe disabilities endorsement is valid for three years and is not renewable. The requirements are:
 - a. A valid Arizona Standard Professional Early Childhood, Elementary, Middle Grades, Secondary, Visually Impaired, Hearing Impaired, Early Childhood Special Education, or Mild/Moderate Disabilities certificate;
 - b. Three years of full-time teaching experience in pre-school through grade 12; and
 - c. Six semester hours of special education courses to include both of the following:
 - i. Behavior management for students with disabilities; and
 - ii. Special education assessment and individualized education program planning.
 - d. Completion of 15 clock hours of practicum in moderate/severe disabilities special education that may be included in the courses listed in (C)(2)(c).
 - 3. The requirements are for the moderate/severe disabilities endorsement are:
 - a. A valid Arizona Standard Professional Early Childhood, Elementary, Middle Grades, Secondary, Visually Impaired, Hearing Impaired, Early Childhood Special Education, or Mild/Moderate Disabilities certificate;
 - b. Three years of full-time teaching experience in pre-school through grade 12;
 - c. Fifteen semester hours of special education courses to include all of the following:
 - i. Behavior management for students with disabilities;
 - ii. Special education law;
 - iii. Special education assessment and individualized education program planning;
 - iv. Methods for teaching students with severe disabilities;
 - v. Adaptive communication, including language development and disorders.
 - d. Completion of 45 clock hours of practicum in moderate/severe disabilities special education that may be included in the courses listed in (C)(3)(c).
- D. Deaf/Hard of Hearing Endorsement
 - 1. The endorsement authorizes the holder to teach students who are deaf or hard of hearing from birth through grade 12.
 - 2. The requirements are:
 - a. A valid Standard Professional Early Childhood, Elementary, Middle Grades, Secondary, Mild/Moderate Disabilities, Moderate/Severe Disabilities, Early Childhood Special Education, Specialized Special Education, Cross-Categorical Special Education, or Visually Impaired teaching certificate.
 - b. Three years of full-time teaching experience in pre-school through grade 12.
 - c. Six semester hours of special education courses to include all of the following:
 - i. Special education law and individualized education program planning,
 - ii. Behavior management for students with disabilities,
 - iii. The use of instructional and assistive technologies in the classroom.
 - d. Fifteen semester hours of courses in deaf/hard of hearing education that adhere to a guidance document approved by the Board and include all of the following:
 - i. Methods for facilitating language acquisition and literacy development in children who are deaf or hard of hearing;
 - ii. Auditory skill development for students who are deaf or hard of hearing;
 - iii. Assessment of students who are deaf or hard of hearing;
 - iv. Principles of audiology;
 - v. Social and cultural foundations and family involvement for students who are deaf or hard of hearing;
 - vi. Early intervention and parental involvement to enhance the early language skills of students who are deaf or hard of hearing;
 - vii. Methods for teaching students who are deaf or hard of hearing with multiple disabilities, including deaf-blindness.
 - e. Completion of at least 90 clock hours of supervised practicum in teaching students who are deaf or hard of hearing, which may be included in the courses listed under subsections (2)(c) or (d).
 - f. American Sign Language learning experience documented by one of the following:
 - i. A passing score on an American Sign Language proficiency assessment approved by the Board. An applicant who meets the requirement in this subsection under this option shall qualify for a deaf/hard of hearing endorsement with an American Sign Language proficiency designation; or
 - ii. Verification of proficiency in American Sign Language from an accredited institution; or

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- iii. Completion of six semester hours of courses in American Sign Language.
- E. Visually Impaired Endorsement
 - 1. The endorsement authorizes the holder to teach students who are blind or visually impaired in birth through grade 12.
 - 2. The requirements are:
 - a. A valid Standard Professional Early Childhood, Elementary, Middle Grades, Secondary, Mild/Moderate Disabilities, Moderate/Severe Disabilities, Early Childhood Special Education, Specialized Special Education, Cross-Categorical Special Education, or Hearing Impaired teaching certificate.
 - b. Three years of full-time teaching experience in pre-school through grade 12.
 - c. Six semester hours of special education courses to include all of the following:
 - i. Special education law and individualized education program planning.
 - ii. Behavior management for students with disabilities.
 - iii. The use of instructional and assistive technologies in the classroom.
 - d. Fifteen semester hours of courses in visually impaired special education that adhere to a guidance document approved by the Board and include all of the following:
 - i. Instructional approaches for teaching students who have vision impairments;
 - ii. Methods for facilitating literacy development in children who are blind or low vision;
 - iii. Assistive technologies for students with vision impairments;
 - iv. Assessment of students with vision impairment;
 - v. Early intervention and parental involvement to enhance early skills of students with vision impairment;
 - vi. Anatomy and physiology of the eye;
 - vii. Methods for teaching orientation and mobility to students who have visual impairments;
 - viii. Methods for teaching students who have visual impairments with multiple disabilities, including deaf-blindness.
 - e. Completion of a minimum of 90 clock hours of supervised practicum in teaching students who have visual impairments, which may be included in the courses listed under subsections (2)(c) or (d).
 - f. Proficiency in braille verified by one of the following:
 - i. Successful completion of a nationally validated braille test approved by the Board; or
 - ii. Successful completion of a braille test developed in the program in visual impairment at the University of Arizona.
- A. All certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619.
- B. Standard Professional Supervisor Certificate – grades PreK through 12
 - 1. Except for individuals who hold a valid Arizona principal or superintendent certificate, the supervisor certificate is required for all personnel, except for superintendents pursuant to R7-2-616(D), whose primary responsibility is administering instructional programs, supervising certified personnel, or similar administrative duties.
 - 2. The requirements are:
 - a. A valid Arizona Standard Professional teaching certificate, Career and Technical Education certificate, Classroom-Based Standard Teaching Certificate, Subject Matter Expert Standard Teaching Certificate, or Specialized Secondary Teaching Certificate or an other professional certificate established in R7-2-617 issued by the Department;
 - b. A master's or more advanced degree;
 - c. Three years of verified full-time teaching experience or related education services experience in a PreK through 12 setting;
 - d. Completion of a program in educational administration which shall consist of a minimum of 18 graduate semester hours of educational administration courses which teach the knowledge and skills described in R7-2-603 to include three semester hours in school law and three semester hours in school finance;
 - e. A practicum in educational administration or two years of verified educational administrative experience in grades PreK through 12;
 - f. A passing score on the Supervisor, Principal, or Superintendent portion of the Arizona Administrator Proficiency Assessment; and
 - g. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- C. Standard Professional Principal Certificate – grades PreK through 12
 - 1. The principal certificate is required for all personnel who hold the title of principal, assistant principal, or perform the duties of principal or assistant principal as delineated in A.R.S. Title 15.
 - 2. The requirements are:
 - a. A master's or more advanced degree;
 - b. Three years of verified teaching experience in grades PreK through 12;
 - c. Completion of a program in educational administration for principals including at least 30 graduate semester hours of educational administration courses teaching the knowledge and skills described in R7-2-603 to include three semester hours in school law and three semester hours in school finance;
 - d. A practicum as a principal or two years of verified experience as a principal or assistant principal under the supervision of a certified principal in grades PreK through 12;
 - e. A passing score on either the Principal or Superintendent portion of the Arizona Administrator Proficiency Assessment; and
 - f. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 595, effective February 24, 2020 (Supp. 20-1).
 Amended by final exempt rulemaking at 27 A.A.R. 743, effective April 26, 2021 (Supp. 21-2).

R7-2-616. Standard Professional Administrative Certificates

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D. Standard Professional Superintendent Certificate – grades PreK through 12

1. The superintendent certificate is optional, but may be required by local governing boards for individuals who hold the title or perform the duties of a superintendent, assistant superintendent or associate superintendent and who perform duties directly relevant to curriculum, instruction, certified employee evaluations, and instructional supervision.
2. The requirements are:
 - a. A master's or more advanced degree including at least 60 graduate semester hours;
 - b. Completion of a program in educational administration for superintendents, including at least 36 graduate semester hours of educational administrative courses which teach the standards described in R7-2-603 to include three semester hours in school law and three semester hours in school finance;
 - c. Three years of verified full-time teaching experience or related education services experience in a PreK through 12 setting;
 - d. A practicum as a superintendent or two years verified experience as a superintendent, assistant superintendent, or associate superintendent in grades PreK through 12;
 - e. A passing score on the Superintendent portion of the Arizona Administrator Proficiency Assessment; and
 - f. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4). Former R7-2-616 recodified to R7-2-617; new R7-2-616 recodified from R7-2-615 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). Former R7-2-616 recodified to R7-2-617; new R7-2-616 recodified from R7-2-615 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 326, effective January 25, 2010 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by exempt rulemaking at 16 A.A.R. 2034, effective October 1, 2010 (Supp. 11-1). Amended by final exempt rulemaking at 22 A.A.R. 219, effective June 5, 2015; filed in the Office January 20, 2016 (Supp. 16-4). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 26 A.A.R. 1311, effective May 18, 2020 (Supp. 20-2). Amended by final exempt rulemaking at 29 A.A.R. 183 (January 13, 2023), effective December 9, 2022 (Supp. 22-4).

R7-2-616.01. Standard Administrative Certificates – Locally Based Leadership Program Pathway

- A. Except as noted, all certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619.
- B. Standard Site-Based Supervisor Certificate – grades PreK through 12.
 1. The certificate authorizes the holder to administer instructional programs, supervise certified personnel, or perform similar administrative duties at the school-level.
 2. The requirements are:
 - a. A bachelor's or more advanced degree; and

- b. A valid fingerprint clearance card issued by the Arizona Department of Public Safety; and
- c. Verification from the superintendent of a school district or the principal of a charter school that the applicant has made satisfactory progress in the program sequence and model, which may include professional evaluations, observations of the applicant, student achievement data and demonstration of competencies, skills and knowledge associated with the relevant school leadership position; and
- d. Verification of successful completion of a Board-approved locally based school leadership preparation program for supervisors; and
- e. A passing score on the Supervisor, Principal or Superintendent portion of the Arizona Administrator Proficiency Assessment.

C. Standard Site-Based Principal Certificate – grades PreK through 12.

1. The certificate authorizes the holder to administer instructional programs, supervise certified personnel, or perform similar administrative and leadership duties at the school-level, and perform the duties and hold the title of principal, assistant principal as delineated in A.R.S. Title 15.
2. The requirements are:
 - a. A bachelor's or more advanced degree; and
 - b. A valid fingerprint clearance card issued by the Arizona Department of Public Safety; and
 - c. Verification from the superintendent of a school district or the principal of a charter school that the applicant has made satisfactory progress in the program sequence and model, which may include professional evaluations, observations of the applicant, student achievement data and demonstration of competencies, skills and knowledge associated with the relevant school leadership position; and
 - d. Verification of successful completion of a Board-approved locally based school leadership preparation program for principals; and
 - e. A passing score on the Principal or Superintendent portion of the Arizona Administrator Proficiency Assessment.

Historical Note

New Section made by final exempt rulemaking at 29 A.A.R. 183 (January 13, 2023), effective December 9, 2022 (Supp. 22-4).

R7-2-616.02. Interim Administrative Certificates

- A. Except as noted, all certificates are subject to the general certification provisions in R7-2-607.
- B. The certificate authorizes the holder to serve an administrator while completing the requirements for a standard administrator certificate.
- C. Interim administrative certificates are valid for one year and may be extended yearly for no more than two consecutive years at no cost to the certificate holder if the requirements in subsection (I) are met.
- D. An individual is not eligible for issuance of an interim administrative certificate more than once in a five-year period.
- E. Interim administrative certificate holders shall be enrolled in a Board approved alternative administrator preparation program, a Board approved locally based leadership preparation program, or a Board approved traditional administrator preparation program.

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F. Interim Supervisor Certificate – grades PreK through 12:

1. The Interim Supervisor Certificate authorizes the holder for a position in which the primary responsibility is administering instructional programs, supervising certified personnel, or similar administrative duties. An individual who is enrolled in a locally-based school leadership program shall be limited to a supervisor position at the school-level.
2. The requirements are:
 - a. A valid Arizona Standard Professional teaching certificate, Career and Technical Education Certificate, Classroom-Based Standard Teaching Certificate, Subject Matter Expert Standard Teaching Certificate, Specialized Secondary Teaching Certificate or an other professional certificate established in R7-2-617; and
 - b. A bachelor's or more advanced degree; and
 - c. Verification of three years of full-time teaching or related education services experience in a PreK through grade 12 setting; and
 - d. Verification of enrollment in a Board approved alternative administrator preparation program, a Board approved locally based school leadership program, or a Board approved administrator preparation program; and
 - e. Verification that the certificate holder will be employed as an administrator and will be under the direct supervision of an Arizona certified administrator or the appropriate county school superintendent; and
 - f. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

G. Interim Principal Certificate – grades PreK through 12

1. The Interim Principal certificate authorizes the holder to administer instructional programs, supervise certified personnel, perform the duties, hold the title of principal or assistant principal as delineated in A.R.S. Title 15, and perform similar administrative duties. An individual who is enrolled in a locally-based school leadership program shall be limited to an administrative position at the school-level.
2. The requirements are:
 - a. A bachelor's or more advanced degree; and
 - b. Verification of three years of full-time teaching in grades PreK through 12; and
 - c. Verification of enrollment in a Board approved alternative administrator preparation program, a Board approved locally based school leadership program, or a Board approved administrator preparation program; and
 - d. Verification that the certificate holder will be employed as a principal or assistant principal under the direct supervision of an Arizona certified principal, an Arizona certified superintendent, or the appropriate county school superintendent; and
 - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

H. Interim Superintendent Certificate – Grades PreK through 12:

1. The superintendent certificate is optional, but may be required by local governing boards for individuals who hold the title or perform the duties of a superintendent, assistant superintendent or associate superintendent and who perform duties directly relevant to curriculum,

instruction, certified employee evaluations, and instructional supervision

2. The requirements are:

- a. A master's degree or more advanced degree;
- b. Three years of verified full-time teaching experience or related education services experience in a PreK through 12 setting;
- c. Verification of enrollment in a Board approved alternative path to administrator certification program, or a Board approved administrator preparation program;
- d. Verification that the holder of the interim certificate shall be employed as a superintendent, assistant superintendent, or associate superintendent and working under the direct supervision of an Arizona certified superintendent or the appropriate county school superintendent; and
- e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

I. Interim Administrative Certificate Extension

1. The Interim Administrative certificate may be extended yearly for no more than two consecutive years at no cost to the applicant.
2. The requirements to extend an Interim Administrative Certificate are:
 - a. Qualification and issuance of the initial Interim Administrative certificate;
 - b. Verification from the Board approved program provider that the applicant is enrolled and has made adequate progress towards completion of the Board approved alternative administrator preparation program, Board approved locally based leadership preparation program, or Board approved traditional administrator preparation program;
 - c. Verification that the holder meets the employment and supervision requirements for the Interim Administrative certificate as described in subsection (F)(2)(e), (G)(2)(d), and (H)(2)(d); and
 - d. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

J. The holder of an interim administrative certificate may apply for the appropriate Arizona standard administrative certificate with verification of the following:

1. Successful completion of the Board approved alternative path to administrator certification program, Board approved locally based leadership program, or Board approved administrator preparation program; and
2. A passing score on the required portion of the Arizona Administrator Proficiency Assessment; and
3. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
4. Individuals who have completed a locally based leadership program shall also submit verification from the superintendent of a school district or the principal of a charter school that the applicant has made satisfactory progress in the program sequence and model, which may include professional evaluations, observations of the applicant, student achievement data and demonstration of competencies, skills and knowledge associated with the relevant school leadership position.

K. Interim Administrative Certificates – Public Health Emergency

1. Notwithstanding this Section, an Interim Administrative Certificate entitling the holder to serve as a supervisor,

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principal, or superintendent may be issued to an applicant who meets the following requirements:

- a. Completion of all requirements for the Standard Professional Supervisor, Standard Professional Principal, or Standard Professional Superintendent certificate, as described in subsection (B)(2), (C)(2), and (D)(2), with the exception of a passing score on the Arizona Administrator Proficiency Assessment.
 - b. Verification that the applicant was unable to take the Arizona Administrator Proficiency Assessment required for the Standard Professional Administrative certificate as the result of a public health emergency declared by the governor or a public health official.
2. A certificate issued pursuant to this subsection shall be issued for one year and shall not be renewed or extended.

Historical Note

New Section made by final exempt rulemaking at 29 A.A.R. 183 (January 13, 2023), effective December 9, 2022 (Supp. 22-4).

R7-2-617. Other Professional Certificates

- A. All certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619.
- B. Standard School Counselor Certificate - grades PreK through 12.
 1. The school counselor certificate is optional but may be required by local governing boards.
 2. The requirements are:
 - a. A master's or more advanced degree,
 - b. Completion of a graduate program in guidance and counseling,
 - c. A valid fingerprint clearance card issued by the Arizona Department of Public Safety, and
 - d. One of the following:
 - i. Completion of a supervised counseling practicum in school counseling;
 - ii. Two years of verified, full-time experience as a school counselor; or
 - iii. Three years of verified teaching experience.
 3. The certificate may be renewed consistent with the provisions of R7-2-619 that may include continuing education in the area of college and career readiness.
 4. Applicants may meet the requirements in subsection (B)(2)(b) with completion of one of the following:
 - a. Completion of a graduate program in counseling, social work, or psychology and six semester hours of courses in any of the following areas: school counseling, college and career guidance, or academic advising; or
 - b. A valid license as an associate counselor, professional counselor, master or clinical social worker, or marriage and family therapist issued by the Arizona Board for Behavioral Health Examiners and six semester hours of courses in any of the following areas: school counseling, college and career guidance, or academic advising; or
 - c. Completion of a graduate program in academic advising and six semester hours of courses in school counseling to include any of the following areas: social and emotional development, mental health counseling, trauma and disaster counseling, multiculturalism in counseling, theories of counseling,

foundations of school counseling, or child and adolescent counseling.

5. Applicants who otherwise qualify but are deficient in the required six semester hours of courses described in subsections (B)(4)(a), (b), or (c) may receive a Standard School Counselor certificate with a deficiency in the required courses to be completed within three years. If an applicant fails to meet this requirement within the prescribed time, the Department of Education shall temporarily suspend the certificate, but the suspension is not considered a disciplinary action and the individual shall be allowed to correct the deficiency within the remaining timeframe of the certificate.
 6. Applicants who otherwise qualify but are deficient in the requirements prescribed in subsection (B)(2)(d) may receive a Standard School Counselor certificate with a deficiency in the required experience or practicum to be completed within three years. If an applicant fails to meet this requirement within the prescribed time, the Department of Education shall temporarily suspend the certificate, but the suspension is not considered a disciplinary action and the individual shall be allowed to correct the deficiency within the remaining timeframe of the certificate.
- C. Standard School Psychologist Certificate - grades PreK through 12
 1. A standard school psychologist certificate is required for all personnel whose primary responsibility is in the role of a school psychologist providing services that include but are not limited to the duties of student psychoeducational assessment, therapeutic consultation and intervention, and involvement in the process of determination of student disabilities or disorders.
 2. The requirements are:
 - a. A master's or more advanced degree;
 - b. Completion of a graduate program in school psychology consisting of at least 60 graduate semester hours, or completion of a doctoral program in psychology and completion of a re-training program in school psychology from an accredited institution or Board approved program with a letter of institutional endorsement from the head of the school psychology program;
 - c. A supervised internship of at least 1200 clock hours with a minimum of 600 of those hours in a school setting. Three years experience as a certified school psychologist within the last 10 years may be substituted for the internship requirement; and
 - d. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 3. Any of the following may be substituted for the requirement described in subsection (C)(3)(b):
 - a. Five years experience within the last 10 years working full time in the capacity of a school psychologist in a school setting serving any portion of grades kindergarten through 12; or
 - b. A Nationally Certified School Psychologist Credential; or
 - c. A diploma in school psychology from the American Board of School Psychology.
 - D. Standard Speech-Language Pathologist Certificate - grades PreK through 12
 1. The standard speech-language pathologist certificate is required for school-based speech-language pathologists.

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2. The certificate may be renewed consistent with the provisions of R7-2-619 with relevant professional development in the field of speech pathology, or professional development in the areas of articulation, voice, fluency, language, low incidence disabilities, curriculum and instruction, professional issues and ethics, or service delivery models.
 3. The requirements are:
 - a. A master's or more advanced degree, from an accredited institution, in speech pathology or communication disorders;
 - b. A minimum of 250 clinical clock hours supervised by a university or a speech-language pathologist with a certificate of clinical competence;
 - c. A certificate of clinical competence, or a passing score on the national exam, or a passing score on the speech and language impaired special education portion of the Arizona Teacher Proficiency Assessment; and
 - d. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- E. Standard Speech-Language Technician - grades PreK through 12**
1. The standard speech-language technician certificate is required for school-based speech-language professionals.
 2. No new applications for a speech-language technician certificate will be accepted after June 30, 2014.
 3. The certificate may be renewed consistent with the provisions of R7-2-619 with professional development in the areas of articulation, voice, fluency, language disorders, low incidence disabilities, professional issues and ethics, or service delivery models.
 4. The requirements are:
 - a. A bachelor's degree from an accredited program in Speech-Language Pathology, Speech Hearing Sciences, or Communication Disorders;
 - b. A minimum of 50 hours of university supervised observation;
 - c. A minimum of 150 university clinical clock hours, or 150 clock hours supervised by a master's level licensed speech-language pathologist, or two years' experience as a school speech-language therapist or technician;
 - d. A passing score on the speech and language impaired special education portion of the Arizona Teacher Proficiency Assessment; and
 - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- F. Standard School Social Worker Certificate - grades PreK through 12**
1. The standard School Social Worker certificate is optional but may be required by local governing boards.
 2. The requirements are:
 - a. Master's or more advanced degree in social work from an accredited institution or completion of a Board approved school social worker program;
 - b. A valid fingerprint clearance issued by the Arizona Department of Public Safety; and
 - c. One of the following:
 - i. Completion of at least six semester hours of practicum in social work in a school setting completed through an accredited institution; or
 - ii. One year of full time experience as a social worker in a setting which primarily serves children in preschool through grade 12.

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4). Amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 5139, effective November 19, 2002 for a period of 180 days (Supp. 02-4). Emergency rulemaking renewed under A.R.S. § 41-1026(D) at 9 A.A.R. 1547, effective April 29, 2003 for a period of 180 days (Supp. 03-2). Emergency rulemaking repealed under A.R.S. § 41-1026(E) and permanent R7-2-617 amended by final rulemaking at 9 A.A.R. 3950, effective October 21, 2003 (Supp. 03-3). Amended by exempt rulemaking at 15 A.A.R. 1264, effective May 22, 2006 (Supp. 09-1). Former R7-2-617 recodified to R7-2-618; new R7-2-617 recodified from R7-2-616 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). Former R7-2-617 recodified to R7-2-618; new R7-2-617 recodified from R7-2-616 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). R7-2-617 "Prekindergarten" corrected to "PreK" at request of the Board, Office File No. M09-444, filed November 24, 2009 (Supp. 10-1). Office corrected labeling error in subsection (C) under A.R.S. § 41-1011 and A.A.C. R1-1-108 (Supp. 10-4). Amended by final exempt rulemaking at 21 A.A.R. 2077, effective October 28, 2013 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 231, effective December 19, 2016 (Supp. 17-1). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 24 A.A.R. 2947, effective September 24, 2018 (Supp. 18-3). The hyphen between "PreK-12" has been changed to the word "through" for consistency in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 28 A.A.R. 276 (January 28, 2022), effective April 29, 2019; filed January 11, 2022 (Supp. 22-1).

R7-2-618. Fees

- A.** The Superintendent of Public Instruction or the Superintendent's designee shall collect proper fees for certification services and shall transmit the fees to the state Treasurer. The following fees are established for certification services:
1. Evaluation of qualification for a certificate: \$30.
 2. Evaluation of qualification for an endorsement: \$30.
 3. Issuance of a certificate, endorsement, or letter of non-qualification: \$30.
 4. Renewal of a certificate: \$20.
 5. Name change, duplicate copy, or changes of coding to existing files or certificates: \$20.
- B.** Fees shall be paid by credit or debit card, money order, cashier's check, certified check, business check, or personal check and shall be made payable to the order of the Arizona Department of Education. If a check offered in payment for services is not cleared by the financial institution, the applicant shall be notified to pay the fees by money order or certified check. If a certificate has been issued or renewed and payment is not received within two weeks of notification to the applicant, the Department may file a statement of complaint pursuant to R7-2-1302. If a certificate or renewal has not been issued, no certificate or renewal shall be issued until the fees are paid by cashier's check or money order.
- C.** Fees paid pursuant to this Section are not refundable.

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- D.** Notwithstanding this Section and pursuant to A.R.S. § 41-1080.01, the Superintendent or the Superintendent's designee shall waive any certification fee for initial certification, including for endorsements, for any of the following individuals if the individual is applying for the specific certification or endorsement in this state for the first time:
1. Any individual applicant whose family income does not exceed 200 percent of the federal poverty guidelines;
 2. Any active duty military service member's spouse.
 3. Any honorably discharged veteran who has been discharged not more than two years before application.
- E.** Applicants who are requesting a waiver of a certification fee shall submit an attestation and appropriate documentation verifying that they meet the criteria as described in subsection (D).

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2002, effective May 27, 1999 (Supp. 99-2). Former R7-2-618 recodified to R7-2-619; new R7-2-618 recodified from R7-2-617 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). Former R7-2-618 recodified to R7-2-619; new R7-2-618 recodified from R7-2-617 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 29 A.A.R. 183 (January 13, 2023), effective December 9, 2022 (Supp. 22-4).

R7-2-619. Renewal Requirements

- A.** A certificate may be renewed within six months of its expiration date except that an individual holding multiple valid certificates may renew all certificates at one time in order to align the expiration dates of each certificate. Certificates being aligned shall be renewed at the same time as the certificate that will expire first. Individuals seeking to align certificates shall meet the renewal requirements for each certificate being aligned. Certificates that are renewed or aligned pursuant to this Section shall be valid for 12 years.
- B.** A certificate may be renewed within ten years after it expires. Individuals whose certificates have been expired for more than ten years shall reapply for certification under the requirements in effect at the time of reapplication. Nothing in this Section shall imply that an individual may be employed in a position that requires certification after the expiration of the relevant certificate.
- C.** Renewal of certificates requires the completion of continuing education credits after the most recent issuance or renewal of the certificate, except that continuing education credits completed during the valid term of the certificate that expires first meets the requirement of certificates being aligned. Fifteen hours of continuing education credits are required each year of the certificate term to renew a certificate, which may be accumulated in various increments per year prior to renewal. One hour of continuing education credit shall be equivalent to one clock hour of a professional development activity. Continuing education credits must relate to Arizona academic or professional educator standards or apply toward the attainment of an additional Arizona certificate, endorsement, or approved area, and may include training regarding suicide awareness and prevention; child abuse, human trafficking of children and the sexual abuse of children, including warning signs that a child may be a victim of child abuse, human trafficking, or sexual abuses; screening, intervention, accommodation, use of technology and advocacy for students with reading impairments, including dyslexia; or other training programs explicitly permitted or required by state law. Professional development that may be counted toward the required hours of continuing education credit shall consist of any of the following activities:
1. Courses related to education or a subject area taught in Arizona schools, taken from an accredited institution. Each semester hour of courses shall be equivalent to 15 clock hours of professional development. The required documentation shall be an official transcript.
 2. Professional activities such as conferences and workshops related to the profession of teaching or the field of public education. A maximum of 30 clock hours per year may be earned by attendance at professional conferences and workshops. The required documentation shall be a conference agenda and a statement or certificate from the sponsoring organization noting the clock hours earned.
 3. District-sponsored or school-sponsored in-services or activities which are specifically designed for professional development. The required documentation shall be written verification from the sponsoring district or school stating the dates of participation and the number of clock hours earned.
 4. Internships in business settings. The internship shall be based on an agreement between a business and a district or school with the stated objective of aligning teaching curriculum with workplace skills. A maximum of 80 clock hours may be earned through business internships. The required documentation shall be written verification by the sponsoring business and district or school stating the dates of participation and number of clock hours earned.
 5. Educational research. The research shall be sponsored by a research facility or an accredited institution or funded by a grant. The required documentation shall be the published report of the research or verification by the sponsoring agency; and a statement of the dates of participation and the number of clock hours earned.
 6. Serving in a leadership role of a professional organization that provides training, activities, or projects related to the profession of teaching or the field of public education. A maximum of 30 clock hours per year may be earned by serving in a leadership role of a professional organization. The required documentation shall be written verification by the governing body of the professional organization of the dates of service and clock hours earned.
 7. Serving on a visitation team for a school accreditation agency. A maximum of 60 clock hours per year may be earned by serving on a visitation team. The required documentation shall be written verification from the accreditation agency of the dates of service and clock hours earned.
- D.** An individual holding a Standard teaching certificate, a standard administrative certificate, or other professional certificate may renew the certificate for 12 years upon completion of 15 hours of continuing education credits each year of the certificate term which may be accumulated in various increments per year prior to renewal or with one of the following:
1. A valid professional license as a counselor, social worker, psychologist, or speech pathologist issued by the appropriate state agency in this state or in another state;
 2. A valid certificate issued by the National Board of Professional Teaching Standards;

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3. A valid Certificate of Clinical Competence in Speech-Language Pathology issued by the American Speech-Language Hearing Association; or
 4. A Nationally Certified School Psychologist credential issued by the National Association of School Psychologists.
- E.** An individual who is employed by a school or school district at the time of renewal shall submit the required documentation of professional development to the district superintendent, director of personnel, or other designated administrator for verification. A certified individual who is not employed by a school or school district at the time of renewal shall submit the required documentation of professional development to a county school superintendent, the dean of a college of education, or the Department for verification. The school or district official, county school superintendent, or the dean of a college of education shall verify on forms provided by the Department the number of hours of professional development completed by the individual during the valid period of the certificate being renewed.
- F.** The Department shall issue a Standard teaching certificate of the same type.
- G.** Notwithstanding any other provision in this Section, an individual with a valid fingerprint clearance card who has had a certificate or certificates expire for at least two years but not more than 10 years may renew the expired certificate or certificates and any endorsements or approved areas if the individual is in good standing. Individuals who apply for renewal under this provision are exempt from the continuing education requirements described in subsections (C) and (D). Standard certificates issued to that individual pursuant to this subsection shall be identical to the expired certificate or certificates.
- Historical Note**
- New Section made by exempt rulemaking at 8 A.A.R. 2396, effective May 10, 2002 (Supp. 02-2). Amended by exempt rulemaking at 15 A.A.R. 1225, effective December 5, 2006 (Supp. 09-1). Former R7-2-619 recodified to R7-2-620; new R7-2-619 recodified from R7-2-618 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). Former R7-2-619 recodified to R7-2-620; new R7-2-619 recodified from R7-2-618 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 242, effective December 7, 2009 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 22 A.A.R. 648, effective January 25, 2016 (Supp. 16-1). Amended by final exempt rulemaking at 22 A.A.R. 2246, effective August 6, 2016 (Supp. 16-3). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 26 A.A.R. 214, effective January 27, 2020 (Supp. 20-1). Amended by final exempt rulemaking at 27 A.A.R. 2694 (November 19, 2021), effective October 25, 2021 (Supp. 21-4). Amended by final exempt rulemaking at 29 A.A.R. 183 (January 13, 2023), effective December 9, 2022 (Supp. 22-4).
- R7-2-620. Certification Time-frames**
- A.** For certification by the State Board of Education (Board), Certification Division (Division), the time-frames required by A.R.S. § 41-1072 et seq are:
1. Overall time-frame: 165 days.
 2. Administrative review time-frame: 45 days.
 3. Substantive review time-frame: 120 days.
- B.** Administrative completeness review time-frame. The Division shall issue a written notice of administrative completeness or deficiency to an applicant for certification within 45 days of receipt of the application.
1. If the Division determines that an application for certification is not administratively complete, the Division shall include a comprehensive list of the specific deficiencies in the written notice.
 2. If the Division issues a written notice of deficiency, the administrative completeness review time-frame and the overall time-frame are suspended from the date the notice is issued until the date that the Division receives the missing information from the applicant.
 3. If the Division does not issue a notice of administrative completeness or deficiency within 45 days of receipt of the application, the application is deemed administratively complete.
- C.** Substantive review time-frame. Within 120 days after the administrative completeness review time-frame is complete, the Division shall determine whether an applicant for certification meets all substantive criteria required by statute or rule.
1. During the substantive review time-frame, the Division may make one comprehensive written request for additional information. If the Division issues a comprehensive written request for additional information, the substantive review time-frame and the overall time-frame are suspended from the date the request is issued until the date that the Division receives the additional information from the applicant.
 2. The Division and the applicant may mutually agree in writing to allow the Division to submit supplemental requests for additional information. If the Division issues a supplemental request by mutual written agreement for additional information, the substantive review time-frame and the overall time-frame are suspended from the date the request is issued until the date that the Division receives the additional information from the applicant.
- D.** Overall time-frame. The Division shall issue a written notice that the Board has granted or denied a certificate no later than 165 days after receipt of an application for certification, or no later than the time-frame extension allowed under subsection (E).
1. Written notice denying an applicant certification shall include justification for the denial with references to the statutes or rules on which the denial is based and an explanation of the applicant's right to appeal the denial.
 2. The explanation of an applicant's right to appeal the denial shall include the number of days the applicant has to file an appeal challenging the denial and the name and telephone number of the Executive Director of the Board as the contact person who can answer questions regarding the appeals process.
- E.** By mutual written agreement, the Division and an applicant for certification may extend the substantive review time-frame and the overall time-frame. An extension of the substantive review time-frame and the overall time-frame may not exceed 33 days.
- F.** If the Division does not issue to an applicant written notice granting or denying a certificate within the overall time-frame or any extension mutually agreed upon in writing, the Division shall refund to the applicant all fees charged, excuse payment

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of any fees that have not yet been paid, and pay all penalties required by A.R.S. § 41-1077.

- G. The Division shall issue all written notices under this Section to the last known address of the applicant by regular, 1st-class mail. The written notices are deemed “issued” on the postmark date.
- H. By August 1 of each year, the Division shall report to the Executive Director of the Board the Division’s compliance with the overall time-frames for the prior fiscal year. The Division shall include the number of certificates issued or denied within the time-frames specified in this Section and the dollar amount of all fees returned or excused. The Division shall also include the amount of all penalties paid to the state general fund due to the Division’s failure to comply with the time-frames.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2399, effective July 23, 2004 (Supp. 04-2). Former R7-2-620 recodified to R7-2-621; new R7-2-620 recodified from R7-2-619 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). Former R7-2-620 recodified to R7-2-621; new R7-2-620 recodified from R7-2-619 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1).

R7-2-621. Reciprocity

- A. The Board shall issue a comparable standard Arizona certificate or endorsement as applicable, if one is established pursuant to this Article, to an applicant who holds a valid certificate or endorsement from another state and is in good standing with that other state. These applicants are exempt from all provisions of the Arizona Teacher proficiency examinations.
- B. Standard certificates shall be valid for 12 years and are renewable.
- C. The applicant shall possess a valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- D. The applicant shall have completed the required class or passed a satisfactory examination on the provisions and principles of the Constitutions of the United States and Arizona.
- E. Notwithstanding any other provision, the deficiencies allowed pursuant to Arizona Revised Statutes in Arizona Constitution and United States Constitution shall be satisfied prior to the issuance of the same type of certificate prescribed in this Article, but are subject to suspension as follows:
 - 1. An applicant’s standard Arizona teaching certificate shall be suspended three years from the date of issuance if the applicant has not completed the required class or passed a satisfactory examination on the provisions and principles of the Constitutions of the United States and Arizona.
 - 2. An applicant’s standard Arizona teaching certificate shall be suspended one year from the date of issuance if the applicant has not completed the required class or passed a satisfactory examination on the provisions and principles of the Constitutions of the United States and Arizona if the applicant applies for a certificate authorizing the person to teach an academic course that focuses predominantly on history, government, social studies, citizenship, law or civics.
 - 3. The suspension for a deficiency in the Constitutions of the United States and Arizona is not considered a disciplinary action and the applicant shall be allowed to correct that deficiency within the remaining time of the standard certification.

Historical Note

New Section recodified from R7-2-620 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). Former R7-2-621 recodified to R7-2-622; new R7-2-621 recodified from R7-2-620 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 135, effective September 21, 2009 (Supp. 10-1). Amended by final exempt rulemaking at 22 A.A.R. 227, effective June 23, 2014; filed in the Office January 20, 2016 (Supp. 16-2). Amended by final exempt rulemaking at 22 A.A.R. 219, effective June 5, 2015; filed in the Office January 20, 2016 (Supp. 16-4). Amended by final exempt rulemaking at 22 A.A.R. 2248, effective August 6, 2016 (Supp. 17-1). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1).

R7-2-622. Qualification Requirements of Professional, Non-Teaching School Personnel**A. Definitions:**

- 1. “Educational Interpreter.” For the purposes of this Section, “educational interpreter” means a person trained to translate in sign language for students identified to require such services through an Individualized Education Program (IEP) or a 504 accommodation plan in order to access academic instruction. This does not in any way restrict the provisions of R7-2-401(B)(14) which defines “interpreter” and provides that each student’s IEP team determines the level of interpreter skill necessary for the provision of FAPE, nor does it restrict a school district’s ability to develop a job description for someone in a position of “educational interpreter” that requires additional job responsibilities.
- 2. “Accommodation plan developed to comply with Section 504 of the Rehabilitation Act of 1973, 29 USC 794, et seq. (“504 accommodation plan”).” For the purposes of this Section, “504 accommodation plan” means a plan developed for the purpose of specifying accommodations and/or services that will be implemented by classroom teachers and other school personnel so that students will benefit from their educational program.

B. Educational Interpreters for the Hearing Impaired.

- 1. Persons employed by or contracting with schools and school districts to provide educational interpreting services for hearing impaired students must meet the following qualifications from and after January 1, 2005:
 - a. Have a high school diploma or GED;
 - b. Hold a valid fingerprint clearance card, and
 - c. Show proficiency in interpreting skills through one of the following:
 - i. A minimum passing score of 3.5 or higher on the Educational Interpreter Performance Assessment (EIPA), or
 - ii. Hold a valid Certificate of Interpretation (CI) and/or Certificate of Transliteration (CT) from the Registry of Interpreters for the Deaf (RID), or
 - iii. Hold a valid certificate from the National Association of the Deaf (NAD) at level 3 or higher.
- 2. If a public education agency (PEA) is unable to find an individual meeting the above qualifications, the PEA may hire an individual with lesser qualifications, but the PEA is required to provide a professional development plan for the individual they employ to provide educational inter-

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preting services. This professional development plan must include the following:

- a. Proof of at least 24 hours of training in interpreting each year that a valid certification is not held or EIPA passing score is not attained, and
 - b. Documentation of a plan for the individual to meet the required qualifications within three years of employment. If the qualifications are not attained within three years, but progress toward attainment is demonstrated, the plan shall be modified to include an intensive program for up to one year to meet the provisions of subsection (B)(1).
3. An individual employed under the provisions of subsection (B)(2) must also have the following:
- a. A valid fingerprint clearance card, and
 - b. A high school diploma or GED.
- C. Compliance with these rules will be reviewed at the same time as a PEA is monitored for compliance with the requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400, et seq.

Historical Note

New Section recodified from R7-2-621 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1).

R7-2-623. Certification Requirements in a Public Health Emergency

- A. As the result of a public health emergency declared by the governor, the Department may temporarily modify certification requirements established in this Article, subject to review and approval by the Board.
- B. A modification made pursuant to this Section shall:
1. Not be more restrictive than requirements in effect at the time the public health emergency is declared.
 2. Comply with statutory requirements.
 3. Be limited to requirements that cannot be feasibly completed as the result of the public health emergency.
 4. Be in effect for no more than one year after Board approval.

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 1311, effective May 18, 2020 (Supp. 20-2).

ARTICLE 7. ADJUDICATIONS**R7-2-701. Definitions**

In this Article, unless the context otherwise specifies:

1. "Board" means the State Board of Education.
2. "Chairman" means the chairperson of the Professional Practices Advisory Committee, established pursuant to R7-2-205.
3. "Contested case" means any proceeding in which the legal rights, duties or privileges of a party are required by law to be determined by the State Board of Education after an opportunity for hearing.
4. "Department" means the Department of Education.
5. "Document" includes papers such as complaints, petitions, motions, responses and notices.
6. "Hearing body" means the Board or the Professional Practices Advisory Committee.
7. "Party" means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.
8. "PPAC" means the Professional Practices Advisory Committee, established pursuant to R7-2-205.

9. "Presiding officer" means a hearing officer, with either a minimum of three years of verified experience in the practice of law or a minimum of one year of verified experience in conducting hearings, who shall oversee hearings pursuant to this Article.
10. "Pupil" means any student enrolled in an Arizona public or private school defined in A.R.S. § 15-101. "Pupil" also means any student who was enrolled in an Arizona public or private school at the time of the events which are the subject of a proceeding.
11. "Victim" means any person who has been previously identified pursuant to state law as a victim in a criminal proceeding which is the basis for a contested case.

Historical Note

Adopted effective May 25, 1978 (Supp. 78-3). Former Section R7-2-701 repealed, new Section R7-2-701 adopted effective December 4, 1978 (Supp. 78-6). Amended effective June 27, 1979 (Supp. 79-3). Amended subsection (A) effective October 7, 1980 (Supp. 80-5). Amended by adding subsection (A)(6) effective April 6, 1984 (Supp. 84-2). Amended effective October 19, 1984 (Supp. 84-5). Section R7-2-701 repealed as an emergency, new Section R7-2-701 adopted as an emergency effective January 2, 1985 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-1). Emergency expired. Repealed effective December 17, 1987 (Supp. 87-4). New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). Amended by final exempt rulemaking at 21 A.A.R. 1775, effective May 20, 2013 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-702. Filing; Computation of Time; Extension of Time

- A. All documents concerning a contested case shall be filed within the time limit, if any, for such filing.
- B. All documents filed in any contested case shall be typewritten or legibly written on paper 8 1/2 by 11 inches in size, shall contain the name and address of the party or other correspondent, shall be properly captioned and designate the title and case number, shall state the name and address of each party served with a copy and how service was made, and shall be signed by the party or, if represented, by the party's attorney. The signature constitutes a certification that the signer has read the document, has a good faith basis for submission of the document, and that it is not filed for the purpose or delay or harassment.
- C. In computing any period of time prescribed or allowed by this Article, or any notice or order concerning a contested case, the day of the act, event, or default from which the designated period of time begins to run shall not be included. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays and legal holidays shall not be included in the computation. When that period to time is 11 days or more, intermediate Saturdays, Sundays and legal holidays shall be included in the computation. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or a legal holiday.
- D. Whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or other

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document upon the party by another party, and the notice or other document is served by mail, five days shall be added to the prescribed period.

- E. For good cause shown, the presiding officer may grant continuances and extensions of time for filing notices or other documents.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). The Section heading has been updated to title case to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-703. Contested Cases; Notice; Hearing Records

- A. In a contested case, the parties shall be afforded an opportunity for hearing after reasonable notice. The notice shall be given at least 20 days prior to the date set for the hearing.
- B. The notice shall include:
1. A statement of the time, place and nature of the hearing.
 2. A statement of the legal authority and jurisdiction under which the hearing is to be held.
 3. A reference to the particular sections of the statutes and rules involved.
 4. A short and plain statement of the matters asserted. If a party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application a more definite and detailed statement shall be furnished.
- C. Opportunity shall be afforded all parties to respond and present evidence and argument on the issues involved.
- D. The Board may dispose of any contested case by decision or approved stipulation, agreed settlement, consent agreement or by default.
- E. A hearing before a hearing body in a contested case or any part thereof shall be recorded manually or by a recording device and shall be transcribed on request of any party, unless otherwise provided by law. The cost of such transcript shall be paid by the party making the request, unless otherwise provided by law or unless assessment of the cost is waived by the Board.
- F. The Board or the presiding officer may reschedule the hearing, maintaining due regard for the interests of justice and the orderly and prompt conduct of the proceedings.
- G. The record in a contested case shall include:
1. All pleadings, motions and interlocutory rulings.
 2. Evidence received or considered, including confidential evidence received in executive session.
 3. A statement of matters officially noticed.
 4. Objections and offers of proof and rulings thereon.
 5. Proposed findings of fact, conclusions of law and recommendations of the hearing body.
 6. All staff memoranda, other than privileged communications, or data submitted to the hearing body in connection with its consideration of the case.
 7. A victim impact statement, if submitted by the victim.
- H. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). Amended by final exempt rulemaking at 21 A.A.R. 1775, effective May 20, 2013 (Supp. 15-3). The Section heading has

been updated to title case to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-704. Service; Proof of Service

- A. The Board shall serve notices of hearing, findings of fact, conclusions of law, and recommendations of the hearing body, and decisions and final orders of the Board, either by personal service or by certified mail. All other documents required to be served by the Board may be served by regular or certified mail or may be personally served.
- B. After service of a notice of hearing in a contested case, a copy of every document filed by a party, or individual seeking to intervene, shall be served on all parties to the contested case, or their lawyers if represented, at the same time the document is filed. Filing with the Board and service shall be completed by personal delivery, first-class mail or email.
- C. The following evidences completed service:
1. If personally served, an affidavit of personal service, sworn to by the individual serving the document and stating the name of the individual upon whom it was served, where service was made, and the date of such service; or
 2. If served by certified mail, proof of delivery; or
 3. If served by email or regular mail, either a statement subscribed on the document filed, or an affidavit indicating the date mailed and listing those to whom it was mailed.
- D. When a party is represented by an attorney, service shall be made on the attorney. If a notice of hearing shows service on the Attorney General, all documents served thereafter shall be served on the Assistant Attorney General named on the notice of hearing or who later appears on behalf of the Attorney General, or if no Assistant Attorney General is named, then on the Attorney General, Education and Health Section, Education Unit.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-705. Hearings and Evidence

- A. Parties may participate in the hearing in person or through an attorney.
- B. The parties may submit proposed findings of fact and conclusions of law prior to the hearing. The presiding officer or hearing body may require that the parties submit proposed findings of fact and conclusions of law prior to the hearing or at the close of evidence.
- C. A hearing in a contested case shall be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. A party to such proceedings may be represented by counsel and shall have the right to submit evidence in open hearing and conduct cross examination. Hearings may be held in any location or manner determined by the Board.
- D. Copies of documentary evidence may be received in the discretion of the presiding officer. Upon request, the parties shall be given an opportunity to compare the copy with the original.
- E. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the specialized knowledge of the hearing body. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the

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material noticed including any staff memoranda or data and they shall be afforded an opportunity to contest the material so noticed. The hearing body's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

- F. If a party fails to appear at a hearing, the hearing body may proceed with the presentation of the evidence of the appearing party.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). Amended by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-706. Request for Hearing

When a request for a hearing is filed with the Board, the request shall be in writing and shall state the specific grounds which are the basis of the hearing request and the statute, rule or other legal basis entitling the person to a hearing.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4).

R7-2-707. Denial of Request for Hearing

If the Board denies the request for a hearing, the denial shall be in writing and shall state the reasons therefor. A denial of a request for hearing is final and not subject to further administrative review.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). The Section heading has been updated to title case to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-708. Repealed**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). Section repealed by final rulemaking at 11 A.A.R. 696, effective March 29, 2005 (Supp. 05-1).

R7-2-709. Rehearing and Review of Decisions

- A. After a hearing is held, a party in a contested case who is aggrieved by a decision rendered by the Board may file with the Board, not later than 30 days after such decision has been made, a written motion for rehearing specifying the particular grounds therefor. A response may be filed within 15 days after service of such motion by any other party. The Board may require the filing of written briefs on the issues raised in the motion or response and may provide for oral argument.
- B. A rehearing of a decision by the Board may be granted for any of the following causes materially affecting the moving party's rights:
1. Irregularity in the administrative proceedings of the hearing body, or abuse of discretion, whereby the moving party was deprived of a fair hearing.
 2. Misconduct of the hearing body or the prevailing party.
 3. Accident or surprise which could not have been prevented by ordinary prudence.
 4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the hearing.
 5. Excessive or insufficient penalties.

6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing.

7. That the decision is not justified by the evidence or is contrary to the law.

- C. The Board may affirm or modify the decision or grant a rehearing before a hearing body to all or any of the parties, on all or part of the issues, for any of the reasons set forth in subsection (B). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.
- D. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. The order granting such a rehearing shall specify the grounds therefor.
- E. Not later than 20 days after a decision is rendered, the Board may, on its own initiative, order a rehearing of its decision for any reasons for which it might have granted a rehearing on motion of a party. The order granting such a rehearing shall specify the grounds therefor.
- F. When a motion for rehearing is based upon affidavits they shall be served with the motion. An opposing party may, within ten days after service of such motion, serve opposing affidavits and this period may be extended for an additional period not exceeding 20 days, by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.
- G. After a hearing has been held and a final administrative decision has been entered, a party is not required to file a motion for rehearing or review of the decision in order to exhaust the party's administrative remedies.
- H. Any party in a contested case who is aggrieved by a decision rendered by the Board may file with the Board, not later than 20 days after such decision has been made, a written request for review of the decision. If a review of the decision is granted, the Board may affirm or modify the previous decision.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). The Section heading has been updated to title case to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 2353, (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-710. Repealed**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). Repealed by final exempt rulemaking at 27 A.A.R. 2353, (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-711. Consolidation and Severance

- A. When proceedings involving a common question of law or fact or common parties are pending before the hearing body, the presiding officer may, upon the presiding officer's own volition or upon request of any party, order a consolidated hearing on any or all the matters at issue.
- B. In furtherance of convenience, to avoid prejudice, or when separate hearings will be conducive to expedition and economy, the presiding officer may, upon the presiding officer's own volition or upon request of any party, order any proceeding severed with respect to some or all issues or parties.

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- C. The presiding officer shall send a written ruling granting or denying consolidation or severance to all parties, identifying the cases, and the reasons for the decision.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). The Section heading has been updated to title case to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 2353, (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-712. Subpoenas

- A. The Board may issue subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence on its own volition or at the request of a party. The subpoena shall be signed by a Board employee designated by the Board.
- B. A request for a hearing subpoena shall be in writing and served on each party at least seven days prior to the date set for hearing and shall state:
1. The name of the contested case, the case number, and the time and place where the witness is expected to appear and testify;
 2. The name and address of the witness subpoenaed;
 3. The documents, if any, sought to be provided; and
 4. A brief statement of the relevance of testimony or documents.
- C. On application of a party or the agency and for use as evidence, the presiding officer may permit a deposition to be taken, in the manner and upon the terms designated by the presiding officer, of a witness who cannot be subpoenaed or is unable to attend the hearing.
- D. The individual to whom a subpoena is directed shall comply with its provisions unless, prior to the date set for appearance, the presiding officer grants a written request to quash or modify the subpoena. The request shall be submitted to the Board and state the reasons why it should be granted. The presiding officer shall grant or deny such request by order.
- E. The party requesting the subpoena shall prepare it and cause it to be served upon the individual to whom it is directed and on all parties in the same manner as provided for service of subpoenas in civil matters before the superior court. The return of service shall be filed with the Board.
- F. A party, or the person served with a subpoena who objects to the subpoena, or any portion of it, may file an objection with the presiding officer. The objection shall be filed within five days after service of the subpoena, or at the outset of the hearing, if the subpoena is served fewer than five days before the hearing.
- G. If a subpoena issued for the Board is disobeyed, the Board may petition the superior court to enforce the subpoena pursuant to A.R.S. § 15-203.
- H. If a subpoena issued for a party other than the Board is disobeyed, the party may petition the superior court in the manner provided by law for the enforcement of subpoenas in a civil action.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-713. Conduct of Hearing

- A. The presiding officer may conduct all or part of the hearing by telephone, or other electronic means, as long as each party has an opportunity to participate in the entire proceeding as it takes place.
- B. Except for those hearings which may involve presentation of evidence protected by A.R.S. § 15-350, or which are otherwise closed pursuant to an express provision of law, all hearings are open to public observation.
- C. Conduct at any hearing that is disruptive or shows contempt for the proceedings shall be grounds for exclusion from further participation or observation.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). The Section heading has been updated to title case to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 2353, (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-714. Testimony of Pupils

- A. All individuals present at a hearing regarding an action against a certificate shall:
1. Keep confidential the name and identifying information of any pupil involved in the hearing, unless disclosure is with the consent of the pupil's parent or guardian or the pupil if the pupil is at least 18 years of age at the time of the hearing, or by order of the superior court. This action does not prevent disclosure of the pupil's name to any party to the hearing.
 2. Keep confidential the testimony of any pupil, all of which shall be taken in executive session, except that the Board office shall be furnished a confidential copy of the pupil's testimony as part of the complete transcript of the hearing. The individuals present during the executive session shall be determined by the presiding officer in consultation with the Attorney General's office except that the respondent and counsel shall always be permitted to be present. The transcripts of testimony taken during executive session shall be maintained by the Board.
- B. The Board of Education or its designee shall:
1. Make available a consent form which requires the signature of the pupil's parent or guardian or the pupil if the pupil is at least 18 years of age at the time of the hearing, prior to disclosure of the pupil's name;
 2. Assign a fictitious name to all witnesses identified as pupils on the witness lists provided by the complainant and respondent if not in receipt of written parental or guardian consent for disclosure;
 3. Notify hearing participants, prior to and during the hearing, of any fictitious names to be used.
- C. The presiding officer shall instruct all individuals present at the hearing of the confidentiality requirements of A.R.S. § 15-551 and this Section.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). The Section heading has been updated to title case to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-715. Evidence

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- A. All witnesses shall testify under oath or affirmation. At the request of a party, or at the discretion of the presiding officer, the presiding officer may exclude witnesses who are not parties from the hearing room so that they cannot hear the testimony of other witnesses.
- B. The presiding officer shall have the power to administer oaths and affirmations.
- C. All parties shall have the right to present such oral or documentary evidence and to conduct such cross-examination as may be required for a full and fair disclosure of the facts.
- D. The presiding officer shall make rulings necessary to prevent argumentative, repetitive, or irrelevant questioning, to exclude evidence the presiding officer determines to be irrelevant, immaterial, or unduly repetitious, and to expedite the examination to the extent consistent with the disclosure of all relevant testimony and information.
- E. Unless otherwise ordered by the hearing body, documentary evidence shall be limited in size when folded to 8 1/2 by 11 inches. The submitting party shall identify documentary exhibits by number or letter and party and furnish a copy of each exhibit to each party present. One additional copy shall be furnished to the hearing body unless the hearing body otherwise directs. When evidence offered by any party appears in a larger work, containing other information, the party shall plainly designate the portion offered. If the evidence offered is so voluminous as would unnecessarily encumber the record, the book, paper, or document shall not be received in evidence but may be marked for identification and, if properly authenticated, the designated portion may be read into or photocopied for the record. All documentary evidence offered shall be subject to appropriate and timely objection.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). Amended by final exempt rulemaking at 27 A.A.R. 2353, (October 22, 2021) effective September 27, 2021 (Supp. 21-4).

R7-2-716. Stipulations

Parties to any contested case may stipulate, in writing, agreement upon any matter involved in the proceeding. If approved by the presiding officer, agreement on matters of procedure shall be binding upon the parties to the stipulation. No substantive matter agreed to by the parties shall be binding upon the Board unless incorporated into the decision of the Board.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021) effective September 27, 2021 (Supp. 21-4).

R7-2-717. Recommended Decisions

- A. A recommended decision, findings of fact and conclusions of law shall be prepared for the Board by the PPAC.
- B. A recommended decision, findings of fact and conclusions of law shall be delivered to the Board within 90 days after the close of the hearing or the date ordered for submission of proposed findings or legal memoranda, whichever comes last, unless the Board extends the period for good cause.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). Amended by

final exempt rulemaking at 27 A.A.R. 2353, (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-718. Decisions and Orders

- A. Any final decision or order adverse to a party in a contested case shall be in writing or stated in the record. Any final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Parties shall be notified either personally or by mail to their last known address of any decision or order.
- B. When the Board is the hearing body, the decision shall be rendered within 120 days following the final day of the hearing or the date ordered for submission of proposed findings of fact and conclusions of law or legal memoranda, whichever comes last.
- C. Within 30 days after receipt of any recommended decision from the PPAC, the Board shall render a decision to affirm, reverse, adopt, modify, supplement, amend or reject the findings of fact, conclusions of law and recommendations in whole or in part, may remand the matter to the hearing body with instructions, or may convene itself as the hearing body.
- D. If no request for rehearing or review has been timely filed by a party, a decision in a contested case is effective and final ten days from the date served on that party.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021) effective September 27, 2021 (Supp. 21-4).

ARTICLE 8. COMPLIANCE**R7-2-801. Compliance**

- A. Procedures governing noncompliance with laws and rules by school districts.
 - 1. Scope. Except as may be otherwise directed by federal or state statute or by rules adopted by the State Board of Education, this Section shall govern the procedure for determining noncompliance by school districts with laws and rules concerning school districts, the enforcement of which is the statutory responsibility of the State Board of Education or the Department of Education.
 - 2. Preliminary notice of noncompliance and response:
 - a. The Department of Education, upon its own initiative or at the direction of the State Board of Education, shall inform school districts by written notice that the district is in possible noncompliance with laws or rules, the enforcement of which is the statutory responsibility of the Board or the Department.
 - b. A preliminary notice of possible noncompliance shall detail in writing the nature of the possible noncompliance and shall identify:
 - i. The law or rule which the school district may be violating; and
 - ii. The manner in which the school district may be in noncompliance with the identified law or rule.
 - c. A school district may submit a written response to the Department of Education within 20 days of receipt of a preliminary notice of noncompliance.
 - d. Nothing contained in this Section is intended to preclude a reasonable attempt between Department of Education personnel and school district personnel to

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- resolve administratively possible noncompliance prior to sending a written preliminary notice of non-compliance.
3. Scheduling a formal hearing
 - a. Recommendation by the Department of Education
 - i. After giving a school district preliminary notice as provided in this Section, the Department of Education shall submit a written recommendation to the State Board of Education. This recommendation shall be submitted within 10 days after receipt of a written response from the school district or if no response is received within 30 days of the issuance of the preliminary notice. The Department shall recommend one of the following courses of action to be taken by the Board.
 - (1) A formal hearing should be scheduled before noncompliance is probable and achieving voluntary compliance within a reasonable period of time under the circumstances is unlikely; or
 - (2) A formal hearing should not be scheduled at this time because, although noncompliance is probable, achieving voluntary compliance within a reasonable period of time is likely; or
 - (3) A formal hearing should not be scheduled because the school district is in compliance with the law or rule in question.
 - ii. Any written response of the school district to the preliminary notice of noncompliance shall accompany the written recommendation of the Department of Education.
 - b. Within 30 days of receipt of the recommendation of the Department of Education, the State Board of Education shall either:
 - i. Schedule formal hearing;
 - ii. Postpone the decision to schedule a hearing for a stated time period not to exceed six months, or
 - iii. Dismiss the matter.
 - c. When the State Board of Education determines that a formal hearing is necessary, it shall be scheduled within 30 days after such determination, unless an extension of time is granted by the Board.
 - d. When a formal hearing is scheduled, the Board or its designee shall give notice of the hearing as provided in A.R.S. § 41-1009(A) and (B).
 - e. When the Board decides to postpone scheduling a formal hearing, the Board shall specify the extent of the postponement and the Department of Education shall report periodically, at least every 30 days, unless otherwise directed, with respect to progress by the school district toward compliance with the law or rule in question. At the end of the postponement period, the Board shall again make a determination whether to schedule a hearing, further postpone the determination, or dismiss the matter.
 - f. The Board may order further investigation by the Department of Education at any time, and admit into evidence any such report at any subsequent formal hearing.
 4. Hearings held pursuant to this Section shall be conducted as provided in A.R.S. § 41-1010.
 5. The Board's decision
 - a. A decision by the State Board of Education shall be determined by a majority of the members of the Board and shall be based upon substantial evidence.
 - b. A decision shall be rendered within 30 days after the hearing.
 - c. Within 30 days after a decision is reached, copies of the written decision shall be delivered to the parties personally or by certified mail.
 - d. The parties shall have the opportunity to provide proposed findings of fact and conclusions of law to the Board no later than five days after the decision of the Board is received.
 6. Rehearing procedure
 - a. Any party aggrieved by a decision rendered by the Board may file with the Board, not later than 15 days after service of the decision, a written motion for rehearing or review of the decision, specifying the particular grounds therefor.
 - b. A motion to alter or amend a decision or order shall be filed not later than 15 days after service of the decision.
 - c. A motion for rehearing under this Section may be amended at any time before it is ruled upon by the Board.
 - d. A response may be filed within 10 days after service of such motion by any other party or by the Attorney General.
 - e. The Board may require the filing of written memoranda upon the issues raised in the motion and may provide for oral argument.
 - f. The Board may consolidate the hearing to consider the motion for rehearing with the requested rehearing.
 - g. A rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights:
 - i. Irregularity in the administrative proceedings of the agency or its hearing officer or the prevailing party, or any order, or abuse of discretion, whereby the moving party was deprived of a fair hearing;
 - ii. Misconduct of the Board of the prevailing party.
 - iii. Accident or surprise which could not have been prevented by ordinary prudence;
 - iv. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
 - v. Excessive or insufficient penalty;
 - vi. Error in the admission or rejection of evidence or other errors of law occurring in the administrative hearing;
 - vii. The decision is not justified by the evidence or is contrary to law.
 - h. The Board may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (A)(6). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.

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- i. Not later than 15 days after a decision is rendered, the Board may on its own initiative order a rehearing or a review of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case, the order granting such a rehearing shall specify the grounds on which the order is based.
 - j. When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may, within 10 days after such service, serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days, by the Board for good cause shown, or by the parties by written stipulation. The Board may permit a reply affidavit by the moving party.
- B. Waiver from administrative rules.** Upon request of a school district acting either on its own behalf or on behalf of a school within the district's jurisdiction, the State Board of Education may grant a waiver exempting such district or school from specific administrative rules.
 - 1. Requests**
 - a. Requests for exemption from any State Board of Education rule shall include:
 - i. Evidence that the school or school district is currently in compliance with all state laws and State Board of Education rules;
 - ii. A statement identifying goals that will be accomplished and how the waiver will assist in enhancing school improvement;
 - iii. A three-year plan for school improvement;
 - iv. Identification of the specific rules for which the waiver is requested;
 - v. Evidence of a public hearing held by the school or school district which provided for parental and public involvement and input into the proposed three-year plan.
 - b. Requests for waiver may be granted by the State Board of Education for a period not to exceed three years. The State Board of Education may at any time rescind approved waivers at its discretion.
 - c. Requests for waiver may be submitted by a local governing board and shall be made through the State Superintendent of Public Instruction for consideration by the State Board of Education.
 - d. Local governing boards shall adopt policies and procedures which will allow their schools to request waivers from the State Board of Education and shall submit those policies and procedures to the Superintendent of Public Instruction prior to October 1, 1993. Those policies shall be consistent with the criteria specified in subsections (B)(1)(a) and (B)(3). Additionally, those policies shall provide that:
 - i. Requests for such waivers by schools be forwarded within 30 days of receipt by the governing board to the Superintendent of Public Instruction. Requests may include additional information as the governing board deems appropriate.
 - ii. Schools not be required to meet criteria other than those specified in subsection (B)(1)(a).
 - 2. Reporting**
 - a. Schools or school districts with State Board-approved waivers shall document progress obtained as a result of the waiver and report on or before June 30 of each year to the State Superintendent of Public Instruction.
 - b. A school district having a school with an approved waiver may report the effects that such waiver has had on the operation of the school district. Reports shall be submitted on or before June 30 of each year to the State Superintendent of Public Instruction.
 - c. The State Superintendent of Public Instruction shall report to the State Board of Education, on or before September 30 of each year, the status of those schools and school districts with approved waivers and, as a minimum, include the following:
 - i. The status of meeting the goals as stated in the three-year plan;
 - ii. Recommendations regarding approved continuance of the waiver, conditions for continuance of the waiver, revision of the three-year plan or rescission of the waiver.
 - 3. Renewal.** Upon request from a school district, on behalf of itself or a school within its jurisdiction, waivers may be approved by the State Board of Education for additional three-year periods. Requests shall be made through the State Superintendent of Public Instruction and requests from schools shall be forwarded by the local governing board to the State Superintendent of Public Instruction within 30 days from receipt.

Historical Note

Adopted effective February 27, 1980 (Supp. 80-1).
 Amended effective April 9, 1993 (Supp. 93-2). The word "rule" has been updated to "Section" to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-802. School and School District Compliance with the Uniform System of Financial Records and the Uniform System of Financial Records for Charter Schools

- A.** Upon receipt of a report from the Auditor General that a school or school district has failed to comply with the Uniform System of Financial Records ("USFR") or the Uniform System of Financial Records for Charter Schools ("USFRCS") within 90 days after having received a notice of noncompliance from the Auditor General, the State Board of Education ("Board") shall review the Auditor General's report to determine whether the school or school district is in noncompliance.
- B.** When the Board determines that a school or school district is in noncompliance with the USFR or USFRCS, it shall give written notice to the school or district of its determination. The written notice shall advise the school or district of the following:
 - 1. The Superintendent of Public Instruction shall withhold distribution of state funds to the school or district until such time as the Auditor General reports compliance with the USFR or USFRCS unless a hearing is requested by the school or district.
 - 2. The school or district has 10 days from the receipt of the written notice of noncompliance by the Board to submit a written request for a hearing.
 - 3. If the school or district makes a timely request for a hearing, the hearing will be held pursuant to the hearing procedures specified in R7-2-701 et seq.
- C.** The Board's decision

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1. The Board shall determine whether the school or school district was in compliance with the USFR or USFRCS within 90 days after having been informed of noncompliance by the Auditor General, and whether the district is in compliance with the USFR or USFRCS at the time of the hearing.
2. A decision by the Board shall be determined by a majority of the members of the Board and shall be based upon substantial evidence.

Historical Note

Adopted effective February 27, 1980 (Supp. 80-1).
Amended subsections (A) and (E)(1) and (5) effective December 17, 1981 (Supp. 81-6). Amended effective December 31, 1998 (Supp. 98-4).

R7-2-803. Implementation of the Uniform System of Financial Records

All school districts shall implement the current version of the Uniform System of Financial Records, as prescribed by the Auditor General, in conjunction with the Department of Education. The Uniform System of Financial Records shall include standards to ensure that enrollment is determined by all school districts on a uniform basis.

Historical Note

Adopted effective November 10, 1980 (Supp. 80-6).
Amended effective February 20, 1997 (Supp. 97-1).

R7-2-804. Compliance with Federal Statutes or Regulations

- A. This Section prescribes procedures to be used in filing and processing written complaints alleging the failure of a public agency or school district to comply with federal statutes or regulations applicable to federal education programs conducted and subject to Title 34, Code of Federal Regulations, § 76.780.
- B. The Arizona Department of Education (Department) shall accept and investigate complaints provided that the complaint:
 1. Is written and signed by the complaining party or his or her designated representative;
 2. Sets forth the facts forming the basis of the complaint; the facts set forth in the complaint, if true, could constitute noncompliance by a public agency or school district;
- C. Upon receipt of a complaint setting forth the criteria contained in (B), the Department shall immediately begin an impartial review which may include onsite investigations. If in the course of the review it is determined that the nature of the complaint is not a matter of noncompliance, the complainant will be so informed and advised of appropriate means of resolving the complaint.
- D. A written decision with specific findings shall be issued by the Department within 60 calendar days of receipt of the written complaint. If corrective action is required, such action shall be designated in the decision and shall include the time line for correction and possible consequences for continued noncompliance. A copy of the written decision shall be sent to the complaining party and the agency involved on or before the expiration of the 60-day period. An extension of this timeline will be permitted only if exceptional circumstances exist with respect to a particular complaint.
- E. If there appears to be a failure or refusal to comply with the applicable law or regulations, and if the noncompliance or refusal to comply cannot be corrected or avoided by informal means, compliance shall be effected by the Superintendent and the State Board of Education by any means authorized by law or by rule and regulation. The Superintendent shall retain

jurisdiction over the issue of noncompliance with the law or regulations and shall retain jurisdiction over the implementation of any corrective action required. However, nothing herein shall preclude the availability of an informal resolution between the complainant and the agency or school district involved, nor shall this Section preclude the availability of any administrative hearing remedies to resolve such disputes or judicial review of such administrative remedies.

- F. If, pursuant to an investigation by the Department, the Superintendent finds a failure to comply with applicable law or regulations, he or she shall so inform the agency or school district and compliance shall be obtained by informal means whenever possible. If corrective action is required, such action shall be designated in this decision and shall include the time lines for correction and the possible consequences for continued noncompliance.
- G. A summary of each complaint received and investigated by the Department and the decision of the Superintendent shall be submitted annually to the State Board of Education for informational purposes only. Any personally identifiable information shall be deleted from the report to the State Board of Education.
- H. The complainant may request the U.S. Department of Education to review the final decision of the Superintendent. The Department shall inform a complainant of the procedures for requesting a review by the U.S. Department of Education.

Historical Note

Adopted effective February 11, 1983 (Supp. 83-1).
Amended subsection (B) effective March 13, 1986 (Supp. 86-2). The Section heading has been updated to title case, the word "rule" has been updated to "Section." Both changes reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-805. Education Division General Administrative Regulations

- A. This Section prescribes procedures to be used for appealing a decision by the Arizona Department of Education (Department) relating to federal programs administered by the Department and subject to the Education Division General Administrative Regulations (EDGAR) Title 34, Code of Federal Regulations § 75 and 76.
- B. A school district or public agency may request a hearing if it alleges that the Department violated a federal statute or regulation by:
 1. Terminating further assistance for an approved project;
 2. Ordering, in accordance with a final state audit resolution determination, the repayment of misspent or misapplied federal funds;
 3. Disapproving or failing to approve the application or project in whole or in part; or
 4. Failing to provide funds in amounts in accordance with the requirements of statutes and regulations.
 5. Not approving the school district or public agency's proposal for funding.
- C. When a school district or public agency requests a hearing, the Superintendent of Public Instruction (Superintendent) shall select a hearings appeals panel from Department staff other than those within the same division as the federal program area under which the appeal rose.
- D. Hearing procedures
 1. An applicant must request a hearing by notifying the Superintendent by certified mail of its decision to appeal a decision as set forth in subsection (B). If the applicant is

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or represents a school district, authorization to seek a hearing must come from the Governing Board of that school district.

2. The request for hearing must set forth the nature of the complaint and the facts on which the complaint is based.
 3. The applicant shall request a hearing within 30 days of the date notice of the Department action was sent. For purposes of this Section, the date of notice by the Department is the date of sending notice of the Department action.
 4. A hearing shall be scheduled before the appeal panel within 30 days from the receipt of the request.
 5. The appeals panel chairperson shall give at least 10 days' notice of the hearing date to the complainant.
 6. The parties may submit written materials no later than five days prior to the hearing, such materials to consist of six copies.
 7. At the hearing the parties may present evidence in writing and through witnesses and may be represented by counsel.
 8. The length and order of the presentation may be determined by the appeals panel chairperson.
 9. If the complainant or authorized representative fails to appear at the designated time, place and date of the hearing, the appeal shall be considered closed and the process terminated.
- E. Decision.** No later than five days after the hearing, the appeals panel shall forward to the Superintendent its recommendation relating to the school district or agency's request for review. Within 10 days after the hearing, the Superintendent shall issue his or her written ruling, including findings of fact and reasons for the ruling. If the Superintendent determines that the Department's action was contrary to the statutes and regulations that govern the applicable program, the Superintendent shall rescind the action.
- F. Appeal.** If the Superintendent does not rescind the Department action, the applicant may appeal to the U.S. Department of Education. The applicant shall file a notice of appeal with the U.S. Department of Education within 20 days after the applicant has been notified by the Superintendent of his or her decision by certified mail.
- G. State Board of Education submission.** The Superintendent shall annually submit to the State Board of Education as an informational item summaries of all decisions including the findings of fact of hearing procedures conducted pursuant to this Section for State Board of Education review.

Historical Note

Adopted effective June 24, 1983 (Supp. 83-3). The Section heading has been updated to title case, the word "rule" has been updated to "Section," the phrase, "of this rule" has been removed to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-806. Repealed**Historical Note**

Adopted effective February 6, 1984 (Supp. 84-1). Section repealed by final rulemaking at 7 A.A.R. 182, effective December 15, 2000 (Supp. 00-4).

R7-2-807. Repealed**Historical Note**

Adopted as an emergency effective August 2, 1984 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Permanent rule adopted effective

November 27, 1984 (Supp. 84-6). Amended effective May 3, 1993 (Supp. 93-2). Repealed effective February 20, 1997 (Supp. 97-1).

R7-2-808. Pupil Participation in Extracurricular Activities

The following standards are effective for students in grade six, if part of a middle school, and grades seven through 12.

1. Definition. Extracurricular activities are:
 - a. All interscholastic activities which are of a competitive nature and involve more than one school where a championship, winner, or rating is determined; and all those endeavors of a continuous and ongoing nature for which no credit is earned in meeting graduation or promotional requirements and are organized, planned, and sponsored by the district consistent with district policy.
 - b. Activities which are an integral part of a credit class shall be excepted from the rule.
2. Eligibility requirements and ineligibility.
 - a. Eligibility. To be eligible to participate in extracurricular activities, a student shall be required to:
 - i. Earn a passing grade in each course in which the student is enrolled; and
 - ii. Maintain satisfactory progress toward promotion or graduation.
 - b. Ineligibility. When it is determined that a student has failed to meet the requirements specified for eligibility, the student shall be declared ineligible to participate in extracurricular activities and shall remain ineligible until the requirements of eligibility are met.
 - i. The governing board shall establish the criteria for a passing grade and satisfactory progress toward promotion or graduation, taking into account the needs of children placed in special education programs pursuant to R7-2-401 et seq. Passing grades shall be determined on a cumulative basis, from the beginning of instruction to the recording of a final grade for the course.
 - ii. Every nine weeks or less, as determined by the governing board, district personnel shall review the progress of students to determine their eligibility status. If a student is declared ineligible, the student shall remain ineligible until a subsequent check is performed and it is determined that the student meets the eligibility requirements specified in subsection (2)(a).
3. Each governing board shall adopt a policy and implement a program pursuant to that policy to provide:
 - a. Oral or written preliminary notice to all district students and their parents or guardian of pending ineligibility;
 - b. Written notice to students and their parents or guardians when ineligibility has been determined;
 - c. Educational support services to students declared ineligible because of this Section, as well as those notified of pending ineligibility.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended subsection (B) and added a new subsection (D) effective February 17, 1988 (Supp. 88-1). Amended subsection (A) effective August 15, 1988 (Supp. 88-3). Amended effective April 28, 1989 (Supp. 89-2).

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Amended effective December 20, 1991 (Supp. 91-4). Section R7-2-808 repealed, new Section adopted effective July 10, 1992 (Supp. 92-3). Amended effective September 20, 1996 (Supp. 96-3). Amended effective December 22, 1997 (Supp. 97-4). Numerals were corrected and the word “rule” was replaced with “Section” to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-809. Emergency Administration of Auto-Injectable Epinephrine

A. Applicability. This Section applies to:

1. Any school district or charter school that voluntarily chooses to stock auto-injectable epinephrine pursuant to A.R.S. § 15-157.
2. All school districts and charter schools when required to stock auto-injectable epinephrine pursuant to A.R.S. § 15-157.

B. Definitions. The following definitions are applicable to this Section:

1. “Anaphylactic shock” is a severe systemic allergic reaction, resulting from exposure to an allergen, which may result in death.
2. “Auto-injectable epinephrine” means a disposable drug delivery device that is easily transportable and contains a premeasured single dose of epinephrine used to treat anaphylactic shock.
3. “Standing order” means a prescription protocol or instructions issued by the chief medical officer of the department of health services, the chief medical officer of a county health department, a doctor of medicine licensed pursuant to A.R.S. Title 32, Chapter 13, a doctor of naturopathic medicine licensed pursuant to A.R.S. Title 32, Chapter 14, a doctor of osteopathic medicine licensed pursuant to A.R.S. Title 32, Chapter 17, a nurse practitioner licensed pursuant to A.R.S. Title 32, Chapter 15 or a physician assistant licensed pursuant to A.R.S. Title 32, Chapter 25 for non-individual specific epinephrine.

C. Annual training in the administration of auto-injectable epinephrine.

1. Each school district and charter school shall designate at least two school personnel for each school site who shall be required to receive annual training in the proper administration of auto-injectable epinephrine in cases of anaphylactic shock pursuant to standing order. One or more of the trained personnel may be a school nurse or athletic trainer if they are employed by the school.
2. Training in the administration of auto-injectable epinephrine shall be conducted in accordance with minimum standards and curriculum developed by the Arizona Department of Health Services in consultation with the Arizona Department of Education.
3. At a minimum, training shall include procedures to follow when responding to anaphylactic shock, including direction regarding summoning appropriate emergency care, and documenting, tracking and reporting of the event.
4. Training shall also include standards and procedures for acquiring a supply of at least two juvenile doses and two adult doses of auto-injectable epinephrine, restocking auto-injectable epinephrine upon use or expiration, and storing all auto-injectable epinephrine at room temperature and in secure, easily accessible locations on school sites.

5. Training shall be conducted via courses provided in collaboration with a public health organization or by a regulated health care professional, whose competencies include the administration of auto-injectable epinephrine, including but not limited to a licensed school nurse, certified emergency medical technician or licensed athletic trainer.
6. School districts and charter schools shall maintain and make available upon request a list of those school personnel authorized and trained to administer auto-injectable epinephrine pursuant to a standing order.

D. Annual training on the recognition of anaphylactic shock symptoms and procedures to follow when anaphylactic shock occurs.

1. Each school district and charter school shall require all school site personnel to receive an annual training on the recognition of anaphylactic shock symptoms and procedures to follow when anaphylactic shock occurs.
2. Training shall be conducted in accordance with minimum training standards developed by the Arizona Department of Health Services in consultation with the Arizona Department of Education and shall follow the most current guidelines issued by the American Academy of Pediatrics.
3. Training shall be conducted in collaboration with a public health organization by a regulated health care professional whose competencies include the recognition of anaphylactic shock symptoms and procedures to follow when anaphylactic shock occurs, including but not limited to a licensed school nurse, certified emergency medical technician or licensed athletic trainer.

E. Procedures for annually requesting a standing order for auto-injectable epinephrine.

1. Each school district or charter school shall obtain a standing order from its designated district or charter school physician licensed pursuant to A.R.S. Title 32, Chapter 13, 14, 17, 15, or 25 and if no such physician is available to provide a standing order, from the chief medical officer of the Department of Health Services or the chief medical officer of a county health department.
2. Standing orders shall be renewed annually and upon the change of any designated school district or charter school physician.
3. Standing orders shall identify the appropriate dosage of auto-injectable epinephrine to administer based upon weight and the frequency at which auto-injectable epinephrine may be administered if symptoms persist or return.

F. Procedures for the administration of auto-injectable epinephrine in emergency situations.

1. All school districts and charter schools shall adopt procedures for the emergency administration of auto-injectable epinephrine by designated trained personnel.
2. Procedures shall address, at a minimum, the following requirements:
 - a. Determining if symptoms indicate possible anaphylactic shock.
 - b. Selecting the appropriate dosage of auto-injectable epinephrine to administer pursuant to a standing order.
 - c. Injecting epinephrine via auto-injector pursuant to a standing order, noting the time and dose given.
 - d. Calling 911 to advise that anaphylactic shock is suspected and epinephrine was administered.

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- e. Keeping the person stable until emergency responders arrive.
 - f. Advising school medical personnel and administration of the incident.
 - g. Repeating dose pursuant to a standing order when symptoms persist and emergency responders have not arrived.
 - h. Providing emergency responders with used epinephrine auto-injector labeled with name, date and time administered.
 - i. Assuring that parents/guardians have been notified and advised to promptly alert student's primary care physician of the incident.
 - j. Completing written documentation of the incident, detailing who administered the injection, the rationale for administering the injection, the approximate time of the injection or injections, and notifications made to school administration, emergency responders, the student's parents or guardians, and the doctor or chief medical officer who issued the standing order.
 - k. Ordering replacement dose or doses of auto-injectable epinephrine.
 - l. Reviewing any incident involving emergency administration of epinephrine to determine the adequacy of response.
- G.** All school districts and charter schools shall report to the Arizona Department of Health Services all incidents of use of auto-injectable epinephrine pursuant to this Section in the format prescribed by the Arizona Department of Health Services.
- Historical Note**
- Adopted effective July 30, 1992 (Supp. 92-3). Amended effective April 9, 1993 (Supp. 93-2). Repealed effective February 20, 1997 (Supp. 97-1). Amended by final exempt rulemaking at 21 A.A.R. 1784, effective February 24, 2014 (Supp. 15-3). Amended by final exempt rulemaking at 24 A.A.R. 3279, effective October 22, 2018 (Supp. 18-4). The word "rule" has been updated to "Section" to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 1531, effective August 27, 2021 (Supp. 21-3).
- R7-2-810. Emergency Administration of Inhalers**
- A.** Applicability. This Section applies to:
1. Any school district or charter school that voluntarily chooses to stock inhalers pursuant to A.R.S. § 15-158.
 2. All school districts when required to stock inhalers pursuant to A.R.S. § 15-158.
- B.** Definitions. The following definitions are applicable to this Section:
1. "Authorized Entity" refers to any school district or charter school.
 2. "Bronchodilator" means Albuterol or another short-acting bronchodilator that is approved by the United States Food and Drug Administration for the treatment of respiratory distress.
 3. "Inhaler" means a device that delivers a bronchodilator to alleviate symptoms of respiratory distress that is manufactured in the form of a metered-dose inhaler or dry-powder inhaler that includes a spacer or holding chamber that attaches to the inhaler to improve the delivery of the bronchodilator.
 4. "Personnel" means employees at a school district or charter school or nurses who are under contract with the school district or charter school.
 5. "Respiratory distress" includes the perceived or actual presence of coughing, wheezing or shortness of breath.
 6. "Standing order" means a prescription protocol or instructions issued by the chief medical officer of a county health department, physicians licensed pursuant to A.R.S. Title 32, Chapter 13, 14, or 17, or nurse practitioners licensed pursuant to A.R.S. Title 32, Chapter 15.
- C.** Annual training on recognition of symptoms of respiratory distress and administration of inhalers:
1. Each school district and charter school that elects to administer inhalers shall designate at least two personnel at each school site who shall be required to be trained in the recognition of respiratory distress symptoms, the procedures to follow when respiratory distress occurs, and the administration of inhalers, as directed on the prescription protocol. While each school is required to have two trained personnel in order to implement the stock inhaler policies, schools may train as many personnel as they feel necessary.
 2. Training in the administration of inhalers shall be conducted by a nationally recognized organization or professionally certified medical professionals that are experienced in training laypersons in emergency health treatment.
 3. Training may be conducted online or in person and at a minimum shall include:
 - a. How to recognize signs and symptoms of respiratory distress in accordance with good clinical practice.
 - b. Standards and procedures for the storage of inhalers.
 - c. Standards and procedures for the administration of an inhaler, as directed on the prescription protocol.
 - d. If necessary, emergency follow-up procedures after the administration of an inhaler.
 4. The organization that conducts the training shall issue a certificate to each person who successfully completes the training. The personnel shall submit this certificate to the school.
 5. Annual training is required for all designated personnel of the school.
 6. School districts and charter schools shall maintain and make available on request a list of school personnel who are authorized to administer inhalers pursuant to a standing order.
- D.** Procedures for annually requesting a standing order and the prescription for the inhaler and holding chamber
1. Each participating school district or charter school shall obtain a standing order and prescription for inhalers and spacers or holding chambers pursuant to A.R.S. § 15-158 from the chief medical officer of a county health department, a physician licensed pursuant to A.R.S. Title 32, Chapter 13, 14, or 17, or a nurse practitioner pursuant to A.R.S. Title 32, Chapter 15.
 2. Standing orders and prescriptions shall be requested and renewed annually.
- E.** Procedures for the administration of inhalers in emergency situations:
1. School districts and charter schools that elect to administer inhalers shall:
 - a. Prescribe and enforce policies and procedures for the emergency administration of inhalers by design-

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- nated and trained medical and non-medical personnel.
- b. Designate at least two personnel at each school to be trained to recognize respiratory distress and administer inhalers.
 - c. Require designated personnel to participate in annual training and provide a certificate of successful completion to the school.
 - d. Designate personnel who have completed the required training to be responsible for the storage, maintenance, control and general oversight of the inhalers and spacers or holding chambers acquired by the school.
 - e. Acquire and stock a supply of inhalers and spacers or holding chambers pursuant to a standing order prescription.
 - f. Store medication in a secure, temperature appropriate location, unlocked and readily accessible to designated personnel.
2. Pursuant to a standing order, school district or charter school personnel who are trained in the administration of inhalers may administer or assist in the administration of an inhaler to a pupil or adult whom the personnel believes in good faith to be exhibiting symptoms of respiratory distress while at school or a school-sponsored activity.
 3. Procedures adopted by school districts and charter schools shall address at a minimum, the following requirements:
 - a. Determine if symptoms indicate possible respiratory distress or emergency and determine if the use of an inhaler will properly address the respiratory distress or emergency.
 - b. Administer the correct dose of inhaler medication, as directed by the prescription protocol, regardless of whether the individual who is believed to be experiencing respiratory distress has a prescription for an inhaler and spacer or holding chamber or has been previously diagnosed with a condition requiring an inhaler.
 - c. Restrict physical activity, encourage slow breaths and allow the individual to rest.
 - d. Assure that trained personnel stay with the subject who has been administered inhaler medication until it is determined whether the medication alleviates symptoms.
 - e. If applicable, instruct office staff to notify the school nurse if the inhaler is administered by a trained but non-licensed person.
 - f. Instruct school staff to notify the parent or guardian.
 - g. Call 911 if severe respiratory distress continues. Advise that inhaler medication was administered and stay with the person until emergency medical responders arrive.
 - h. If the individual shows improvement, keep the individual under supervision until breathing returns to normal, with no more chest tightness or shortness of breath, and the individual can walk and talk easily.
 - i. Allow a student to return to class if breathing has returned to normal and all symptoms have resolved.
 - j. Notify a parent or guardian once the inhaler has been administered and the student has returned to class.
 - k. Document the incident detailing who administered the inhaler, the approximate time of the incident,

notifications made to the school administration, emergency responders, and parents/guardians.

1. Retain the incident data on file at the school pursuant to the general records retention schedule regarding health records for school districts and charter schools established by the Arizona State Library, Archives and Public Records.
- m. Order replacement inhalers, spacers and holding chambers as needed.
4. A school district or charter school may accept monetary donations for or apply for grants for the purchase of inhalers and spacers or holding chamber or may accept donations of inhalers and spacers or holding chambers directly from the product manufacturers.
- F. Immunity from civil liability is prescribed in A.R.S. § 15-158.

Historical Note

New Section made by final exempt rulemaking at 24 A.A.R. 146, effective August 9, 2018; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 24 A.A.R. 3279, effective October 22, 2018 (Supp. 18-4). The word "rule" has been updated to "Section" to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 1531, effective August 27, 2021 (Supp. 21-3).

ARTICLE 9. SCHOOL DISTRICT BUDGET AND ACCOUNTING**R7-2-901. Teacher Experience Index Provisions**

- A. General purpose. These guidelines are provided for local governing boards to assist in development of policies identifying activities which contribute to the instructional programs at the local school level. The policies will define what constitutes a full-time vs. a part-time teacher position for the purpose of developing a school district's Teacher Experience Index.
- B. Local governing boards may include the following activities in their policies as those which contribute toward an instructional program. This listing is not intended to be exclusive, and districts may utilize additional activities:
 1. Classroom related:
 - a. Classroom instruction,
 - b. Preparation time,
 - c. Supervision,
 - d. Evaluation,
 - e. Curriculum development,
 - f. Housekeeping chores, i.e., daily reports, blackboard preparation, etc.
 2. School related:
 - a. Teacher conferences,
 - b. Parent conferences,
 - c. Professional association activities,
 - d. Professional days,
 - e. District directed reports,
 - f. Participation in activities related to education scheduled by county, state, or federal agencies.

Professional association activities must be, in the opinion of the local governing board, for a public purpose and must not be for the sole benefit of the professional association.
 3. Other district related:
 - a. Special assignments,
 - b. School board approved leave,
 - c. Home visitation,
 - d. Home instruction,

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- e. Off-site instruction,
 - f. Research,
 - g. In-service training.
- In-service training activities are those approved by the local governing board and intended to promote the educational advancement of the youth of the district. These activities may be conducted either during the regular school day or at other times.

- C. A local governing board may exercise its option to contract with certified personnel on a less than full-time basis in order to meet local district needs.
- D. In those instances where a district may contract with certificated personnel, and the responsibilities specified within the contract include activities not related to instruction, then the district must define in terms of "full-time equivalencies" that portion which is instruction-related.

Historical Note

Adopted as an emergency effective May 21, 1980, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 80-3). Former emergency adoption now adopted without change effective October 7, 1980 (Supp. 80-5).

R7-2-902. Independent Accounting Responsibility

- A. The governing board of a school district applying to operate with full independence from the county school superintendent as provided in A.R.S. § 15-914.01, shall apply to the State Board of Education and submit a plan for accounting responsibility to the county school superintendent of the county in which the school district is located and the Department of Education before January 1, which documents the following:
 - 1. Administrative and internal accounting controls designed to achieve compliance with the Uniform System of Financial Records and the following objectives:
 - a. Procedures for approving, preparing and signing vouchers and warrants;
 - b. Procedures to ensure verification of administrators' and teachers' certification records with the Department of Education for all classroom and administrative personnel required to hold a certificate by the State Board pursuant to A.R.S. § 15-203, before issuing warrants for their services;
 - c. Procedures to account for all revenues, including allocation of certain revenues to funds as provided in the revenues section of the Uniform Accounting Manual for Arizona County School Superintendents;
 - d. Procedures for reconciling the accounting records monthly to the county treasurer as provided in the reconciliations section of the Uniform Accounting Manual for Arizona County School Superintendents.
 - 2. A compilation of resources required to implement accounting responsibility, including personnel, training and equipment, and a comprehensive analysis of the budgetary implications of accounting responsibility for the school district and the county treasurer.
- B. Before January 1 of the fiscal year preceding the fiscal year of implementation and before submitting an application to assume accounting responsibility, a school district shall apply for evaluation by the Auditor General. After completing the evaluation, the Auditor General may recommend approval or denial of accounting responsibility to the State Board of Education. The evaluation by the Auditor General shall be performed contingent on staff availability and may be billed to the school district at cost. Evaluation at a minimum shall include the following:

- 1. The most recent financial statements audited by an independent certified public accountant.
- 2. The most recent reports on internal control, compliance and uniform system of financial records compliance questionnaire prepared by an independent certified public accountant or procedural review completed by the Auditor General.
- 3. The working papers of the independent certified public accountant responsible for auditing the school district, if deemed appropriate by the Auditor General.
- 4. A procedural review if deemed appropriate by the Auditor General.
- C. Before January 1 of the fiscal year preceding the fiscal year of implementation and before submitting an application to assume accounting responsibility, a school district shall apply for evaluation by the county treasurer of the county in which the school district is located. After completing the evaluation, the county treasurer may recommend approval or denial of accounting responsibility to the State Board of Education. The evaluation by the county treasurer shall be performed contingent on staff availability and may be billed to the school district at cost. Evaluation by the county treasurer at a minimum shall include an analysis of the computer programming required for the county to manage the school districts funds.
- D. School districts that are approved by the State Board of Education to assume accounting responsibility shall contract with an independent certified public accountant for an annual financial and compliance audit. The Auditor General may reevaluate the school district annually based on the audit to determine compliance with the uniform system of financial records. If permitted by federal law, a school district may convert to a biennial audit schedule if the previous annual audit conducted pursuant to this subsection did not contain any significant negative findings. If a biennial audit of a school district conducted pursuant to this subsection contains any significant negative findings, the school district shall convert back to an annual audit schedule. If a school district is required to convert back to an annual audit schedule pursuant to this subsection because of significant negative findings, the school district may subsequently convert to a biennial audit schedule if the previous two annual audits did not contain any significant negative findings. For the purposes of this subsection, "significant negative finding" means a finding that results in the issuance of a letter of noncompliance from the Auditor General.
- E. Upon receipt of an accounting responsibility plan as prescribed in subsection (A), the county treasurer shall establish acceptable standards for interface by school districts with the county treasurer, including specifications for computer hardware and software compatibility and procedures to ensure the capacity of each school district to reconcile accounts with those of the county treasurer.
- F. Any school district that fails to maintain accounting standards as provided by the uniform system of financial records and that is found to be in noncompliance with the uniform system of financial records by the State Board of Education as provided in A.R.S. § 15-272 is not eligible to participate in the program provided by this Section.

Historical Note

Adopted effective February 4, 1988 (Supp. 88-1). The word "rule" has been updated to "Section" to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 29 A.A.R. 1402 (June 23, 2023), with an effective date of May 22, 2023 (Supp. 23-2).

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ARTICLE 10. SCHOOL DISTRICT PROCUREMENT**PART I. IN GENERAL****R7-2-1001. Definitions**

In Articles 10 and 11, unless the context otherwise requires:

1. "Acceptance period" means the period of time specified in the solicitation that a bid or proposal is irrevocable, except as specified in R7-2-1030.
2. "Actual energy production" means the actual amount of energy that flows from the energy production measure on an annual basis as measured by a meter in kilowatt hours alternating current.
3. "Advantageous to the school district" means in the best interest of the school district, but does not necessarily mean lowest bid/cost.
4. "Affiliate" means any person whose governing instruments require it to be bound by the decision of another person or whose governing board includes enough voting representatives of the other person to cause or prevent action, whether or not the power is exercised. It also may include persons doing business under a variety of names, or where there is a parent-subsidary relationship between persons.
5. "Alternative project delivery methods for construction" means construction-manager-at-risk, design-build, and job-order-contracting construction services.
6. "Architect services," "engineer services," "land surveying services," "geologist services" and "landscape architect services" mean those professional services within the scope of the practice of those services as provided in A.R.S. Title 32, Chapter 1, Article 1.
7. "Award" means a determination by the school district that it is entering into a contract with one or more bidders or offerors.
8. "Bid" means a response to an invitation for bids and includes an offer to contract with the school district.
9. "Bidder" means a person submitting a bid in response to an invitation for bids.
10. "Brand name or equal specification" means a written description that uses one or more manufacturers' names or catalog numbers to describe the standard of quality, performance, and other characteristics needed to meet the school district's requirements, and that provides for the submission of equivalent products.
11. "Brand name specification" means a written description limited to one or more items by manufacturers' names or catalog numbers.
12. "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture or any other private legal entity.
13. "Change order" means a written order that is approved by the governing board and that directs the contractor to make changes that the changes clause of the contract authorizes the governing board to order.
14. "Clergy" means a minister of a religion.
15. "Coefficient" means the contractor's price adjustment to the unit price in a job order contract. Several coefficients may apply to the unit price book.
16. Construction:
 - a. Means the process of building, altering, repairing, improving or demolishing any school district structure or building, or other public improvements of any kind to any public real property.
 - b. Construction does not include:
 - i. The routine operation, routine repair or routine maintenance of existing facilities, structures, buildings or real property.
 - ii. The investigation, characterization, restoration or remediation due to an environmental issue of existing facilities, structures, buildings or real property.
17. "Construction-manager-at-risk" means a project delivery method in which:
 - a. There is a separate contract for design services and a separate contract for construction services, except that instead of a single contract for construction services, the school district may elect separate contracts for preconstruction services during the design phase, for construction during the construction phase and for any other construction services.
 - b. The contract for construction services may be entered into at the same time as the contract for design services or at a later time.
 - c. Design and construction of the project may be either:
 - i. Sequential with the entire design complete before construction commences.
 - ii. Concurrent with the design produced in two or more phases and construction of some phases commencing before the entire design is complete.
 - d. Finance services, maintenance services, operations services, preconstruction services and other related services may be included.
18. "Construction services" means either of the following for construction-manager-at-risk, design-build and job-order-contracting project delivery methods:
 - a. Construction, excluding services, through the construction-manager-at-risk or job-order-contracting project delivery methods.
 - b. A combination of construction and, as elected by the school district, one or more related services, such as finance services, maintenance services, operations services, design services and preconstruction services, as those services are authorized in the definitions of construction-manager-at-risk, design-build or job-order-contracting in this Section.
19. "Contract" means all types of agreements, including purchase orders, regardless of what they may be called, for the procurement of materials, services, construction or construction services, or the disposal of materials.
20. "Contract modification" means any written alteration in the terms and conditions of any contract accomplished by mutual action of the parties to the contract.
21. "Contractor" means any person who has a contract with a school district.
22. "Cooperative purchasing" means procurement conducted by, or on behalf of, more than one public procurement unit.
23. "Cost" means the aggregate cost of all materials and services, including labor performed by school district employees.
24. "Cost data" means information concerning the actual or estimated cost of labor, material, overhead and other cost elements that have been actually incurred or that are expected to be incurred by the offeror or contractor in performing the contract.

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25. "Cost-plus-a-percentage-of-cost contract" means a contract that, prior to completion of the work, the parties agree that the fee will be a predetermined percentage of the cost of the work.
26. "Data" means documented information, regardless of form or characteristic.
27. "Days" means calendar days and shall be computed pursuant to A.R.S. § 1-243.
28. "Defective data" means data that is inaccurate, incomplete or outdated.
29. "Dentist" means a person licensed pursuant to A.R.S. Title 32, Chapter 11.
30. "Descriptive literature" means information available in the ordinary course of business that shows the characteristics, construction or operation of an item offered in a bid or proposal.
31. "Design-bid-build" means a project delivery method in which:
- There is a sequential award of two separate contracts.
 - The first contract is for design services.
 - The second contract is for construction.
 - Design and construction of the project are in sequential phases.
 - Finance services, maintenance services and operations services are not included.
32. "Design-build" means a project delivery method in which:
- There is a single contract for design services and construction services, except that instead of a single contract for design services and construction services, the school district may elect separate contracts for preconstruction services and design services during the design phase, for construction and design services during the construction phase and for any other construction services.
 - Design and construction of the project may be either:
 - Sequential with the entire design complete before construction commences.
 - Concurrent with the design produced in two or more phases and construction of some phases commencing before the entire design is complete.
 - Finance services, maintenance services, operations services, preconstruction services and other related services may be included.
33. "Design professional" means an individual or firm that is registered by the state board of technical registration pursuant to A.R.S. Title 32, Chapter 1 to practice architecture, engineering, geology, landscape architecture or land surveying or any combination of those professions and any person employed by the registered individual or firm.
34. "Design professional service contract" means a written agreement relating to the planning, design, construction administration, study, evaluation, consulting, inspection, surveying, mapping, material sampling, testing or other professional, scientific or technical services furnished in connection with any actual or proposed study, planning, survey, environmental remediation, construction, improvement, alteration, repair, maintenance, relocation, moving, demolition or excavation of a structure, street or roadway, appurtenance, facility or development or other improvement to land.
35. "Design professional services" means architect services, engineer services, land surveying services, geologist services or landscape architect services or any combination of those services performed by or under the supervision of a design professional or an employee or subconsultant of the design professional.
36. "Design requirements" means at a minimum:
- The school district's written description of the project or service to be procured, including:
 - The required features, functions, characteristics, qualities and properties.
 - The anticipated schedule, including start, duration and completion.
 - The estimated budgets applicable to the specific procurement for design and construction and, if applicable, for operation and maintenance.
 - May include:
 - Drawings and other documents illustrating the scale and relationship of the features, functions and characteristics of the project, which shall all be prepared by a design professional who is registered pursuant to A.R.S. § 32-121.
 - Additional design information or documents that the school district elects to include.
37. "Design services" means architect services, engineer services or landscape architect services.
38. "Designee" means the governing board member or school district employee who has been delegated procurement authority by the governing board as specified by board action.
39. "Detailed record" means minutes, that shall include the date, time, place, persons in attendance and a summary of what was said by whom and the decisions made. The minutes may be made either in writing or by a recording.
40. "Discussions" means an exchange or series of exchanges between the school district and a person who has submitted an unpriced technical offer or a proposal, resulting in an opportunity for the person to revise the unpriced technical offer or proposal prior to final evaluation by the school district.
41. "District representative" means a district employee or the governing board acting within the limits of the district representative's authority. There may be more than one appointed for different purposes and different procurements.
42. "Earth-moving, material-handling, road maintenance and construction equipment" means a track-type tractor, motor grader, excavator, landfill compactor, wheel tractor scraper, off-highway truck, wheel loader or track loader, having a published manufacturer's minimum unit list price of \$50,000 or more and a minimum expected life cycle of three years.
43. "Effective utility rate" means the average price per kilowatt hour that a school district paid to its utility provider for electricity service to the facility that is the subject of the guaranteed energy production contract over the previous twelve months.
44. "Eligible procurement unit" means a public procurement unit, a nonprofit corporation, or an external procurement activity.
45. "Employee" means an individual drawing a salary from a school district and any noncompensated individual performing personal services for any school district.

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46. "Energy baseline" means a calculation of the amount of energy used in an existing facility before the installation or implementation of the energy cost savings measures.
47. "Energy cost savings" means one or both of the following:
 - a. An estimated reduction in net fuel costs, energy costs, water costs, stormwater fees or other utility costs, or related net operating costs, including costs for anticipated equipment replacement and repair, from or as compared to an established baseline of those costs.
 - b. An estimated revenue increase associated with additional facility use or the use of improved meters or other measuring devices due to improvements included in the guaranteed energy cost savings contract.
48. "Energy cost savings measure" means a training program or facility alteration designed to reduce energy consumption, which may include one or more of the measures authorized in A.R.S. § 15-213.01, and any related meters or other measuring devices.
49. "Energy production measure" means renewable and alternative energy projects or renewable energy power service agreements.
50. "Established catalog price" means the price included in a catalog, price list, schedule or other form that:
 - a. Is regularly maintained by a manufacturer, distributor or contractor.
 - b. Is either published or otherwise available for inspection by customers.
 - c. States prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the materials or services involved.
51. "Excess materials" means any materials which have a remaining useful life but which are no longer required by the using school district in possession of the materials.
52. "External procurement activity" means any buying organization not located in this state that would qualify as a public procurement unit.
53. "Fair market value" means the price at which sales have been consummated for materials of like type, quality, and quantity in a particular market at the time of acquisition.
54. "Filed" means delivery to the district representative, school district or its hearing officer, whichever is applicable. A time/date stamp affixed to a document by the school district shall be determinative of the time or delivery for purposes of filing.
55. "Finance services" means financing for a construction services project.
56. "General Services Administration contract" means contracts awarded by the United States government General Services Administration.
57. "Gift or benefit" means a payment, distribution, expenditure, advance, deposit or donation of monies, any intangible personal property or any kind of tangible personal or real property that is not of nominal value such as a greeting card, t-shirt, mug or pen. Gift or benefit does not include either:
 - a. Food or beverage.
 - b. Expenses or sponsorships relating to a special event or function to which individuals involved in procurement and purchasing are invited.
58. "Governing board" has the meaning defined in A.R.S. § 15-101.
59. "Governing instruments" means legal documents that establish the existence of an organization and define its powers, including articles of incorporation or association, constitution, charter, by-laws, or similar documents.
60. "Guaranteed energy cost savings contract" means a contract for implementing one or more energy cost savings measures.
61. "Guaranteed energy price" means the agreed on price to be charged to the school district for each kilowatt hour alternating current of actual energy production as such may change on an annual basis as set forth in the guaranteed energy production contract.
62. "Guaranteed energy production" means the amount of energy, measured in kilowatt hours alternating current, that the qualified provider guarantees for each year of the guaranteed energy production contract.
63. "Guaranteed energy production contract" means a contract for implementing one or more energy production measures between one or more qualified providers and a school district.
64. "Guaranteed energy production shortfall" means the amount, if any, that the actual energy production is less than the guaranteed energy production in any given year.
65. "Incremental award" means an award of portions of a definite quantity requirement to more than one contractor. Each portion is for a definite quantity and the sum of the portions is the total definite quantity required.
66. "Interested party" means an actual or prospective bidder or offeror whose economic interest may be affected substantially and directly by the issuance of a solicitation, the award of a contract or by the failure to award a contract. Whether an actual or prospective bidder or offeror has an economic interest will depend upon the circumstances of each case.
67. "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the world wide web.
68. "Invitation for bids" means all documents, whether attached or incorporated by reference, which are used for soliciting bids in accordance with the procedures prescribed in R7-2-1024.
69. "In writing" has the same meaning as "written" or "writing" in A.R.S. § 47-1201, which includes printing, type-writing, electronic transmission, facsimile, or any other intentional reduction to tangible form.
70. "Job-order-contracting" means a project delivery method in which:
 - a. The contract is a requirements contract for indefinite quantities of construction.
 - b. The construction to be performed is specified in job orders issued during the contract.
 - c. Finance services, maintenance services, operations services, preconstruction services, design services and other related services may be included.
71. "Legal counsel" means a person licensed as an attorney by the Arizona Supreme Court.
72. "Life cycle" means the useful life of the earth-moving, material-handling, road maintenance and construction equipment to the original using school district.
73. "Local public procurement unit" means any political subdivision, any agency, board, department or other instru-

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- mentality of such political subdivision, and any nonprofit corporation created solely for the purpose of administering a cooperative purchase under Articles 10 and 11.
74. "Maintenance services" means routine maintenance, repair and replacement of existing facilities, structures, buildings or real property.
 75. "Materials" means all property, including equipment, supplies, printing, insurance and leases of property, but does not include land, a permanent interest in land or real property or leasing space.
 76. "May" denotes the permissive.
 77. "Minor" means mistakes, excluding judgmental errors, that have negligible effect on price, quantity, quality, delivery or other contractual terms and the waiver or correction of such mistake does not prejudice other bidders or offerors.
 78. "Multiple award" means award of multiple contracts for identical or similar materials or services to more than one bidder or offeror.
 79. "Multistep sealed bidding" means a 2-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the school district and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase have their price bids considered.
 80. "Negotiation" means an exchange or series of exchanges between the school district and a person with a goal of establishing the terms, conditions and prices in a contract between the school district and the person, where such negotiation is authorized in Articles 10 and 11.
 81. "Nonexpendable materials" means all tangible materials which have an original acquisition cost over an amount set by regulation and a probable useful life of more than one year.
 82. "Nonprofit corporation" means any nonprofit corporation as designated by the Internal Revenue Service under section 501(c)(3) through 501(c)(6) or under section 115, if created by two or more local public procurement units, and includes certified nonprofit agencies that serve individuals with disabilities as defined in A.R.S. § 41-2636.
 83. "Offeror" means a person submitting a proposal in response to a request for proposals.
 84. "Operations services" means routine operation of existing facilities, structures, buildings or real property.
 85. "Outright purchase" means the initial cost to the school district for the earth-moving, material-handling, road maintenance and construction equipment, including all vendor charges and financing costs.
 86. "Owner" means the school district.
 87. "Paper" means newspaper, high-grade office paper, fine paper, bond paper, offset paper, xerographic paper, duplicator paper and related types of cellulosic material containing not more than ten percent by weight or volume of noncellulosic material such as laminates, binders, coatings or saturants.
 88. "Paper product" means paper items or commodities, including paper napkins, towels, corrugated paper and related types of cellulosic products containing not more than ten percent by weight or volume of noncellulosic material such as laminates, binders, coatings or saturates.
 89. "Person" means any corporation, business, individual, union, committee, club, other organization or group of individuals.
 90. "Physician" means a person licensed pursuant to A.R.S. Title 32, Chapters 7, 8, 13, 14, 15.1, 16, or 17.
 91. "Post-consumer material" means a discard generated by a business or residence that has fulfilled its useful life. Post-consumer material does not include discards from industrial or manufacturing processes.
 92. "Posted prices" means the sale price determined by the school district to be fair market value.
 93. "Preconstruction services" means services and other activities during the design phase.
 94. "Pricing data" means information concerning prices, including profit, for materials, services or construction substantially similar to those being procured under a contract or subcontract. In this definition, "prices" refers to offered selling prices, historical selling prices or current selling prices of the items being purchased.
 95. "Prime contractor" means a general contractor, who contracts with a property owner and, in turn, employs a subcontractor, or subcontractors, to perform some or all of the work.
 96. "Procurement" means buying, purchasing, renting, leasing or otherwise acquiring any materials, services, construction or construction services. Procurement also includes all functions that pertain to the obtaining of any material, service, construction, or construction services, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.
 97. "Procurement file" means the official procurement records of the school district containing the following:
 - a. List of notified vendors.
 - b. Procurement disclosure statements.
 - c. Final solicitation.
 - d. Solicitation amendments.
 - e. Bids and offers.
 - f. Offer revisions and best and final offers.
 - g. Discussions.
 - h. Clarifications.
 - i. Final evaluation reports.
 - j. Additional information, as necessary.
 98. "Proposal" means a response to a request for proposals and includes an offer to contract with the school district.
 99. "Proprietary specification" means a specification that describes a material made and marketed by a person having the exclusive right to manufacture and sell such material and excludes other material with similar quality, performance or functional characteristics from being responsive to the solicitation.
 100. "Public procurement unit" means either a local public procurement unit, the Arizona Department of Administration, any other state or an agency of the United States.
 101. "Public service corporation" means all corporations other than municipal engaged in furnishing gas, electricity, or water and subject to regulation as a utility by the Arizona Corporation Commission.
 102. "Purchase description" means the words used in a solicitation to describe the materials, services or construction for purchase and includes specifications attached to, or made a part of, the solicitation.
 103. "Purchase requisition" means that document, or electronic transmission, whereby a school district requests that a contract be entered into for a specific need, and may include, but is not limited to, the description of the requested item, delivery schedule, transportation data,

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- criteria for evaluation, suggested source of supply and information supplied for the making of any written determination required by Articles 10 and 11.
104. "Qualified products list" means an approved list of materials or construction items described by model or catalog numbers that, prior to competitive solicitation, the governing board has determined will meet the applicable specification requirement.
 105. "Qualified select bidders list" means a selection process for establishing a list of best-qualified prime contractors or construction material suppliers for a specific, single project. The selection process is based upon listed evaluation criteria and conducted through a request for qualifications. Once the selection process is complete, the qualified bidders are invited to submit a sealed competitive bid based upon architectural/engineering plans and specifications or material specifications.
 106. "Reasonably susceptible of being awarded a contract" means those proposals that the school district determines are subject to award after the initial review of all original proposals.
 107. "Recycled paper" means paper products which have been manufactured from materials otherwise destined for the waste stream and which contain at least forty percent recovered wastepaper with ten percent of that being post-consumer material.
 108. "Regional award" means an award of portions of the total requirement by geographic region.
 109. "Request for information" means all documents issued to vendors for the sole purpose of seeking information about the availability in the commercial marketplace of materials or services.
 110. "Request for proposals" means all documents, whether attached or incorporated by reference, which are used for soliciting proposals in accordance with procedures prescribed in R7-2-1042.
 111. "Request for qualifications" means all documents, whether attached or incorporated by reference, which are used for soliciting statements of qualifications in accordance with procedures prescribed in R7-2-1101, R7-2-1106, R7-2-1108 or R7-2-1117.
 112. "Residual value" means the guaranteed minimum market value of the earth-moving, material-handling, road maintenance and construction equipment at the end of the life cycle of the equipment being procured, as determined by a guaranteed minimum value offered by the vendor or other parties in its bid.
 113. "Responsible bidder or offeror" means a person who at the time of contract award has the capability to perform the contract requirements and the integrity and reliability which will assure good faith performance.
 114. "Responsive bidder or offeror" means a person who submits a bid or proposal which conforms in all material respects to the invitation for bids or request for proposals.
 115. "Reverse auction" means a procurement method in which bidders are invited to bid on supplying specified materials over the Internet in a real-time competitive bidding event.
 116. "School district" has the meaning defined in A.R.S. § 15-101, whose authority is exercised by the governing board or its designee.
 117. "Services" means the furnishing of labor, time or effort by a contractor or subcontractor that does not involve the delivery of a specific end product other than required reports and performance. Services does not include employment agreements or collective bargaining agreements.
 118. "Shall" denotes the imperative.
 119. "Solicitation" means an invitation for bids, an invitation to submit technical offers, a request for proposals, a request for qualification, or any other invitation or request by which the school district invites a person to participate in a procurement.
 120. "Specification" means any description of the physical or functional characteristics, or of the nature of a material, service or construction item. Specification may include a description of any requirement for inspecting, testing or preparing a material, service or construction item for delivery.
 121. "Specified professional services" means services of an architect, engineer, land surveyor, assayer, geologist and landscape architect and any combination of those services.
 122. "Standard commercial material" means material that, in the normal course of business, is customarily maintained in stock or readily available by a manufacturer, distributor or dealer for the marketing of such material.
 123. "Statement of qualifications" means a response to a request for qualifications issued pursuant to R7-2-1101, R7-2-1106, R7-2-1108 or R7-2-1117, or unsolicited qualifications submitted pursuant to R7-2-1062 or R7-2-1122, and does not include an offer to contract with the school district.
 124. "Subcontractor" means a person who contracts to perform work or render service to a contractor or to another subcontractor as a part of a contract with a school district.
 125. "Subconsultant" means any person, firm, partnership, corporation, association or other organization or a combination of any of them, that has a direct contract with a design professional or another subconsultant to perform a portion of the work under a design professional service contract.
 126. "Surplus materials" means any materials that no longer have any use to the school district or materials acquired from the United States government. This includes obsolete materials, scrap materials and nonexpendable materials that have completed their useful life.
 127. "Suspension" means an action taken by the governing board under R7-2-1168 temporarily disqualifying a person from participating in school district procurements.
 128. "Technical offer" means unpriced written information from a prospective contractor stating the manner in which the prospective contractor intends to perform certain work, its qualifications and its terms and conditions.
 129. "Total life cycle cost" means total school district costs and financing costs throughout the life cycle of the earth-moving, material-handling, road maintenance and construction equipment being purchased less residual value.
 130. "Total school district costs" means costs to the school district for the earth-moving, material-handling, road maintenance and construction equipment, including repair costs, present value of monies, vendor charges, and all other identifiable school district costs that may be incurred.
 131. "Unit price" means the price published in the unit price book for a specific construction or construction related task. Each unit price is comprised of labor, equipment, or material costs to accomplish a specific task, and shall be defined in the contract.

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132. "Unit price book" means a comprehensive listing of specific construction related tasks together with a specific unit of measurement and a unit price.
133. "Vendor charges" means the costs of all vendor support, materials, transportation, and all other identifiable costs associated with the vendor's proposal or bid.
134. "Vendor support" means services provided by the vendor for items such as consulting, education and training.
135. "Wastepaper" means recyclable paper and paperboard, including high-grade office paper, computer paper, fine paper, bond paper, offset paper, xerographic paper, duplicator paper and corrugated paper.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
 Amended effective March 21, 1991 (Supp. 91-1).
 Amended effective October 22, 1992 (Supp. 92-4).
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1). Amended by final exempt rulemaking at 27 A.A.R. 2342, (October 22, 2021) effective September 27, 2021 (Supp. 21-4).

R7-2-1002. Applicability

- A. Articles 10 and 11 apply to every expenditure of public monies, including federal assistance monies and grants, by a school district as specified in A.R.S. § 15-213(A) for the procurement of all construction, materials and services when the total procurement cost exceeds the aggregate dollar amount specified in A.R.S. § 41-2535(A). If procurement involves the expenditure of federal assistance or contract monies, the school district shall comply with federal law and authorized regulations which are mandatorily applicable and which are not presently reflected in Articles 10 and 11.
- B. Articles 10 and 11 apply to the disposal of school district materials regardless of value.
- C. Articles 10 and 11 do not apply to:
 1. Agreements for providing career and technological education and vocational education pursuant to A.R.S. § 15-789;
 2. Contracts between a school district and other governments, including intergovernmental agreements and contracts pursuant to A.R.S. § 11-952, except as provided by R7-2-1191 through R7-2-1196. This exemption also includes the purchase of a fee or license from a local, state or federal public entity required by law to collect said fees;
 3. Purchases for amounts not exceeding the aggregate dollar amount specified in A.R.S. § 41-2535(A). Such procurements shall comply with the guidelines prescribed by the Auditor General in the Uniform System of Financial Records pursuant to A.R.S. § 15-271;
 4. Contracts for professional witnesses if the purpose of such contracts is to provide for professional services or testimony relating to an existing or probable judicial or administrative proceeding in which the school district is or may become a party;
 5. Agreements negotiated by legal counsel representing the school district in settlement of litigation or threatened litigation;
 6. Expenditures from student activity monies as defined in A.R.S. § 15-1121, if no district funds are involved;

7. Expenditures for governing board adopted textbooks as defined in A.R.S. § 15-721 and A.R.S. § 15-722, if purchased from the publisher;
 8. The placement of a pupil in a private school that provides special education services if such placement is prescribed in the pupil's individualized education program and the private school has been approved by the Department of Education Division of Special Education pursuant to A.R.S. § 15-765;
 9. Purchases of any products, materials and services directly from certified nonprofit agencies that serve individuals with disabilities as defined in A.R.S. § 41-2636, and Arizona Correctional Industries if the delivery and quality of the products, materials or services meet the school district's reasonable requirements;
 10. The decision to participate in programs pursuant to A.R.S. § 15-382. A program authorized by A.R.S. § 15-382 is not required to engage in competitive bidding for the services necessary to administer the program or for the purchase of insurance or reinsurance;
 11. The purchase of water, gas or electric utilities from a public service corporation. This exemption expressly does not apply to guaranteed energy cost savings contracts and guaranteed energy production contracts subject to A.R.S. § 15-213.01 and A.R.S. § 15-213.03;
 12. Purchases of professional certifications, professional memberships, conference registrations, conference hotels and airfare that meets Arizona Department of Administration General Travel Principles and Policies;
 13. Purchases, sales or leases of real estate. This exemption expressly does not apply to the services of a real estate broker as defined in A.R.S. § 32-2101;
 14. Purchases of surplus property from the state or United States Federal Government in accordance with R7-2-1132;
 15. Purchases in compliance with the terms and conditions of any grant, gift, bequest or cooperative agreement; and
 16. The cost of special elections, including the preparation of ballots in accordance with A.R.S. § 15-406.
- D. Unless displaced by the particular provisions of Articles 10 and 11, the principles of law and equity, including the Uniform Commercial Code of this state, the common law of contracts as applied in this state and law relative to agency, fraud, misrepresentation, duress, coercion, and mistake supplement the provisions of Articles 10 and 11.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
 Amended effective March 21, 1991 (Supp. 91-1).
 Amended effective March 6, 1997 (Supp. 97-1).
 Amended effective December 4, 1998 (Supp. 98-4).
 Amended by final exempt rulemaking at 21 A.A.R. 1491, effective October 28, 2013 (Supp. 15-3). Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1003. General Provisions

- A. The school district shall not award a contract or incur an obligation on behalf of the school district unless it is reasonable to believe sufficient funds will be available for the procurement. If sufficient funds are not available when a solicitation is issued, the solicitation shall include a statement that funds are

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not currently available and that any contract awarded will be conditioned upon the availability of funds.

- B. Projects and purchases shall not be divided or sequenced into separate projects or purchases in order to avoid the limits prescribed in Articles 10 and 11.
- C. Any bid or proposal that is conditioned upon award to the bidder or offeror of both the particular contract being solicited and another school district contract shall be deemed nonresponsive or unacceptable.
- D. Except by mutual consent of the parties to the contract, rules in Articles 10 and 11 shall not change any commitment, right or obligation of a school district or of a contractor under a contract in existence on the effective date of the Section.
- E. If a contractor requests to change the name in which it holds a school district contract, the school district may, upon receipt of a document indicating the name change, enter into a contract modification with the contractor to effect the name change. The contract modification shall provide that no other terms and conditions of the contract are changed.
- F. The school district may allow electronic media transactions, including an electronic record or electronic signature, if consistent with state law and advantageous to the school district.
- G. Rights and duties arising from a school district contract may only be transferred, waived or assigned upon the express written consent of both parties.
- H. School district employees and public officers shall not purchase construction, materials or services for their own personal or business use from contracts entered into by the school district.
- I. A person who supervises or participates in contracts, purchases, payments, claims or other financial transactions, or who supervises or participates in the planning, recommending, selecting or contracting for materials, services, goods, construction, or construction services of a school district or school purchasing cooperative is subject to the penalties prescribed in A.R.S. § 15-213(N) if the person solicits, accepts or agrees to accept any personal gift or benefit from a person or vendor that has secured or has taken steps to secure a contract, purchase, payment, claim or financial transaction with a school district or school purchasing cooperative.
- J. Any person or vendor that has secured or has taken steps to secure a contract, purchase, payment, claim or financial transaction with a school district or school purchasing cooperative that offers, confers or agrees to confer any personal gift or benefit on a person who supervises or participates in contracts, purchases, payments, claims or other financial transactions, or on a person who supervises or participates in planning, recommending, selecting or contracting for materials, services, goods, construction or construction services of a school district or school purchasing cooperative is subject to the penalties prescribed in A.R.S. § 15-213(O).
- K. A person who serves on an evaluation committee for a procurement is subject to A.R.S. § 41-2616(C).
- L. A person who contracts for or purchases materials, services, goods, construction or construction services shall be subject to the penalties prescribed in A.R.S. § 15-213 and A.R.S. § 41-2616 for violations of and attempts to avoid Articles 10 and 11.
- M. Pursuant to A.R.S. § 15-213 and A.R.S. Title 41, Chapter 23, the Attorney General shall enforce the provisions of Articles 10 and 11 and may take action prescribed therein.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

Amended effective March 21, 1991 (Supp. 91-1).

Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 24 A.A.R. 3283, effective October 22, 2018 (Supp. 18-4). Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1). The word “rule” has been changed to “Section” to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-1004. Written Determinations

- A. Written determinations required by Articles 10 and 11, including for any specified professional services, construction, construction services or materials to an entity selected from a qualified select bidders list or through a school purchasing cooperative, shall specify the reasons for the determination, including how the determination was made.
- B. The school district is authorized to prescribe methods and operational procedures to be used in preparing written determinations.
- C. The school district shall place the written determination into the school district’s procurement file.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 24 A.A.R. 3283, effective October 22, 2018 (Supp. 18-4).

R7-2-1005. Change orders and contract modifications

Any change order or contract modification that exceeds \$100,000 or five percent, whichever is greater, may be executed only if the governing board determines in writing that the change order or contract modification is advantageous to the school district and the price is determined to be fair and reasonable.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1006. Confidential Information

- A. If a person believes that a bid, proposal, response to a request for information, technical offer, statement of qualifications, specification, or protest contains confidential trade secrets or other proprietary data not to be disclosed as otherwise required by A.R.S. § 39-121, a statement advising the school district of this fact shall accompany the submission and the information shall be so identified wherever it appears. Contract terms and conditions, pricing, and information generally available to the public are not considered confidential information under this Section.
- B. Until a determination is made under subsection (C), the school district shall not disclose information designated as confidential under subsection (A) except to school district personnel having a legitimate interest in, or persons assisting the school district in evaluation of, the bid, proposal, response to a request for information, technical offer, statement of qualifications, specification, or protest.
- C. Upon receipt of a submission designating information as confidential, the school district shall make one of the following written determinations:
 1. The designated information is confidential and the school district shall not disclose the information except to school district personnel having a legitimate interest in, or per-

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sons assisting the school district in evaluation of, the bid, proposal, response to a request for information, technical offer, statement of qualifications, specification, or protest.

2. The designated information is not confidential.
- D. The school district may request additional information, if necessary to make the determination required by subsection (C).
- E. If the school district determines that information submitted is not confidential, the person who made the submission shall be notified in writing. The notice shall specify that a request for review of the district representative's determination may be filed within 10 days of the date of the district representative's determination.
- F. A request for review of the district representative's determination shall be filed in writing with the district representative. The request for review shall state the precise legal or factual errors in the district representative's decision. If a request for review is received:
 1. The district representative shall consider the alleged legal or factual errors in the request for review of the district representative's determination and issue a final written determination to the person filing the request.
 2. Until the final determination is made under subsection (C)(2), the school district shall not disclose information designated as confidential under subsection (A) except to school district personnel having a legitimate interest in, or persons assisting the school district in evaluation of, the bid, proposal, response to a request for information, technical offer, statement of qualifications, specification, or protest.
- G. The school district may release information determined to not be confidential under subsection (C)(2) if:
 1. A request for review is not received by the district representative within the time period specified in the notice; or
 2. The district representative issues a final written determination under subsection (F)(1) that the designated information is not confidential.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended effective March 21, 1991 (Supp. 91-1). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1007. Delegation of Procurement Authority

- A. The governing board may, in a public meeting held in conformity with A.R.S. Title 38, Chapter 3, Article 3.1, delegate procurement authority to a designee. Any delegation shall be accomplished by adopting a governing board policy for this purpose.
 1. Delegated procurement authority may include, but is not limited to the following:
 - a. Authority to make determinations required by Articles 10 and 11;
 - b. Authority to award contracts;
 - c. Authority to make sole source and emergency procurements; and
 - d. Authority to approve change orders and contract modifications.
 2. Delegated activities and functions shall be adequately separated among individuals so that one individual does not have complete authority over an entire procurement.
- B. Any delegation shall specify:
 1. The title of the school district employee or employees to whom authority is delegated;

2. The activity or function authorized;
 3. Any limits or restrictions on the exercise of the delegated authority, including the maximum cost of any procurement;
 4. Whether the authority may be further delegated;
 5. The duration of the delegation; and
 6. The conditions and procedures for revocation and modification of the delegation.
- C. No person delegated such authority may participate in any aspect of a specific procurement if the person would receive any benefit directly or indirectly from a contract for such procurement. Violation of this prohibition may result in termination or other disciplinary action.
 - D. Delegation of procurement authority does not abrogate the responsibility of the governing board to ensure compliance with Articles 10 and 11 notwithstanding the fact that school district personnel were authorized to make procurement decisions.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1008. Procurement Consultants and Procurement Advisory Groups

- A. The school district may contract with a procurement consultant to assist in drafting specifications, in the development of solicitations, or in the management of the procurement process. A procurement consultant may provide guidance or advice to a procurement evaluation committee, but shall not serve as a voting member of such committee. For the purposes of this Section, a school district employee or a contracted business manager or purchasing director for the school district is not a procurement consultant.
- B. The school district may appoint procurement advisory groups or evaluation committees to assist with respect to specifications, solicitation evaluations or procurement in specific areas. Members of such procurement advisory groups or evaluation committees are not procurement consultants as set forth in this Section. Non-school district employees serving on such procurement advisory groups or evaluation committees are not eligible to receive compensation but are eligible for reimbursement of expenses consistent with the school district's travel policy adopted pursuant to A.R.S. § 15-342(5).
- C. A procurement consultant, a member of a procurement advisory group, or a member of an evaluation committee who participates in any aspect of a specific procurement shall be prohibited from receiving any benefit directly or indirectly from a contract for such procurement, and shall sign a procurement disclosure statement that the person has no interest in the procurement other than that of a disclosed remote interest, as defined in A.R.S. § 38-502, will have no contact with any representative of a competing vendor related to the particular procurement except those contacts specifically authorized by these rules, and has not accepted any personal gift or benefit from a person or vendor that has secured or has taken steps to secure a contract, purchase, payment, claim or financial transaction with the school district or school purchasing cooperative. The procurement disclosure statements shall be retained in the procurement file.
- D. Specifications prepared by a procurement consultant or a procurement advisory group shall comply with R7-2-1010 through R7-2-1016.

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- E. The school district shall not delegate to a procurement consultant, a procurement advisory group, or an evaluation committee the authority for the award or administration of any particular contract, or over any dispute, claim or litigation pertaining thereto, and a procurement consultant or a procurement advisory group shall not be authorized to obligate the school district in any manner.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1009. Repealed**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

PART II. SPECIFICATIONS**R7-2-1010. Preparation of Specifications**

- A. Specifications shall be prepared only by the school district or by contract pursuant to R7-2-1014 and R7-2-1015. Regardless of who prepares the specifications, the governing board retains the authority to disapprove all specifications.
- B. In an emergency under R7-2-1055, any necessary specifications may be utilized by the person designated in R7-2-1055 (C) without regard to the provisions of this Section.
- C. Content of specifications.
 1. A specification may provide alternate descriptions of materials, services, or construction items where two or more design, functional, or performance criteria will satisfactorily meet the school district's requirements.
 2. To the extent practicable, a specification shall not include any solicitation term or condition or any contract term or condition.
 3. If a specification for a common or general use item has been developed in accordance with R7-2-1011(A) or a qualified products list has been developed in accordance with R7-2-1011(D) for a particular material, service, or construction item, it shall be used unless the school district makes a written determination that its use is not advantageous to the school district and that another specification shall be used.
 4. To the extent practicable, specifications shall emphasize functional or performance criteria. To facilitate the use of such criteria, the school district shall use reasonable efforts to include the principle functional or performance requirements as a part of their purchase requisitions.
 5. All procurement solicitations for volatile organic compound containing commodities shall include a request for substitute commodities with lower or no volatile organic content. Substitute products shall not have increased toxicity compared to the original commodity.

Historical Note

Adopted effective October 22, 1992 (Supp. 92-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1011. Types of Specifications

- A. Specification for common or general use items. To the extent practicable, a specification for common or general use item shall be prepared and utilized when:
 1. A material, service or construction item is used repeatedly by the school district, and the characteristics of the material, service, or construction item, as commercially produced or provided, remain relatively stable while the frequency or volume of procurements is significant;
 2. The school district's recurring needs require uniquely designed or specially produced items; or
 3. The school district finds it to be advantageous to the school district.
- B. Brand name or equal specification. A brand name or equal specification may be used when the school district determines that use of a brand name or equal specification is advantageous to the school district.
- C. Brand name specification. A brand name specification may be prepared and utilized only if the school district makes a determination that only the identified brand name item will satisfy the school district's needs. If only one source can supply the requirement, the procurement shall be made pursuant to R7-2-1053.
- D. Qualified products list. A qualified products list may be prepared and utilized when:
 1. The school district determines that testing or examination of the materials or construction items prior to issuance of the solicitation is desirable or necessary in order to best satisfy the school district's requirements.
 2. The school district shall solicit as many potential suppliers as practicable to submit products for testing and examination to determine acceptability for inclusion on a qualified products list. Any potential supplier, even though not solicited, may offer its products for consideration in accordance with the schedule or procedure established for this purpose. The qualified products list shall not be modified after the solicitation is issued.
 3. Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with requirements established by the school district.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1012. Proprietary Specifications

The school district shall not use specifications in any way proprietary to one supplier unless the specification includes a statement of the reasons why no other specification is practicable, a description of the essential characteristics of the specified product and a statement specifically permitting an acceptable alternative product to be supplied.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1013. Recycled Products Use

- A. If the price of a recycled paper product that conforms to specifications is within five percent of a low bid product that is not recycled and the recycled product bidder is otherwise the lowest responsible and responsive bidder, the award shall be made to the bidder offering the recycled product. The governing board may adopt rules requiring a five percent preference for other products made from recycled materials.

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- B. Specifications shall emphasize functional or performance criteria which, to the extent practicable, do not discriminate against the use of recycled materials.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1014. Maximum Practicable Competition

- A. Procurement of any materials, services, goods, construction or construction services pursuant to Article 10 or Article 11, shall seek to achieve maximum practicable competition.
- B. All specifications, including those prepared by architects, engineers, consultants and others for public contracts, shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the school district's needs and shall not be unduly restrictive.
- C. Unless otherwise permitted by R7-2-1010 through R7-2-1016, all specifications shall describe the school district's requirements in a manner that does not unreasonably exclude a material, service, or construction item. Proprietary specifications shall be used only as provided in R7-2-1012.
- D. To the extent practicable, the school district shall use accepted commercial specifications and shall procure standard commercial materials.
- E. Contracts for the preparation of specifications by persons other than the school district shall require the specification writer to adhere to R7-2-1010 through R7-2-1016.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 24 A.A.R. 3283, effective October 22, 2018 (Supp. 18-4).

R7-2-1015. Conflict of Interest

- A. No person preparing specifications pursuant to R7-2-1014 shall receive any direct or indirect benefit from the utilization of such specifications.
- B. The governing board may contract for the preparation of specifications with persons, including, but not limited to, consultants, architects, engineers, designers, and other draftsmen of specifications.
- C. If a person prepares a specification pursuant to subsection (B) of this Section, such person shall comply with the requirements of R7-2-1010 through R7-2-1016.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1016. Confidentiality

- A. Specifications and any written determination or other document generated or used in the development of a specification shall be available for public inspection pursuant to A.R.S. § 39-121, except to the extent that the withholding of such information is permitted or required by law.
- B. If the supplier believes that the specifications contain confidential trade secrets, test data, or similar information, a statement advising the school district of this fact shall accompany the specification in accordance with R7-2-1006.
- C. Qualified products lists test results shall be made available in a manner to protect the identity of the supplier.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1017. Reserved**PART III. REVERSE AUCTIONS****R7-2-1018. Reverse Auctions**

- A. Using reverse auctions
1. If a governing board determines in writing that use of reverse auctions is more advantageous to the school district than other procurement methods prescribed by Articles 10 and 11, the school district may use reverse auctions for the purchase of materials.
 2. The written determination shall include, but is not limited to the following information:
 - a. An estimate of the number of prospective bidders;
 - b. An explanation of how reverse auctions will foster competition;
 - c. An explanation of why reverse auctions is more advantageous to the school district than other prescribed procurement methods; and
 - d. The scope and estimated total dollar value of the proposed procurement.
- B. Reverse auction procedures
1. The school district shall develop and implement procedures prior to conducting procurement via reverse auctions. The procedures shall include:
 - a. The method or methods to ensure the integrity and security of the reverse auctions;
 - b. The method or methods for registering bidders for reverse auctions;
 - c. The method or methods for notifying vendors of reverse auction opportunities;
 - d. The method or methods for receiving reverse auction bids; and
 - e. The school district official or officials authorized to conduct reverse auctions.
 2. School districts may require bidders to register before the date and time for opening the reverse auction for submission of bids and, as part of that registration, require bidders to agree to any terms, conditions or other requirements of the invitation for bids.
 3. Notice of a reverse auction shall be issued at least 14 days before the date and time for opening the reverse auction for submission of bids, unless a shorter time is determined necessary by the school district. If a shorter time is necessary, the school district shall document the specific reasons in the procurement file. The reverse auction notice shall include:
 - a. The school district's requirements for registering prior to the opening date and time, if any;
 - b. The designated site on the Internet for bidder registration and bid submission;
 - c. A link to the designated site on the Internet;
 - d. The scheduled date and time for opening the reverse auction for bid submission; and
 - e. The scheduled date and time for closing the reverse auction for bid submission.
 4. The school district shall issue the notice of reverse auction as follows:
 - a. Mail or otherwise furnish the notice of reverse auctions to all prospective bidders registered with the

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- school district for the specific material being solicited.
- b. Notice of reverse auction shall be given by the school district pursuant to R7-2-1022.
 - c. In addition to the notice provided in subsections (B)(4)(a) and (b), the school district may give such additional notice as the school district deems appropriate, including posting on a designated site on the Internet.
5. The school district shall prepare an invitation for bids that includes:
 - a. Notice that all information submitted by bidders will be made available for public inspection following the award of the contract, except for bid prices which will be made available to other bidders and the public when submitted by the bidder;
 - b. Information for submitting bids, including:
 - i. The date and time for opening the reverse auction for bid submission;
 - ii. The date and time for closing the reverse auction for bid submission;
 - iii. The provisions for extending the period for bid submission, if any;
 - iv. Instructions for submitting bids and other required information, including the designated site on the Internet for submitting bids;
 - v. Notice that bids shall be accepted electronically at the time and in the manner designated in the invitation for bids;
 - vi. Notice that bidders' prices shall be disclosed electronically to other bidders and the public on a real time basis;
 - vii. Notice that bidders may submit multiple prices and may reduce their bid prices until the reverse auction bidding is closed;
 - viii. Notice that the lowest price offered shall become the official bid price;
 - ix. Notice that the bidder is required to certify that submission of the bid did not involve collusion or other anticompetitive practices;
 - x. Notice that the bidder is required to declare whether the bidder has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including, but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body;
 - c. The purchase description, specifications, delivery or performance schedule, and inspection and acceptance requirements, as applicable. If a brand name or equal specification is used, instructions that use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics needed to meet the school district's requirements and is not intended to limit or restrict competition. The invitation for bids shall state that products substantially equivalent to the brands designated qualify for consideration;
 - d. The factors to be used in bid evaluations, including criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Only objectively measurable evaluation criteria shall be included in the invitation for bids. Examples of such criteria include, but are not limited to, transportation cost, energy cost, ownership cost and other identifiable costs. Evaluation factors need not be precise predictors, but to the extent possible the evaluation factors shall be reasonable estimates based upon information the school district has available concerning future use.
 - e. The contract terms and conditions, including:
 - i. Warranty and bonding or other security requirements, as applicable;
 - ii. The length of the contract and whether the contract will include an option for extension; and
 - iii. Any other contract terms and conditions;
 - f. The name of the district representative or district representatives;
 - g. The manner by which the bidder is required to acknowledge amendments;
 - h. The minimum required information in the bid;
 - i. The specific requirements for designating trade secrets and other proprietary data as confidential;
 - j. Any specific responsibility criteria;
 - k. A statement specifying where documents incorporated by reference may be obtained;
 - l. A statement that the school district may cancel the solicitation or reject a bid in whole or in part if deemed advantageous to the school district;
 - m. The date, time and location of bid opening;
 - n. A description of all information that will be recorded and available for public inspection at bid opening; and
 - o. Procurement of earth-moving, material-handling, road maintenance and construction equipment shall include as price evaluation criteria the total life cycle cost including residual value of the earth-moving, material-handling, road maintenance and construction equipment and, to the extent practicable, outright purchase.
 6. Amendments to invitations for bids shall be made in accordance with R7-2-1026.
- C. The school district shall accept reverse auction bids as follows:
 1. At the date and time for opening the reverse auction for bid submission, the school district shall begin accepting on-line bids and shall continue accepting bids until the reverse auction is officially closed.
 2. Bids shall be accepted electronically in the manner designated in the invitation for bids.
 3. All reverse auction on-line bids shall be posted electronically and updated on a real-time basis. Bidders' prices shall be disclosed to other bidders and the public.
 4. The identity of competing bidders shall not be disclosed until the reverse auction bidding is closed.
 5. Bidders shall have the opportunity to submit multiple prices and to reduce their bid prices.
 6. The lowest price offered shall become the official bid price.
 - D. Bids made through a reverse auction are considered to be opened when a computer generated record of the information contained in all bids that were received by the designated site on the Internet not later than the scheduled or final closing date and time are reviewed publicly by the school district in the presence of one or more witnesses at the time and place designated in the invitation for bids. Bid opening shall not be later than 24 hours after the scheduled or final closing date and time.

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- E. The contract shall be awarded to the lowest responsible and responsive bidder whose bid conforms in all material respects to the requirements and evaluation criteria set forth in the invitation for bids. No criteria may be used in bid evaluation that are not set forth in the invitation for bids. The amount of any applicable transaction privilege or use tax of a political subdivision of this state is not a factor in determining the lowest bidder.
- F. The school district shall not modify evaluation criteria after the closing date and time.
- G. In the event that multiple bidders submit identical prices for the same materials, bids will be considered in the order received with the first being considered to be the lowest bid.
- H. If only one bid is received in response to an invitation for bids, the school district shall proceed according to R7-2-1032.
- I. The date and time for closing a reverse auction for bid submission may be fixed or remain open depending on the materials being bid.
- J. After the reverse auction bidding has closed, a bidder may withdraw a bid or correct a mistake in accordance with R7-2-1030. Withdrawal of bids shall also be permitted as provided in R7-2-1028.
- K. The school district shall notify all bidders of an award.
- L. A copy of the invitation for bids shall be made available for public inspection at the school district office.
- M. A record of the bid prices received and the name of each bidder shall be open to public inspection following bid opening.
- N. A record of the reverse auction shall be maintained by the school district that will include all prices offered by all bidders. This record will become part of the procurement file.
- O. Within 10 days after a contract is awarded, the school district shall make the procurement file, including all bids, available for public inspection.
 - 1. If the procurement file contains information that is confidential under R7-2-1006, a copy of the applicable documents with the confidential information redacted shall be placed in the procurement file for the purpose of public inspection.
 - 2. The unredacted original copy of the confidential information shall be placed in a sealed envelope or other appropriate container, identified as confidential information, and maintained in the procurement file.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1019. Reserved**R7-2-1020. Reserved****PART IV. COMPETITIVE SEALED BIDDING****R7-2-1021. Method of Source Selection**

- A. Unless otherwise authorized by law, all school district contracts shall be awarded by competitive sealed bidding as provided in R7-2-1021 through R7-2-1032, except as provided in R7-2-1018, R7-2-1033 through R7-2-1068, R7-2-1100 through R7-2-1123, and R7-2-1196.
- B. A school district may conduct competitive sealed bidding electronically, provided that the electronic competitive sealed bidding process complies with the requirements of R7-2-1021 through R7-2-1032. A determination that conducting competi-

tive sealed bidding electronically is advantageous to the school district shall be in writing and retained in the procurement file.

- C. When using electronic competitive sealed bidding, the school district shall determine whether electronic submission of bids is required or optional and state the electronic submission requirements in the public notice and the invitation for bids.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended effective October 22, 1992 (Supp. 92-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1022. Notice of Competitive Sealed Bidding

- A. Adequate public notice of the invitation for bids shall be given as provided in R7-2-1024. Notice also may be given as provided in subsection (B). In the event there are four or fewer prospective bidders on the bidders list, then notice also shall be given as provided in subsection (B). If the invitation for bids is for the procurement of services other than those described in R7-2-1061 through R7-2-1068 and R7-2-1100 through R7-2-1123, notice also shall be given as provided in subsection (B).
- B. If required by subsection A, the notice shall include publication in the official newspaper of the county, within which the school district is located, as prescribed in A.R.S. § 11-255. The publication, shall occur in a reasonable time before bid opening, which shall not be less than 14 days before bid opening. The time of publication may be altered if deemed necessary pursuant to R7-2-1024(A).
- C. In addition to the notice provided in subsections (A) and (B), the school district may give such additional notice as the school district deems appropriate, including posting on a designated site on the Internet.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1023. Prospective Bidders Lists

- A. The school district shall compile and maintain a prospective bidders list. Inclusion of the name of a person shall not indicate whether the person is responsible concerning a particular procurement or otherwise capable of successfully performing a school district contract.
- B. Persons desiring to be included on the prospective bidders list shall notify the school district. Upon notification, the school district shall mail or otherwise provide the person with the school district procedures for inclusion on the bidders list. Within 30 days after receiving the required information, the school district shall add the person to the prospective bidders list unless the school district makes a determination that inclusion is not advantageous to the school district.
- C. Persons who fail to respond to invitations for bids for two consecutive procurements of similar items may be removed from the applicable bidders list after notifying the person in writing. This notice shall not be required if the two invitations for bids which were not responded to both contained the notice that bidders' names may be removed from the bidders list if they fail to respond to invitations for bids for two consecutive procurements of similar items. Persons may be reinstated upon request.

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- D.** Prospective bidders lists shall be available for public inspection, unless the school district makes a written determination that it is advantageous to the school district that they be kept confidential or private and should not be open for inspection pursuant to A.R.S. § 39-121.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1024. Invitation for Bids

- A.** Invitation for bids shall be issued at least 14 days before the due date and time in the invitation for bids unless a shorter time is deemed necessary for a particular procurement as determined by the school district. If a shorter time is necessary, the school district shall document the specific reasons in the procurement file.
- B.** Content.
1. The invitation for bids shall include the following:
 - a. Notice that all information and bids submitted by bidders will be made available for public inspection following the award of the contract;
 - b. Instructions and information to bidders concerning bid submission requirements, including the means for bid submission such as, hand delivery, U.S. mail, electronic mail, facsimile, or other acceptable means, the bid due date and time, the address of the office at which bids or other documents are to be received, the bid acceptance period, and any other special information or requirements;
 - c. Whether the school district will consider partial bids for award of a contract;
 - d. Notification of whether the school district may award multiple contracts and the school district's basis for determining whether to award multiple contracts. If multiple contracts may be awarded, the invitation for bids shall include the criteria the school district will use for selecting vendors for each contract under the multiple award, including, as applicable, whether contracts will be awarded by individual line items, groups of line items, or categories, whether contracts will be awarded incrementally, and whether contracts will be awarded by designated regions or locations;
 - e. The basis for determining the lowest bidder or bidders;
 - f. Procurement of earth-moving, material-handling, road maintenance and construction equipment shall include as price evaluation criteria the total life cycle cost including residual value of the earth-moving, material-handling, road maintenance and construction equipment and, to the extent practicable, the cost of outright purchase;
 - g. The purchase description, specifications, delivery or performance schedule, and inspection and acceptance requirements, as applicable. If a brand name or equal specification is used, instructions that use of a brand name is for the purpose of describing the standard of quality, performance, and other characteristics needed to meet the school district's requirements and is not intended to limit or restrict competition. The invitation for bids shall state that products substantially equivalent to the brands designated qualify for consideration;
 - h. The factors to be used in bid evaluations, including criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Only objectively measurable evaluation criteria shall be included in the invitation for bids. Examples of such criteria include, but are not limited to, transportation cost, energy cost, ownership cost and other identifiable costs. Evaluation factors need not be precise predictors, but to the extent possible the evaluation factors shall be reasonable estimates based upon information the school district has available concerning future use;
 - i. The contract terms and conditions, including:
 - i. Warranty and bonding or other security requirements, as applicable;
 - ii. The length of the contract and whether the contract will include an option for extension; and
 - iii. Any other contract terms and conditions;
 - j. The name of the district representative or district representatives;
 - k. The manner by which the bidder is required to acknowledge amendments;
 - l. The minimum information required in the bid;
 - m. The specific requirements for designating trade secrets and other proprietary data as confidential;
 - n. Any specific responsibility criteria;
 - o. A statement specifying where documents incorporated by reference may be obtained;
 - p. A statement that the school district may cancel the solicitation or reject a bid in whole or in part if deemed advantageous to the school district;
 - q. Notice that the bidder is required to certify that submission of the bid did not involve collusion or other anticompetitive practices and that the bidder has taken steps and exercised due diligence to ensure that no violation of A.R.S. § 15-213(O) has occurred;
 - r. Notice that the bidder is required to declare whether the bidder has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including, but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body;
 - s. Any bid security required;
 - t. A description of all information that will be recorded and available for public inspection at bid opening; and
 - u. The date, time and location of any pre-bid conference.
2. When using electronic competitive sealed bidding, the invitation for bids shall specify whether electronic submission of bids is required or optional, the electronic submission requirements, and the electronic signature requirements.
- C.** The school district shall mail or otherwise furnish invitation for bids or notices of the availability of invitation for bids to all prospective bidders registered with the school district for the specific material, service or construction being bid.
- D.** A copy of the invitation for bids shall be made available for public inspection at the school district office.

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Adopted effective December 17, 1987 (Supp. 87-4).
 Amended effective October 22, 1992 (Supp. 92-4).
 Amended by final exempt rulemaking at 21 A.A.R. 1525,
 effective July 1, 2014 (Supp. 15-3); effective year cor-
 rected in Supp. 18-2. Amended by final exempt rulemak-
 ing at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1025. Pre-bid Conferences

- A. The school district may conduct a pre-bid conference to explain the procurement requirements.
- B. If a pre-bid conference is conducted, it shall be not less than seven days before the bid due date and time, unless the school district makes a written determination that the specific needs of the procurement justify a shorter time. Statements made during a pre-bid conference are not amendments to the solicitation.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
 Amended by final exempt rulemaking at 21 A.A.R. 1525,
 effective July 1, 2014 (Supp. 15-3); effective year cor-
 rected in Supp. 18-2.

R7-2-1026. Amendments to Invitation for Bids

- A. An amendment to an invitation for bids shall be issued if necessary to:
 - 1. Make changes in the invitation for bids;
 - 2. Correct defects or ambiguities;
 - 3. Furnish to other bidders information given to one bidder if the information will assist the other bidders in submitting bids or if the lack of the information will prejudice the other bidders;
 - 4. Provide additional information or instructions; or
 - 5. Set a later bid due date and time if the school district determines that an extension is advantageous to the school district.
- B. Amendments to an invitation for bids shall be so identified and the school district shall ensure that the amendments are distributed or made available to all persons to whom the original invitation for bids was distributed or made available. The school district shall make a copy of the amendments to an invitation for bids available for public inspection at the school district office. If the school district posted the invitation for bids or a notice of the availability of an invitation for bids on a designated site on the Internet, then the school district shall post any amendments to the invitation for bids on the same designated site on the Internet. The school district shall also do one or more of the following:
 - 1. Distribute the amendment, by any method reasonably calculated to ensure delivery, to all prospective bidders to whom the invitation for bids was distributed;
 - 2. Make the amendment available and issue a notice of amendment which contains instructions for obtaining copies of the amendment. The notice of amendment shall be distributed, by any method reasonably calculated to ensure delivery, to all prospective bidders to whom the invitation for bids was distributed. Upon receipt of such notice of amendment, it is the responsibility of the prospective bidder to obtain the amendment.
- C. Amendments to invitation for bids shall be issued within a reasonable time before bid opening to allow prospective bidders to consider them in preparing their bids. If the school district determines that the bid due date and time does not permit sufficient time for bid preparation, the bid due date and time shall be extended in the amendment or, if necessary, by telephone,

facsimile, email, or other communications methods, and confirmed in the amendment.

- D. A bidder shall acknowledge receipt of an amendment in the manner specified in the invitation for bids or the amendment on or before the bid due date and time.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
 Amended by final exempt rulemaking at 21 A.A.R. 1525,
 effective July 1, 2014 (Supp. 15-3); effective year cor-
 rected in Supp. 18-2.

R7-2-1027. Pre-opening Modification or Withdrawal of Bids

- A. A bidder may modify or withdraw a bid in writing at any time before bid opening if the modification or withdrawal is received before the bid due date and time at the location designated in the invitation for bids for receipt of bids.
- B. All documents concerning a modification or withdrawal of a bid shall be retained in the procurement file.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
 Amended by final exempt rulemaking at 21 A.A.R. 1525,
 effective July 1, 2014 (Supp. 15-3); effective year cor-
 rected in Supp. 18-2.

R7-2-1028. Late Bids, Late Withdrawals and Late Modifications

- A. A bid, modification or withdrawal is late if it is received at the location designated in the invitation for bids for receipt of bids after the bid due date and time.
- B. A late bid, late modification, or late withdrawal shall be rejected, unless the late bid, late modification, or late withdrawal would have been timely received but for the action or inaction of school district personnel and is received before contract award.
- C. Upon receiving a late bid, late modification, or late withdrawal, the school district shall record the time and date of receipt and promptly send written notice of late receipt to the bidder. The school district may discard the document 30 days after the date on the notice unless the bidder requests and provides funding for the document to be returned.
- D. All documents concerning acceptance of a late bid, late modification, or late withdrawal shall be retained in the procurement file.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
 Amended by final exempt rulemaking at 21 A.A.R. 1525,
 effective July 1, 2014 (Supp. 15-3); effective year cor-
 rected in Supp. 18-2. Amended by final exempt rulemak-
 ing at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1029. Receipt, Opening and Recording of Bids

- A. A school district shall maintain a record of bids and modifications received for each invitation for bids, shall record the time and date when each bid or modification is received, and shall store each unopened bid or modification in a secure place until the bid due date and time.
 - 1. If required to confirm a vendor's inquiry regarding receipt of its bid prior to the due date and time, a school district may open a bid to identify the vendor. If this occurs, the school district shall record the reason for opening the bid, the date and time the bid was opened, and the solicitation number. The school district shall secure the bid and retain it for public opening.

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2. One or more witnesses shall be present for the opening of a bid under subsection (A)(1).
- B.** Bids and modifications shall be opened publicly at the date, time and place designated in the invitation for bids in the presence of one or more witnesses. The name of each bidder, the amount of each bid, and other relevant information deemed appropriate by the school district shall be recorded. The person opening the bids and all witnesses shall sign the record.
 1. The record created in subsection (B) shall be available for public inspection.
 2. The bids shall not be open for public inspection until after a contract is awarded.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1030. Mistakes in Bids

- A.** If an apparent mistake in a bid, relevant to the award determination, is discovered after opening and before award, a school district shall contact the bidder for written confirmation of the bid. If the bidder fails to act, the bidder is considered nonresponsive and the school district shall place a written determination that the bidder is nonresponsive in the procurement file. The school district shall designate a time-frame within which the bidder shall either:
 1. Confirm that no mistake was made and assert that the bid stands as submitted; or
 2. Acknowledge that a mistake was made and include all of the following in a written response:
 - a. An explanation of the mistake and any other relevant information;
 - b. A request for correction including the corrected bid or a request for withdrawal; and
 - c. The reasons why correction or withdrawal is consistent with fair competition and advantageous to the school district.
- B.** A bidder who discovers a mistake in its bid after bid opening and before award, may request correction or withdrawal in writing and shall include all of the following in the written request:
 1. An explanation of the mistake and any other relevant information;
 2. A request for correction including the corrected bid or a request for withdrawal; and
 3. The reasons why correction or withdrawal is consistent with fair competition and advantageous to the school district.
- C.** After bid opening and before award, a bid mistake based on an error in judgment may not be corrected or withdrawn. Other bid mistakes may be corrected or withdrawn pursuant to subsections (D) through (F).
- D.** After bid opening and before award, the school district shall either waive minor informalities in a bid or allow the bidder to correct them if correction is advantageous to the school district.
- E.** After bid opening and before award, the bid may not be withdrawn and shall be corrected to the intended bid if a bid mistake and the intended bid are evident on the face of the bid.
- F.** After bid opening and before award, the school district may permit a bidder to withdraw a bid if:
 1. A nonjudgmental mistake is evident on the face of the bid but the intended bid is not evident; or

2. The bidder establishes by clear and convincing evidence that a nonjudgmental mistake was made.
- G.** If correction or withdrawal of a bid after bid opening is permitted or denied under subsections (D), (F) and (J), the school district shall prepare a written determination showing that the relief was permitted or denied under this Section.
- H.** Notwithstanding other provisions of this Section, after bid opening and before award, no corrections in bid prices or other provisions of bids prejudicial to the interest of the school district or fair competition shall be permitted.
- I.** If a mistake in the bid is discovered after the award, the bidder may request withdrawal or correction in writing and shall include all of the following in the written request:
 1. An explanation of the mistake and any other relevant information;
 2. A request for correction including the corrected bid or a request for withdrawal; and
 3. The reasons why correction or withdrawal is consistent with fair competition and advantageous to the school district.
- J.** Based on the considerations of fair competition and the best interest of the school district, the school district may take one of the following actions regarding a bid mistake discovered after the award:
 1. Allow correction of the mistake, if the corrected bid amount is less than the next lowest bid;
 2. Cancel all or part of the award; or
 3. Deny correction or withdrawal.
- K.** After cancellation of all or part of an award in accordance with subsection (J)(2), if the bid acceptance period has not expired, the school district may award all or part of the contract to the next lowest responsible and responsive bidder, based on the considerations of fair competition and the best interest of the school district.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1031. Bid Evaluation and Award

- A.** As provided in subsection (C), the contract or contracts shall be awarded to the lowest responsible and responsive bidder or bidders whose bid or bids conform in all material respects to the requirements and evaluation criteria set forth in the invitation for bids. No criteria may be used in bid evaluation that are not set forth in the invitation for bids. The amount of any applicable transaction privilege or use tax of a political subdivision of this state is not a factor in determining the lowest bidder.
- B.** A product acceptability evaluation shall be conducted solely to determine whether a bidder's product is acceptable as set forth in the invitation for bids and not whether one bidder's product is superior to another bidder's product. Any bidder's offering that does not meet the acceptability requirements shall be rejected as nonresponsive.
- C.** The school district shall award the contract to the single lowest responsible and responsive bidder for all materials or services, except that the school district may make a multiple award if the invitation for bids included notification that multiple contracts may be awarded, the school district's basis for determining whether to award multiple contracts, and the criteria for selecting vendors for the multiple contracts.

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- D.** Before making a multiple award, the school district shall determine in writing that a multiple award is necessary and is advantageous to the school district and shall establish procedures for the use of the multiple awarded contracts to ensure that purchases are made from the contracts determined by the school district to offer the lowest cost in satisfying the school district's requirements. A multiple award shall be limited to the least number of suppliers the school district determines in writing to be necessary to meet the school district's requirements, and may include the following types of awards:
1. Awards to the lowest responsible and responsive bidder for individual line items, groups of line items, or categories.
 2. Awards to the lowest responsible and responsive bidders for similar or identical line items, groups of line items, or categories only if the school district determines in writing that such awards are necessary to obtain the required quantity or delivery, and the awards are limited to the least number of bidders necessary to meet the school district's requirements.
 3. An incremental award only if the school district determines in writing that such an award is necessary to obtain the required quantity or delivery. The award shall be made to the lowest responsible and responsive bidder, then the next lowest responsible and responsive bidder or bidders until the total definite quantity required is awarded.
 4. A regional award to the lowest responsible and responsive bidder in designated regions or locations only if the school district determines in writing that such an award is necessary to obtain the required quantity or delivery over widely scattered locations or a particular requirement is of a local nature.
- E.** The procurement file shall contain the basis on which the award or awards are made.
- F.** The school district shall not modify evaluation criteria after the bid due date and time.
- G.** A school district may appoint an evaluation committee to assist in the evaluation of bids. If bids are evaluated by an evaluation committee, the evaluation committee shall prepare an evaluation report for the school district. The school district may:
1. Accept the findings of the evaluation committee;
 2. Request additional information from the evaluation committee; or
 3. Reject the findings of the evaluation committee, in which case the school district shall appoint a new evaluation committee to evaluate the existing bids or cancel the solicitation.
- H.** The school district may contact a bidder to confirm the school district's understanding of the bid. Such contact shall be prior to award. The school district shall obtain written confirmation from the bidder and shall retain the confirmation in the procurement file.
- I.** The contract or contracts shall be awarded during the bid acceptance period. If the bid acceptance period expires prior to award of the contract or contracts, the procurement shall be canceled, unless the bid acceptance period is extended in accordance with subsection (J).
- J.** To extend the bid acceptance period, a school district shall notify all bidders in writing of an extension and request written concurrence from each bidder. To be eligible for a contract award, a bidder shall submit a written concurrence to the extension. The school district shall reject a bid as nonresponsive if written concurrence is not provided as requested.
- K.** A contract may not be awarded to a bidder submitting a higher quality item than that designated in the invitation for bids unless the bidder is also the lowest bidder as determined under subsection (A). This Section does not permit negotiations with any bidder, except as provided in subsection (L).
- L.** If all bids for a construction project exceed available monies as certified by the school district, and the lowest responsive bid from a responsible bidder does not exceed such monies by more than five percent, the school district may in situations in which time or economic considerations preclude resolicitation of work of a reduced scope, negotiate an adjustment of the bid price, including changes in the bid requirements, with the lowest responsible and responsive bidder, to bring the bid within the amount of available monies.
- M.** If there are two or more low responsive bids from responsible bidders that are identical in price and that meet all the requirements and criteria set forth in the invitation for bids, award shall be made by drawing lots in the presence of one or more witnesses.
- N.** A record showing the basis for determining the successful bidder shall be retained in the procurement file.
- O.** The school district shall notify all bidders of an award.
- P.** After a contract is awarded, the school district shall return any bid security provided by unsuccessful bidders.
- Q.** Upon execution of the contract, if performance and payment bonds were not required, or upon receipt of the specified bonds, if performance and payment bonds were required, the school district shall return any bid security provided by the successful bidder.
- R.** Within 10 days after a contract is awarded, the school district shall make the procurement file, including all bids, available for public inspection.
1. If the procurement file contains information that is confidential under R7-2-1006, a copy of the applicable documents with the confidential information redacted shall be placed in the procurement file for the purpose of public inspection.
 2. The unredacted original copy of the confidential information shall be placed in a sealed envelope or other appropriate container, identified as confidential information, and maintained in the procurement file.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

Amended effective October 22, 1992 (Supp. 92-4).

Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1032. Only One Bid Received

If only one responsive bid is received in response to an invitation for bids, an award may be made to the single bidder if the school district determines in writing that the bidder is responsible, that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond, or there is not adequate time for resolicitation. Otherwise the bid may be rejected in whole or in part as may be specified in the invitation for bids if it is advantageous to the school district. The reasons for cancellation or rejection shall be made part of the procurement file and:

1. New bids may be solicited;
2. The proposed procurement may be canceled; or

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3. If the school district determines that the need for the material or service continues and the acceptance of the one bid is not advantageous to the school district, the procurement may then be conducted as follows:
 - a. The school district may follow the sole source procurement procedure if R7-2-1053 applies.
 - b. Notwithstanding any other provision of Articles 10 and 11, the school district may make emergency procurements pursuant to R7-2-1055 and R7-2-1056 if an emergency condition exists pursuant to R7-2-1055.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1033. Simplified School Construction Procurement Program

- A. The simplified school construction procurement program is applicable to construction projects which do not exceed the maximum amount specified in A.R.S. § 15-213(A)(2).
- B. To participate in the simplified school construction procurement program:
 1. Each county school superintendent shall maintain a prospective bidders list of persons who desire to receive solicitations to bid on school district construction projects within that county. The prospective bidders list shall be maintained in accordance with R7-2-1023;
 2. The prospective bidders list maintained pursuant to subsection (B)(1) shall be available for public inspection;
 3. A performance bond and a payment bond, as required by A.R.S. § 34-222, shall be provided for contracts for construction by contractors;
 4. All bids for construction shall be opened at a public opening and the bids shall remain confidential until the public opening;
 5. All persons desiring to submit bids shall be treated equitably and the information related to each project shall be available to all eligible persons; and
 6. Competition for construction projects under the simplified school construction procurement program shall be encouraged to the maximum extent possible. School districts shall submit information on each project to all persons listed on the prospective bidders list maintained by the county school superintendent pursuant to subsection (B)(1).

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1034. Reserved**PART V. MULTISTEP SEALED BIDDING****R7-2-1035. Multistep Sealed Bidding**

- A. The multistep sealed bidding method may be used if:
 1. Available specifications or purchase descriptions are not sufficiently complete to permit full competition without technical evaluations and discussions to ensure mutual understanding between each bidder and the school district;
 2. Definite criteria exist for evaluation of technical offers;

3. More than one technically qualified source is expected to be available; and
 4. A fixed-price contract will be used.
- B. The multistep sealed bidding method may not be used for construction contracts.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1036. Phase 1 of Multistep Sealed Bidding

- A. Multistep sealed bidding shall be initiated by the issuance of an invitation to submit technical offers. The invitation to submit technical offers shall be issued according to R7-2-1022 and R7-2-1024(A).
- B. The invitation to submit technical offers shall include the following information:
 1. Notice that the procurement shall be conducted in two phases;
 2. The best description of the material or services desired;
 3. A statement that unpriced technical offers only shall be considered in phase 1;
 4. The requirements for the technical offers, such as drawings and descriptive literature;
 5. The criteria for evaluating technical offers;
 6. The due date and time for receipt of technical offers and the location where technical offers shall be delivered or mailed;
 7. A statement that discussions may be held;
 8. A statement that only bids based on technical offers determined to be acceptable in phase 1 shall be considered for award;
 9. The name of the district representative or district representatives;
 10. Notice that all technical offers submitted will be made available for public inspection following the award of the contract; and
 11. The date, time and location of any pre-technical offer conference.
- C. A school district may conduct a pre-technical offer conference open to all persons. If a pre-technical offer conference is conducted, it shall be not less than seven days before the technical offer due date and time, unless the school district makes a written determination that the specific needs of the procurement justify a shorter time. Statements made during the pre-technical offer conference shall not be considered modifications to the invitation to submit technical offers.
- D. The invitation to submit technical offers may be amended before or after the submission of the unpriced technical offers. Amendments to an invitation to submit technical offers shall be so identified and the school district shall ensure that the amendments are distributed or made available to all persons to whom the original invitation to submit technical offers was distributed or made available. The school district shall make a copy of the amendments to an invitation to submit technical offers available for public inspection at the school district office. If the school district posted the invitation to submit technical offers or a notice of the availability of an invitation to submit technical offers on a designated site on the Internet, then the school district shall post any amendments to the invitation to submit technical offers on the same designated site on the Internet. The school district shall also do one or more of the following:

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- a. Distribute the amendment, by any method reasonably calculated to ensure delivery, to all persons to whom the invitation to submit technical offers was distributed;
 - b. Make the amendment available and issue a notice of amendment which contains instructions for obtaining copies of the amendment. The notice of amendment shall be distributed, by any method reasonably calculated to ensure delivery, to all persons to whom the invitation to submit technical offers was distributed. Upon receipt of such notice of amendment, it is the responsibility of the person to obtain the amendment.
2. Amendments shall be issued within a reasonable time before technical offer opening to allow persons to consider them in preparing their technical offers. If the school district determines that the technical offer due date and time does not permit sufficient time for technical offer preparation, the technical offer due date and time shall be extended in the amendment or, if necessary, telephone, facsimile, email, or other communications methods, and confirmed in the amendment.
 3. A person shall acknowledge receipt of an amendment in the manner specified in the invitation to submit technical offers or the amendment on or before the technical offer due date and time.
- E. Unpriced technical offers shall not be opened publicly, but shall be opened in the presence of two or more district officials designated by the school district. The contents of unpriced technical offers shall not be disclosed to unauthorized persons. Late technical offers shall not be considered except under the circumstances set forth in R7-2-1028(B).
 - F. Unpriced technical offers shall be evaluated solely in accordance with the criteria set forth in the invitation to submit technical offers and shall be determined to be either acceptable for further consideration or unacceptable. A determination that an unpriced technical offer is unacceptable shall be in writing, state the basis for the determination and be retained in the procurement file. If the school district determines a person's unpriced technical offer is unacceptable, the school district shall notify that person of the determination and that the person shall not be afforded an opportunity to amend the technical offer.
 - G. The school district may conduct discussions with any person who submits an acceptable or potentially acceptable technical offer. During discussions, the school district shall not disclose any information derived from one unpriced technical offer to any other person. After discussions, the school district shall establish a due date and time for receipt of final technical offers and shall notify, in writing, persons submitting acceptable or potentially acceptable technical offers of the due date and time. The school district shall keep a detailed record of all discussions.
 - H. At any time during phase 1, technical offers may be withdrawn.
 - I. A copy of the invitation to submit technical offers shall be made available for public inspection at the school district office.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,

effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1037. Phase 2 of Multistep Sealed Bidding

- A. Upon completion of phase 1, the school district shall issue an invitation for bids and conduct phase 2 under R7-2-1024 through R7-2-1032 as a competitive sealed bidding procurement, except that the invitation for bids shall be issued only to persons whose technical offers were determined to be acceptable in phase 1.
- B. Unpriced technical offers of unsuccessful persons shall be open to public inspection after contract award, except to the extent set forth in R7-2-1006.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1038. Reserved**R7-2-1039. Reserved****R7-2-1040. Reserved****PART VI. COMPETITIVE SEALED PROPOSALS****R7-2-1041. Competitive Sealed Proposals**

- A. This Section does not apply to procurement of services of clergy, certified public accountants, physicians, dentists, and legal counsel, construction, construction services, or specified professional services. Services of clergy, certified public accountants, physicians, dentists and legal counsel shall be procured pursuant to R7-2-1061 through R7-2-1068. Construction and construction services shall be procured as provided in R7-2-1100. Specified professional services shall be procured pursuant to R7-2-1117 through R7-2-1123.
- B. As an alternative to competitive sealed bidding, competitive sealed proposals may be used in order to:
 1. Use a contract other than a fixed-price type;
 2. Conduct oral or written discussions with offerors concerning technical and price aspects of their proposals;
 3. Afford offerors an opportunity to revise their proposals;
 4. Compare the different price, quality, and contractual factors of the proposals submitted; or
 5. Award a contract in which price is not the determining factor.
- C. A school district may conduct competitive sealed proposals electronically, provided that the electronic competitive sealed proposals process complies with the requirements of R7-2-1041 through R7-2-1050. A determination that conducting competitive sealed proposals electronically is advantageous to the school district shall be in writing and retained in the procurement file.
- D. When using electronic competitive sealed proposals, the school district shall determine whether electronic submission of proposals is required or optional and state the electronic submission requirements in the public notice and the request for proposals.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended effective March 21, 1991 (Supp. 91-1).
Amended by final exempt rulemaking at 21 A.A.R. 1525,

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effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1042. Request for Proposals

A. Competitive sealed proposals shall be solicited through a request for proposals. A request for proposals shall include the following:

1. Instructions to offerors, including:
 - a. Instructions and information to offerors concerning proposal submission requirements, including the means for proposal submission such as, hand delivery, U.S. mail, electronic mail, facsimile, or other acceptable means, the proposal due date and time, the address of the office at which proposals or other documents are to be received, the proposal acceptance period, and any other special information or requirements;
 - b. The manner by which the offeror is required to acknowledge amendments;
 - c. Notification of whether the school district may award multiple contracts and the school district's basis for determining whether to award multiple contracts. If multiple contracts may be awarded, the request for proposals shall include the criteria the school district will use for selecting vendors for each contract under the multiple award, including as applicable, whether contracts will be awarded by individual line items, groups of line items, or categories, whether contracts will be awarded incrementally, and whether contracts will be awarded by designated regions or locations;
 - d. The minimum information required in the proposal;
 - e. The specific requirements for designating trade secrets and other proprietary data as confidential;
 - f. Any specific responsibility criteria;
 - g. Whether the offeror is required to submit samples, descriptive literature, and technical data with the proposal;
 - h. Evaluation factors and the relative importance of price and other evaluation factors. Specific numerical weighting is not required;
 - i. Procurement of earth-moving, material-handling, road maintenance and construction equipment shall include as evaluation factors the total life cycle cost including residual value of the earth-moving, material-handling, road maintenance and construction equipment and, to the extent practicable, the cost of outright purchase;
 - j. A statement specifying where documents incorporated by reference may be obtained;
 - k. A statement that the school district may cancel the solicitation or reject a proposal in whole or in part if deemed advantageous to the school district;
 - l. Notice that the offeror is required to certify that submission of the proposal did not involve collusion or other anticompetitive practices and that the offeror has taken steps and exercised due diligence to ensure that no violation of A.R.S. § 15-213(O) has occurred;
 - m. Notice that the offeror is required to declare whether the offeror has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including, but not limited to, being disapproved as a subcontractor of any

public procurement unit or other governmental body;

- n. Any bid security required;
 - o. Any cost or pricing data required;
 - p. The type of contract to be used;
 - q. A statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being awarded a contract;
 - r. The date, time and location of any pre-proposal conference;
 - s. The name of the district representative or district representatives;
 - t. A description of all information that will be recorded and available for public inspection at proposal opening;
 - u. Notice that all information and proposals submitted by offerors will be made available for public inspection following the award of the contract; and
 - v. Whether the school district will consider partial proposals for award of a contract.
2. Specifications, including:
 - a. The purchase description, delivery or performance schedule, and inspection and acceptance requirements, as applicable;
 - b. If a brand name or equal specification is used, instructions that the use of a brand name is for the purpose of describing the standard of quality, performance, and other characteristics needed to meet the school district's requirements and is not intended to limit or restrict competition. The solicitation shall state that products substantially equivalent to those brands designated shall qualify for consideration; and
 - c. Any other specification requirements specific to the solicitation.
 3. Contract terms and conditions, including:
 - a. Warranty and bonding or other security requirements, as applicable;
 - b. The length of the contract and whether the contract will include an option for extension; and
 - c. Any other contract terms and conditions.
 4. When using electronic competitive sealed proposals, the request for proposals shall specify whether electronic submission of proposals is required or optional, the electronic submission requirements, and the electronic signature requirements.
- B. A request for proposals shall be issued at least 14 days before the due date and time for receipt of proposals unless a shorter time is determined necessary by the school district. If a shorter time is necessary, the school district shall document the specific reasons in the procurement file.
- C. Notice of the request for proposals shall be given by the school district pursuant to R7-2-1022 and R7-2-1024(C).
- D. Before submission of initial proposals, amendments to requests for proposals shall be made in accordance with R7-2-1026. After submission of proposals, amendments may be made in accordance with R7-2-1036(D).
- E. A copy of the request for proposals shall be made available for public inspection at the school district office.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

Amended effective October 22, 1992 (Supp. 92-4).

Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year cor-

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rected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1043. Pre-proposal Conferences

Pre-proposal conferences may be convened in accordance with R7-2-1025.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1044. Late Proposals, Modifications or Withdrawals

- A. An offeror may modify or withdraw a proposal in writing at any time before proposal opening if the modification or withdrawal is received before the proposal due date and time at the location designated in the request for proposals for receipt of proposals.
- B. Withdrawal of a proposal after proposal opening is permissible only in accordance with R7-2-1049.
- C. A proposal received after the due date and time for receipt of proposals is late and shall not be considered except under the circumstances set forth in R7-2-1028(B). A best and final offer received after the due date and time for receipt of best and final offers is late and shall not be considered except under the circumstances set forth in R7-2-1028(B).
- D. A modification of a proposal received after the due date and time for receipt of proposals is late and shall not be considered except under the circumstances set forth in R7-2-1028(B).
- E. A modification of a proposal resulting from an amendment issued after the due date and time for receipt of proposals or a modification of a proposal resulting from discussions shall be considered if received by the due date and time set forth in the amendment or by the due date and time for submission of best and final offers, whichever is applicable. If the modifications described in this subsection are received after the respective date and time described in this subsection, the modifications are late and shall not be considered except under the circumstances set forth in R7-2-1028(B).
- F. Upon receiving a late proposal, late modification, or late withdrawal, the school district shall record the time and date of receipt and promptly send written notice of late receipt to the offeror. The school district may discard the document 30 days after the date on the notice unless the offeror requests and provides funding for the document to be returned.
- G. All documents concerning acceptance of a late proposal, late modification, or late withdrawal shall be retained in the procurement file.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1045. Receipt, Opening and Recording of Proposals

- A. A school district shall maintain a record of proposals and modifications received for each solicitation, shall record the time and date when each proposal or modification is received, and shall store each unopened proposal or modification in a secure place until the proposal due date and time.
 1. If required to confirm a vendor's inquiry regarding receipt of its proposal prior to the due date and time, a school district may open a proposal to identify the vendor. If this occurs, the school district shall record the reason for opening the proposal, the date and time the proposal was opened, and the solicitation number. The

school district shall secure the proposal and retain it for public opening.

2. One or more witnesses shall be present for the opening of a proposal under subsection (A)(1).
- B. Proposals and modifications shall be opened publicly at the date, time and place designated in the request for proposals in the presence of one or more witnesses. The name of each offeror and other relevant information deemed appropriate by the school district shall be recorded. The person opening the proposals and all witnesses shall sign the record. All other information contained in the proposals shall be confidential so as to avoid disclosure of contents prejudicial to competing offerors during the evaluation of proposals. Proposals and modifications shall be shown only to school district personnel having a legitimate interest in them or persons assisting the school district in evaluation.
 1. The record created in subsection (B) shall be available for public inspection.
 2. The proposals shall not be open for public inspection until after a contract is awarded.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1046. Evaluation of Proposals

- A. Evaluation of proposals and best and final offers shall be based on the evaluation factors set forth in the request for proposals. Specific numerical weighting may be used.
 1. If only one proposal is received in response to a request for proposals, the school district shall proceed according to R7-2-1032.
 2. The school district shall not modify evaluation factors or the relative importance of price and other evaluation factors after the proposal due date and time.
 3. A school district may appoint an evaluation committee to assist in the evaluation of proposals. If proposals are evaluated by an evaluation committee, the evaluation committee shall prepare an evaluation report for the school district. The school district may:
 - a. Accept the findings of the evaluation committee;
 - b. Request additional information from the evaluation committee; or
 - c. Reject the findings of the evaluation committee, in which case the school district shall appoint a new evaluation committee to evaluate the existing proposals or cancel the solicitation.
- B. As part of its initial evaluation, the school district may contact an offeror to confirm the school district's understanding of the proposal. Such contact shall be prior to the determination that a proposal is acceptable for further consideration. The school district shall obtain written confirmation from the offeror and shall retain the confirmation in the procurement file.
- C. The contract or contracts shall be awarded during the proposal acceptance period. If the proposal acceptance period expires prior to award of the contract or contracts, the procurement shall be canceled, unless the proposal acceptance period is extended in accordance with subsection (D).
- D. To extend the proposal acceptance period, a school district shall notify all offerors in writing of an extension and request written concurrence from each offeror. To be eligible for a contract award, an offeror shall submit a written concurrence to the extension. The school district shall reject a proposal as

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nonresponsive if written concurrence is not provided as requested.

- E. For the purpose of conducting discussions, the school district shall determine that proposals are either acceptable for further consideration or unacceptable.
- F. A proposal is acceptable if it is determined to be reasonably susceptible of being awarded a contract in accordance with the evaluation criteria and a comparison and ranking of original proposals. Proposals to be considered reasonably susceptible of being awarded a contract shall, at a minimum, demonstrate the following:
 1. Affirmative compliance with mandatory requirements designated in the solicitation.
 2. An ability to deliver goods or services on terms advantageous to the school district sufficient to be entitled to continue in the competition.
 3. That the proposal is technically acceptable as submitted.
- G. A proposal is unacceptable if it is determined to not be reasonably susceptible of being awarded a contract. Those proposals that have no reasonable chance for award when compared on a relative basis with more highly ranked proposals will not be reasonably susceptible of being awarded a contract. The determination shall be in writing, state the basis for the determination and be retained in the procurement file. When there is doubt as to whether a proposal is reasonably susceptible of being awarded a contract, the proposal shall be considered acceptable.
- H. If the school district determines an offeror's proposal is unacceptable, the school district shall notify that offeror of the determination and that the offeror shall not be afforded an opportunity to amend its proposal.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1047. Discussions with Individual Offerors

- A. Discussions may be conducted with responsible offerors who submit proposals determined to be acceptable for further consideration. Discussions may be conducted to assure full understanding of the proposal in order to obtain the most advantageous contract for the school district based upon the requirements and evaluation factors in the request for proposals. Offerors shall be afforded fair treatment with respect to any opportunity for discussion and revision of proposals.
- B. A school district shall establish procedures and schedules for conducting discussions. The school district shall ensure there is no disclosure of one offeror's price or any information derived from competing proposals to another offeror.
- C. Discussions may be conducted orally or in writing. If oral discussions are conducted, the offeror shall confirm the discussions in writing.
- D. If discussions are conducted, they shall be conducted with all offerors who submit proposals determined to be acceptable for further consideration. Proposals may not be revised during discussions.
- E. The school district shall keep a detailed record of all discussions in the procurement file.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,

effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1048. Best and Final Offers

- A. Only if discussions are conducted pursuant to R7-2-1047, the school district shall issue a written request for best and final offers to all offerors who submitted proposals determined to be acceptable pursuant to R7-2-1046(E). The request shall set forth the date, time and place for the submission of best and final offers.
- B. Best and final offers shall be requested only once, unless the school district makes a determination that it is advantageous to the school district to conduct further discussions or change the school district's requirements.
- C. The request for best and final offers shall inform offerors that, if they do not submit a notice of withdrawal or a best and final offer, their immediate previous offer will be construed as their best and final offer.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1049. Mistakes in Proposals

- A. Prior to the due date and time for receipt of best and final offers, any offeror may withdraw a proposal in writing or correct any mistake by modifying the proposal.
- B. After receipt of best and final offers, an offeror may withdraw a proposal or correct a mistake in accordance with R7-2-1030.
- C. The offeror shall withdraw or correct its proposal in writing. The school district shall retain the written withdrawal or correction in the procurement file.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1050. Contract Award

- A. As provided in subsection (B), the school district shall award a contract or contracts to the responsible offeror or offerors whose proposal or proposals are determined in writing to be most advantageous to the school district based on the factors set forth in the request for proposals. No factors or criteria may be used in proposal evaluation that are not set forth in the request for proposals. The amount of any applicable transaction privilege or use tax of a political subdivision of this state is not a factor in determining the most advantageous proposal.
- B. The school district shall award the contract to the offeror whose proposal is deemed most advantageous to the school district for all materials or services, except that the school district may make a multiple award if the request for proposals included notification that multiple contracts may be awarded, the school district's basis for determining whether to award multiple contracts, and the criteria for selecting vendors for the multiple contracts.
- C. Before making a multiple award, the school district shall determine in writing that a multiple award is necessary and is advantageous to the school district and shall establish procedures for the use of the multiple awarded contracts to ensure that purchases are made from the contracts determined by the school district to be most advantageous to the school district in satisfying the school district's requirements. A multiple award shall be limited to the least number of contracts the school dis-

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trict determines in writing to be necessary to meet the school district's requirements, and may include the following types of awards:

1. Awards to the offerors most advantageous to the school district for individual line items, groups of line items, or categories.
 2. Awards to the offerors most advantageous to the school district for similar or identical line items, groups of line items, or categories only if the school district determines in writing that such awards are necessary to obtain the required quantity or delivery, and the awards are limited to the least number of offerors necessary to meet the school district's requirements.
 3. An incremental award only if the school district determines in writing that such an award is necessary to obtain the required quantity or delivery. The award shall be made to the offeror whose proposal is determined to be the most advantageous to the school district, then to the offeror with the next most advantageous proposal, etc., until the total definite quantity required is reached.
 4. Regional awards to the offerors most advantageous to the school district in designated regions or locations only if the school district determines in writing that such awards are necessary to obtain the required quantity or delivery over widely scattered locations or a particular requirement is of a local nature.
- D.** The school district shall notify all offerors of an award.
- E.** The procurement file shall contain the basis on which the award or awards are made.
- F.** After a contract is awarded, the school district shall return any bid security provided by the unsuccessful offerors.
- G.** Upon execution of the contract, if performance and payment bonds were not required, or upon receipt of the specified bonds, if performance and payment bonds were required, the school district shall return any bid security provided by the successful offeror.
- H.** Within 10 days after a contract is awarded, the school district shall make the procurement file, including all proposals, available for public inspection.
1. If the procurement file contains information that is confidential under R7-2-1006, a copy of the applicable documents with the confidential information redacted shall be placed in the procurement file for the purpose of public inspection.
 2. The unredacted original copy of the confidential information shall be placed in a sealed envelope or other appropriate container, identified as confidential information, and maintained in the procurement file.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
 Amended effective October 22, 1992 (Supp. 92-4).
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1051. Reserved**R7-2-1052. Reserved****PART VII. SOLE SOURCE PROCUREMENTS****R7-2-1053. Sole Source Procurements**

- A.** A contract may be awarded for a material, service or construction item without competition if the governing board determines in writing that there is only one source for the required

material, service or construction item. The school district may require the submission of cost or pricing data in connection with an award under this Section. Sole source procurement shall be avoided, except when no reasonable alternative source exists.

- B.** The governing board's determination shall be made before entering the contract and shall include the following information:
1. A description of the procurement need and the reason why there is only a single source available or why no reasonable alternative exists;
 2. The name of the proposed supplier;
 3. The duration and estimated total dollar value of the proposed procurement;
 4. Documentation that the price submitted is fair and reasonable; and
 5. A description of efforts made to seek other sources.
- C.** The school district shall, to the extent practicable, negotiate with the single supplier a contract advantageous to the school district.
- D.** A copy of the written determination of the basis for the sole source procurement and any cost or pricing data shall be retained in the procurement file by the school district. The school district shall keep a record of all sole source procurements pursuant to R7-2-1086.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1054. Reserved**PART VIII. EMERGENCY PROCUREMENTS****R7-2-1055. Emergency Procurement Procedure**

- A.** An emergency condition creates an immediate and serious need for materials, services, or construction that cannot be met through normal procurement methods and seriously threatens the functioning of the school district, the preservation or protection of property or the public health, welfare or safety. Some examples of emergency conditions are floods, epidemics, or other natural disasters, riots, fire or equipment failures.
- B.** An emergency procurement shall be limited to the materials, services, or construction necessary to satisfy the emergency need.
- C.** The governing board shall designate a board member or members or school district official or officials authorized to make emergency procurements, and may prescribe limiting factors including maximum spending limits with regard to emergency procurements.
- D.** The designated board member or district official shall:
1. Select the contractor to perform the emergency work with as much competition as practicable under the circumstances;
 2. Obtain a price that is fair and reasonable under the circumstances;
 3. Prepare a written statement documenting the basis for the emergency, the basis for the selection of the particular contractor, and why the price paid was fair and reasonable. The statement shall be signed by the designated governing board member or district official authorized to initiate emergency procurements; and
 4. Convene a meeting of the governing board to approve the emergency procurement, unless the nature of the emer-

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agency requires that the procurement be made prior to governing board approval.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1056. Emergency Procurement Reporting

- A. If the nature of the emergency does not permit convening a meeting of the governing board to approve the emergency procurement, the designated board member or district official who makes an emergency procurement shall, at the first scheduled governing board meeting following the procurement, provide to the governing board a report concerning the emergency procurement including the following information:
1. The written statement documenting the basis for the emergency, the basis for the selection of the particular contractor, and why the price paid was fair and reasonable; and
 2. Why it was impracticable to convene a meeting of the governing board.
- B. The information and documentation required in this Section shall be included in the procurement file.
- C. The school district shall keep a record of all emergency procurements pursuant to R7-2-1086.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1057. Repealed**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

PART IX. REQUEST FOR INFORMATION

R7-2-1058. Request for Information

- A. The school district may issue a request for information to obtain data about services or materials available to meet a specific need. Notice of the request for information shall be issued in accordance with R7-2-1024(A) and R7-2-1024(C).
- B. Responses to a request for information are not offers and cannot be accepted to form a binding contract.
- C. Information contained in a response to a request for information may be withheld from public inspection until the subsequent procurement is awarded or terminated, two years from the date of the vendor's response, or upon commencement of a new procurement, whichever occurs first.
- D. There is no required format to be used for requests for information.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1059. Reserved**R7-2-1060. Reserved**

PART X. SERVICES OF CLERGY, CERTIFIED PUBLIC ACCOUNTANTS, PHYSICIANS, DENTISTS AND LEGAL COUNSEL

R7-2-1061. Competitive Selection Procedures for Clergy, Certified Public Accountants, Physicians, Dentists and Legal Counsel

- A. The services of clergy, certified public accountants, physicians, dentists, or legal counsel shall be procured in accordance with R7-2-1061 through R7-2-1068, except as authorized pursuant to R7-2-1002, R7-2-1053, or R7-2-1055.
- B. Pursuant to A.R.S. § 15-914, contracts for financial and compliance audits and completed audits shall be approved by the Auditor General as provided in A.R.S. § 41-1279.21.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1062. Statement of Qualifications

- A. If the services specified in R7-2-1061(A) are needed, persons may submit and the school district may solicit persons engaged in providing the services to submit statements of qualifications on a prescribed form that shall include the following information:
1. Technical education and training;
 2. General or special experience, certifications, licenses, and memberships in professional associations, societies, or boards;
 3. An expression of interest in providing a particular service; and
 4. Any other pertinent information requested by the school district.
- B. Persons who have submitted statements of qualifications may amend those statements at any time by filing a new statement.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1063. Request for Proposals

- A. Adequate notice of the need for services specified in R7-2-1061(A) shall be given by the school district through a request for proposals. The request for proposals shall be in accordance with R7-2-1042.
- B. In addition to providing notice of the request for proposals pursuant to R7-2-1022 and R7-2-1024(C), the school district shall provide notice to all persons who submitted statements of qualifications for the particular services solicited.
- C. If required to evaluate proposals, the request for proposals shall require all offerors who have not already done so to submit a statement of qualifications pursuant to R7-2-1062.
- D. Pre-proposal conferences may be convened in accordance with R7-2-1025.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1064. Receipt of Proposals

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Proposals shall be received and opened in accordance with R7-2-1045. Late proposals, modifications, or withdrawals shall be considered in accordance with R7-2-1044.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1065. Evaluation of Proposals

Proposals shall be evaluated in accordance with R7-2-1046.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1066. Discussions with Individual Offerors

- A. As part of its initial evaluation, the school district may contact an offeror to confirm the school district's understanding of the proposal. Such contact shall be prior to the determination that a proposal is acceptable for further consideration. The school district shall obtain written confirmation from the offeror and shall retain the confirmation in the procurement file.
- B. The school district may conduct discussions with any offeror in accordance with R7-2-1047. If such discussions are conducted, the school shall issue a request for best and final offers pursuant to R7-2-1048.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1067. Mistakes in Proposals

Mistakes in proposals shall be addressed pursuant to R7-2-1049.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1068. Contract Award

- A. As provided in subsection (B), the school district shall award a contract or contracts to the responsible offeror or offerors best qualified based on the evaluation factors set forth in the request for proposal and after making a written determination that the price is fair and reasonable. The school district shall not award a contract based solely on price. No factors or criteria may be used in proposal evaluation that are not set forth in the request for proposals.
- B. The school district shall award the contract to the best qualified offeror whose price is determined to be fair and reasonable for all services, except that the school district may make a multiple award if the request for proposals included notification that multiple contracts may be awarded, the school district's basis for determining whether to award multiple contracts, and the criteria for selecting vendors for the multiple contracts.
- C. Before making a multiple award, the school district shall determine in writing that a multiple award is necessary and is advantageous to the school district and shall establish procedures for the use of the multiple awarded contracts to ensure that purchases are made from the contracts determined by the school district to be most advantageous to the school district in satisfying the school district's requirements. A multiple award shall be limited to the least number of contracts the school district determines in writing to be necessary to meet the school district's requirements, and may include the following types of awards:

1. Award to the best qualified offeror whose price is determined to be fair and reasonable for individual line items, groups of line items, or categories.
 2. Awards to the best qualified offerors whose prices are determined to be fair and reasonable for similar or identical line items, groups of line items, or categories only if the school district determines in writing that such awards are necessary to obtain the required quantity or delivery, and the awards are limited to the least number of offerors necessary to meet the school district's requirements.
 3. An incremental award only if the school district determines in writing that such an award is necessary to obtain the required quantity or delivery. The award shall be made to the best qualified person whose price is determined to be fair and reasonable, then to the next best qualified person whose price is determined to be fair and reasonable, etc., until the total definite quantity required is reached.
 4. Regional awards to the best qualified offerors whose prices are determined to be fair and reasonable in designated regions or locations only if the school district determines in writing that such an award is necessary to obtain the required quantity or delivery over widely scattered locations or a particular requirement is of a local nature.
- D. The school district shall notify all offerors of an award.
 - E. The procurement file shall contain the basis on which the award or awards are made.
 - F. Within 10 days after a contract is awarded, the school district shall make the procurement file, including all proposals, available for public inspection.
 1. If the procurement file contains information that is confidential under R7-2-1006, a copy of the applicable documents with the confidential information redacted shall be placed in the procurement file for the purpose of public inspection.
 2. The unredacted original copy of the confidential information shall be placed in a sealed envelope or other appropriate container, identified as confidential information, and maintained in the procurement file.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

PART XI. GUARANTEED ENERGY CONTRACTS**R7-2-1069. Guaranteed Energy Cost Savings Contracts**

- A. A school district may procure a guaranteed energy cost savings contract with a qualified provider through competitive sealed proposals in accordance with R7-2-1041 through R7-2-1050.
 1. The request for proposal evaluation factors required by R7-2-1042(A)(1)(h) shall include objective criteria for selecting the qualified provider, including the cost of the contract, the energy cost savings, the net projected energy savings, the quality of the technical approach, the quality of the project management plan, the financial solvency of the qualified provider and the experience of the qualified provider with projects of similar size and scope.
 2. Notwithstanding R7-2-1042(A)(1)(h), the request for proposals shall set forth the respective numerical weighting for each evaluation criterion.

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3. At the qualified provider's expense, the proposal shall include an independent third-party validation of cost savings calculations associated with each proposed energy cost savings measure by a licensed, registered professional engineer, with credentials from the national association of energy engineers, who has demonstrated experience in energy analysis. The school district shall approve the selection of the independent third party.
 4. A school district may enter into a guaranteed energy cost savings contract with a qualified provider if the school district determines that the energy savings project will pay for itself within the expected life of the energy cost savings measures implemented (according to the manufacturer's equipment standards), the term of the financial agreement or 25 years, whichever is shortest, if the recommendations in the proposal are followed. Notwithstanding this subsection, a school district may elect to use a shorter capital cost repayment schedule than required pursuant to this subsection. The school district shall retain the cost savings achieved by a guaranteed energy cost savings contract, and these cost savings may be used to pay for the contract and project implementation.
 5. A qualified provider is a person that is experienced in designing, implementing or installing energy cost savings measures, that has a record of established projects or measures of similar size and scope, that has demonstrated technical, operational, financial and managerial capabilities to design and operate cost savings measures and projects and that has the financial ability to satisfy guarantees for energy cost savings.
- B.** In selecting a contractor to perform any construction work related to performing the guaranteed energy cost savings contract, the qualified provider may:
1. Develop and use a prequalification process for contractors.
 2. Require the contractor to demonstrate that the contractor is adequately bonded to perform the work and that the contractor has not failed to perform on a prior job.
- C.** A study shall be performed by the selected qualified provider in order to establish the exact scope of the guaranteed energy cost savings contract, the fixed cost savings guarantee amount and the methodology for determining actual savings. The selected qualified provider will provide the school district with a final study report which validates that the fixed cost savings guarantee amount will meet or exceed the cost savings calculations contained within the original proposal. The study report shall be reviewed and approved by the school district before the actual installation of any equipment. The qualified provider shall transmit a copy of the approved study report to the division of school facilities within the department of administration and the governor's office.
- D.** The information to develop the energy baseline shall be derived from historical energy costs or actual energy measurements or shall be calculated from energy measurements at the facility where energy cost savings measures are to be installed or implemented. The baseline shall be established before the installation or implementation of energy cost savings measures.
- E.** One or more school districts may enter into a financing agreement with a qualified provider or a financial institution, trustee or paying agent for the purchase and installation or implementation of energy cost savings measures. Any required financing may be obtained as part of the original competitive sealed proposal process from the qualified provider, or from a third-party financing institution that is procured separately in accordance with Articles 10 and 11.
- F.** The selected qualified provider shall provide a performance bond in accordance with R7-2-1103(A)(1)(c).
- G.** The selected qualified provider shall make public the information in the subcontractor's bids.
- H.** The guaranteed energy cost savings contract shall include the following:
1. A requirement that, in determining whether the projected energy savings calculations have been met, the energy savings shall be computed by comparing the energy baseline before installation or implementation of the energy cost savings measures with the energy consumed after installation or implementation of the energy cost savings measures. The qualified provider and the school district may agree to make modifications to the energy baseline only for any of the following:
 - a. Changes in utility rates.
 - b. Changes in the number of days in the utility billing cycle.
 - c. Changes in the square footage of the facility.
 - d. Changes in the operational schedule of the facility.
 - e. Changes in facility temperature.
 - f. Significant changes in the weather.
 - g. Significant changes in the amount of equipment or lighting used in the facility.
 - h. Significant changes in the nature or intensity of energy use such as the change of classroom space to laboratory space.
 2. A payment schedule, with payments over a period of not more than the expected life of the energy cost savings measures implemented (according to the manufacturer's equipment standards), the term of the financial agreement or 25 years, whichever is shortest, except a school district may elect to use a shorter capital cost repayment schedule than required pursuant to this subsection.
 3. A requirement that all payments, except obligations on termination of the contract before its expiration, be made pursuant to the terms of the financing agreement.
 4. A written guarantee from the qualified provider that the energy savings will meet or exceed the costs of the energy cost savings measures over the expected life of the energy cost savings measures implemented (according to the manufacturer's equipment standards), the term of the financial agreement or 25 years, whichever is shortest, except a school district may elect to use a shorter capital cost repayment schedule than required pursuant to this subsection. The school district shall ensure that the contractor:
 - a. For the term of the guaranteed energy cost savings contract, prepares a measurement and verification report on an annual basis in addition to an annual reconciliation of savings.
 - b. Reimburses the school district for any shortfall of guaranteed energy cost savings on an annual basis.
 - c. Uses the international performance and measurement and verification protocol standards or the federal energy management program standards to validate the savings guarantee.
- I.** A school district may use a simplified energy performance contract for projects that are less than \$500,000. Simplified energy performance contracts are not required to include an energy savings guarantee and shall comply with all require-

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ments in this Section except for subsections (D), (H)(1)(a) through (h) and (H)(4)(a) through (c).

- J. This Section does not apply to the construction of new buildings.
- K. For all projects under this Section, the school district shall report to the division of school facilities within the department of administration and the governor's office:
 1. The name of the project.
 2. The name of the qualified provider.
 3. The total cost of the project.
 4. The expected energy cost savings and relevant escalators.
 5. The agreed-on baseline in the measurement and verification agreement in both kilowatt hours and dollars.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1). Amended by final exempt rulemaking at 27 A.A.R. 2342 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-1070. Guaranteed Energy Production Contracts

- A. A school district may procure a guaranteed energy production contract with a qualified provider through competitive sealed proposals in accordance with R7-2-1041 through R7-2-1050.
 1. The request for proposals evaluation factors required by R7-2-1042(A)(1)(h) shall include objective criteria for selecting the qualified provider, including the guaranteed energy price, the guaranteed energy production, the quality of the technical approach, the quality of the project management plan, the financial solvency of the qualified provider and the experience of the qualified provider with projects of similar size and scope.
 2. Notwithstanding R7-2-1042(A)(1)(h), the request for proposals shall set forth the respective numerical weighting for each evaluation criterion.
 3. The school district may obtain any required financing as part of the original competitive sealed proposal process from the qualified provider, or from a third-party financing institution procured separately in accordance with Articles 10 and 11.
 4. When submitting a proposal for the installation of equipment, the qualified provider shall include information containing the guaranteed energy production associated with each proposed energy production measure. The school district shall review and approve this guarantee before the actual installation of any equipment. The qualified provider shall transmit a copy of the approved guarantee to the division of school facilities within the department of administration and the governor's office.
 5. A qualified provider is a person that is experienced in designing, implementing or installing energy cost savings measures, that has demonstrated technical, operational, financial and managerial capabilities to design and operate cost savings measures and projects and that has the financial ability to satisfy guarantees for guaranteed energy production, financial solvency and experience for projects of similar size and scope.
- B. In selecting a contractor to perform any construction work related to performing the guaranteed energy production contract, the qualified provider may:
 1. Develop and use a prequalification process for contractors.

2. Require the contractor to demonstrate that the contractor is adequately bonded to perform the work and that the contractor has not failed to perform on a prior job.

- C. A guaranteed energy production contract shall include a guaranteed energy price, and a written guaranteed energy production as measured on an annual basis over the expected life of the energy production measures implemented or within 25 years, whichever is shorter. The school district shall ensure that the contractor:
 1. Prepares a measurement and verification report on an annual basis in addition to an annual reconciliation of any guaranteed energy production shortfall.
 2. Reimburses the school district for any guaranteed energy production shortfall on an annual basis by multiplying any energy production shortfall by either the difference between the guaranteed energy price and the effective utility rate, or an alternative method as mutually agreed on by the school district and the qualified provider.
- D. The selected qualified provider shall provide a performance bond in accordance with R7-2-1103(A)(1)(c).
- E. The selected qualified provider shall make public information in the subcontractor's bids.
- F. For all projects under this Section, the school district shall report to the governor's office and the division of school facilities within the department of administration:
 1. The name of the project.
 2. The name of the qualified provider.
 3. The total cost of the project.
 4. The expected guaranteed energy production and guaranteed energy price, including relevant escalators, if applicable, over the term of the guaranteed energy production contract.
- G. For all projects under this Section, the school district shall annually report the actual energy production and guaranteed energy price to the division of school facilities within the department of administration no later than October 15.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 27 A.A.R. 2342 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

PART XII. GENERAL CONTRACT REQUIREMENTS**R7-2-1071. Reserved****R7-2-1072. Cancellation of Solicitations; Rejection of Bids and Proposals**

Each solicitation issued by the school district shall state that the solicitation may be canceled or bids or proposals rejected if it is advantageous to the school district.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1073. Cancellation of Solicitation Before the Due Date and Time

- A. Before the due date and time, a solicitation may be canceled in whole or in part if the school district determines that cancellation is advantageous to the school district. The reasons for the cancellation shall be made part of the procurement file.
- B. The school district shall notify in writing all persons to whom the original notice or solicitation was distributed by the school district. Notice shall be in the same manner as the original

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notice or solicitation, including posting on a designated site on the Internet, as applicable.

- C. The school district shall not open bids or proposals after cancellation. The school district may discard the bid or proposal 30 days after notice is given in accordance with subsection (B), unless the bidder or offeror requests the bid or proposal be returned.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1074. Cancellation of Solicitation After Bid or Proposal Opening and Before Award

- A. After opening of bids or proposals but before award, a solicitation may be canceled in whole or in part if the school district determines that cancellation is advantageous to the school district. The reasons for the cancellation shall be made part of the procurement file.
- B. The school district shall notify bidders or offerors of the cancellation in writing.
- C. The school district shall retain bids or proposals received under the canceled solicitation in the procurement file. If the school district intends to issue another solicitation within six months after cancellation of the procurement, the school district shall withhold the bids or proposals from public inspection. After award of a contract under the subsequent solicitation, the school district shall make bids or proposals submitted in response to the canceled solicitation available for public inspection except for information determined to be confidential pursuant to R7-2-1006.
- D. In the event of cancellation, the school district shall promptly return any bid security provided by a bidder or offeror.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1075. Rejection of Individual Bids and Proposals

- A. A bid or proposal may be rejected in whole or in part if:
 - 1. The person responding to the solicitation is determined to be nonresponsive pursuant to R7-2-1076;
 - 2. It is nonresponsive or unacceptable;
 - 3. The proposed price is unreasonable; or
 - 4. It is otherwise not advantageous to the school district.
- B. Bidders or offerors whose bids or proposals are rejected shall be notified. A record of the rejection shall be retained in the procurement file.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1076. Responsibility of Bidders and Offerors

- A. The school district shall make a written determination that a bidder or offeror is responsible before awarding a contract to that bidder or offeror.
- B. If the school district determines a bidder or offeror is nonresponsive, the school district shall promptly send a determination to the bidder or offeror stating the basis for the

determination. The school district shall file a copy of the determination in the procurement file.

- C. A finding of nonresponsibility shall not be construed as a violation of the rights of any person.
- D. If the school district included specific responsibility criteria in the solicitation, such criteria shall be considered in determining if a bidder or offeror is responsible.
- E. Factors to be considered in determining if a bidder or offeror is responsible may include:
 - 1. The bidder or offeror's financial, material, personnel or other resources, including subcontracts;
 - 2. The bidder or offeror's record of performance and integrity;
 - 3. Whether the bidder or offeror has been debarred or suspended; and
 - 4. Whether the bidder or offeror is qualified legally to contract with the school district.
- F. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility shall be grounds for a determination of nonresponsibility with respect to the bidder or offeror.
- G. As required by A.R.S. § 41-2540(B), information furnished by a bidder or offeror pursuant to this Section shall not be disclosed outside of the school district without prior written consent by the bidder or offeror except to law enforcement agencies.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1077. Prequalification of Contractors for Materials, Services and Construction

- A. Prospective contractors may be prequalified for particular types of materials, services and construction. Prospective contractors have a continuing duty to provide the school district with information on any material change affecting the basis of prequalification. Solicitation mailing lists of prospective contractors shall include the prequalified contractors.
- B. A prospective contractor need not be prequalified to be awarded a contract. Prequalification does not represent a determination of responsibility.
- C. The existence of a qualified product list pursuant to R7-2-1011(D) does not constitute prequalification of any prospective supplier of that product.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1078. Bid and Contract Security

- A. Bid and performance bonds or other security may be required for material or service contracts to guarantee faithful bid and contract performance if the governing board determines that such requirement is advantageous to the school district. In determining the amount and type of security required for each contract, the governing board shall consider the nature of the performance and the need for future protection to the school district. The requirement for bonds or other security shall be included in the solicitation.
- B. Bid or performance bonds shall not be used as a substitute for a determination of bidder or offeror responsibility.

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- C. If a bid or proposal is withdrawn at any time before bid or proposal opening, any bid security shall be returned to the bidder or offeror.
- D. After the contract is awarded, any bid security shall be returned to the unsuccessful bidders or offerors. Upon execution of the contract, if performance bonds or other security were not required, or upon receipt of the specified bonds, if performance bonds or other security were required, the school district shall return any bid security provided by the successful bidder or offeror.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1079. Cost or Pricing Data

- A. The submission of current cost or pricing data may be required in connection with an award in situations in which analysis of the proposed price is essential to determine that the price is fair and reasonable. A contractor shall, except as provided in subsection (C), submit current cost or pricing data and shall certify that, to the best of the contractor's knowledge and belief, the cost or pricing data submitted is accurate, complete and current as of a mutually determined specified date before the date of either:
 1. The pricing of any contract awarded by competitive sealed proposals or pursuant to the sole source procurement authority, if the total contract price is expected to exceed \$100,000.
 2. The pricing of any change order or contract modification which is expected to increase the total contract price which will then exceed \$100,000.
- B. Any contract, change order or contract modification for which certified cost or pricing data is required shall contain a provision that the price to the school district shall be adjusted to exclude any significant amounts by which the school district finds that the price was increased because the contractor-furnished cost or pricing data was inaccurate, incomplete or not current as of the date agreed on between the parties. Such adjustment by the school district may include profit or fee. The school district may reduce the contract price pursuant to R7-2-1081.
- C. The requirements of this Section may be waived if any of the following apply:
 1. The contract price is based on adequate price competition.
 2. The contract price is based on established catalog prices or market prices.
 3. Contract prices are set by law or regulation.
 4. It is determined in writing by the school district that the waiver is advantageous to the school district. The determination shall include the reasons why the waiver is advantageous to the school district.
- D. When applicable, the solicitation shall include a notice that certified cost or pricing data shall be submitted.
- E. In an emergency, cost or pricing data may be submitted at a reasonable time after the contract is awarded.
- F. A copy of all determinations by the school district that pertain to the submission of cost or pricing data shall be retained in the procurement file.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,

effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1080. Refusal to Submit Cost or Pricing Data

- A. If the offeror fails to submit cost or pricing data in the required form, the school district may reject the proposal.
- B. If a contractor fails to submit data to support a price adjustment in the form required, the school district may:
 1. Reject the price adjustment; or
 2. Set the amount of the price adjustment subject to the contractor's rights under R7-2-1141 through R7-2-1185.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1081. Defective Cost or Pricing Data

- A. The school district may reduce the contract price if, upon determination, the cost or pricing data are defective.
- B. The contract price shall be reduced in the amount of the defect plus related overhead and profit or fee if the school district relied upon the defective data in awarding the contract.
- C. Any dispute as to the existence of defective cost or pricing data or the amount of an adjustment due to defective cost or pricing data may be appealed as a contract controversy under R7-2-1141 through R7-2-1185. Pending appeal, the adjusted contract price shall remain in effect.
- D. If certification of either current cost or pricing data is required, the awarded contract shall include notice of the right of the school district to a reduction in price if certified cost or pricing data are subsequently determined to be defective.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1082. Right to Inspect Plant

The school district may at reasonable times inspect the part of the plant or place of business of a contractor or any subcontractor which is related to the performance of any contract awarded or to be awarded by the school district.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1083. Right to Audit Records

- A. The school district may, at reasonable times and places, audit the books and records of any person who submits cost or pricing data as provided in R7-2-1079 to the extent that the books and records relate to the cost or pricing data. Any person who receives a contract, change order or contract modification for which cost or pricing data is required shall maintain the books and records that relate to the cost or pricing data for five years after completion of the contract.
- B. The school district is entitled to audit the books and records of a contractor or any subcontractor under any contract or subcontract to the extent that the books and records relate to the performance of the contract or subcontract. The books and records shall be maintained by the contractor for a period of five years after completion of the contract and by the subcontractor for a period of five years after completion of the subcontract.

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Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year cor-
rected in Supp. 18-2.

R7-2-1084. Anticompetitive Practices

- A. If for any reason collusion or other anticompetitive practices are suspected among any bidders or offerors, a notice or the relevant facts shall be transmitted to the governing board and the attorney general. This Section does not require a law enforcement agency conducting an investigation into such practices to convey such notice to the school district.
- B. Upon submitting a bid or proposal, the bidder or offeror shall certify on a form prescribed by the school district that the submission of the bid or proposal did not involve collusion or other anticompetitive practices.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year cor-
rected in Supp. 18-2.

R7-2-1085. Retention of Procurement Records

All procurement records shall be retained and disposed of in accordance with records retention guidelines and schedules approved by the Arizona State Library, Archives and Public Records.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year cor-
rected in Supp. 18-2.

R7-2-1086. Record of Procurement Actions

- A. The school district shall maintain a record listing all contracts made under R7-2-1053, Sole source procurements, or R7-2-1055, Emergency procurements, for a minimum of five years. The record shall contain:
 - 1. Each contractor's name.
 - 2. The amount and type of each contract.
 - 3. A listing of the materials, services or construction procured under each contract.
- B. The record shall be available for public inspection.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year cor-
rected in Supp. 18-2.

R7-2-1087. Contract Clauses

- A. The school district shall include in solicitations and contracts all contract clauses necessary to ensure the school district's interests are addressed. The school district may modify clauses for inclusion in any particular school district contract, provided that any variations are supported by a written determination that states the circumstances justifying the variation and provided that notice of any material variation is stated in the solicitation.
- B. All contract clauses shall be consistent with the provisions of Articles 10 and 11.
- C. The school district may permit or require the inclusion of clauses providing for appropriate remedies, adjustments in prices, time of performance or other contract provisions.

- D. A contract for the procurement of construction or construction services shall include a provision for the recovery of damages related to expenses incurred by the contractor for a delay for which the school district is responsible, that is unreasonable under the circumstances and that was not within the contemplation of the parties to the contract. This subsection does not void any provision in the contract that requires notice of delays, provides for arbitration or any other procedure for settlement or provides for liquidated damages.
- E. A provision, covenant, clause or understanding in, collateral to or affecting a construction contract or design professional service contract that makes the contract subject to the laws of another state or that requires any litigation, arbitration or other dispute resolution proceeding arising from the contract to be conducted in another state is against the public policy of this state and is void and unenforceable.
- F. A provision or clause for contract termination in accordance with A.R.S. § 38-511. The school district may cancel the Contract within three years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of the school district is or becomes at any time while the Contract, or an extension of the Contract is in effect an employee of or a consultant to any party to the Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time.
- G. A provision or clause for contract termination if it appears that any person has not complied with A.R.S. § 15-213(O). The school district or school purchasing cooperative may, by written notice, terminate the Contract, in whole or in part, if the school district or school purchasing cooperative determines that any person or vendor has offered, conferred or agreed to confer any personal gift or benefit on any employee of the school district or school purchasing cooperative who supervised or participated in the planning, recommending, selecting or contracting of the Contract.
- H. A provision or clause for contract termination for gratuities. The school district or school purchasing cooperative may, by written notice, terminate the Contract in whole or in part, if the school district or school purchasing cooperative determines that employment or a gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the school district or school purchasing cooperative for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including making of any determination or decision about contract performance.
- I. A covenant, clause or understanding in, collateral to or affecting a construction contract or subcontract or a design professional services contract or subcontract that purports to indemnify, to hold harmless or to defend the promisee of, from or against liability for loss or damage resulting from the negligence of the promisee or the promisee's agents, employees or indemnitee is against the public policy of this state and is void.
- J. If a design professional provides work, services, studies, planning, surveys or other preparatory work in connection with a public building or improvement, the school district or property owner may require that the design professional services contract or subcontract require the design professional to indemnify and hold harmless the school district or property owner, and its officers and employees, from liabilities, damages,

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losses and costs, including reasonable attorney fees and court costs, but only to the extent caused by the negligence, recklessness or intentional wrongful conduct of such design professional or other persons employed or used by such design professional in the performance of the contract or subcontract.

- K.** A design professional services subcontract entered into in connection with a public building or improvement may also require any design professional to indemnify and hold harmless the school district or property owner and the indemnified design professional who executed the subcontract, and their respective owners, officers and employees, from liabilities, damages, losses and costs, including reasonable attorney fees and court costs, but only to the extent caused by the negligence, recklessness or intentional wrongful conduct of such design professional, or persons employed or used by the indemnifying design professional in connection with the subcontract.
- L.** Nothing in this Section shall prohibit the requirement of insurance coverage that complies with this Section, including the designation of the school district or property owner as an additional insured on a general liability insurance policy or as a designated insured on an automobile liability policy provided in connection with a construction contract or subcontract or design professional services contract or subcontract.
- M.** Notwithstanding subsection (I), a contractor who is responsible for the performance of a construction contract or subcontract may fully indemnify a person, firm, corporation, state or other agency for whose account the construction contract or subcontract is not being performed and that, as an accommodation, enters into an agreement with the contractor that permits the contractor to enter on or adjacent to its property to perform the construction contract or subcontract for others.
- N.** Except as provided in subsections (J), (K) and (L), a design professional services contract or subcontract entered into in connection with a public building or improvement shall not require that a design professional defend, indemnify, insure or hold harmless the school district or property owner or its employees, officers, directors, agents, contractors or subcontractors from any liability, damage, loss, claim, action or proceeding, and any contract provision that is not permitted by subsections (J), (K) and (L) is against the public policy of this state and is void.
- O.** If any provision or condition contained in this Section conflicts with any provision of a contract between the school district and the federal government, such provision shall not apply to any construction contract or subcontract, or design professional services contract or subcontract to the extent such conflict exists, but all provisions of this Section with which there is no such conflict, shall apply.
- P.** In this Section:
 1. "Construction contract or subcontract" means a written or oral agreement relating to the construction, alteration, repair, maintenance, relocation, moving, demolition or excavation of a structure, street or roadway, appurtenance, facility, development, or other improvement to land.
 2. "Design professional services" means architect services, engineer services, land surveying services, geologist services or landscape architect services or any combination of those services performed by or under the supervision of a design professional or any person employed by the design professional.
 3. "Design professional services contract or subcontract" means a written or oral agreement relating to the plan-

ning, design, construction administration, study, evaluation, consulting, inspection, surveying, mapping, material sampling, testing or other professional, scientific or technical services furnished in connection with any actual or proposed study, planning, survey, environmental remediation, construction, improvement, alteration, repair, maintenance, relocation, moving, demolition or excavation of a structure, street or roadway, appurtenance, facility, development or other improvement to land.

- 4. "Other persons employed or used" means a subcontractor to a contractor or design professional in any tier, or any other person or entity who performs work or design professional services, or provides labor, services, materials or equipment in connection with a construction contract or subcontract or design professional service contract or subcontract subject to this Section.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1088. Reserved

R7-2-1089. Reserved

R7-2-1090. Reserved

PART XIII. CONTRACT TYPES

R7-2-1091. Repealed

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1092. Authority to Use Contract Types

Subject to the limitations of this Section, any type of contract that would be advantageous to the school district may be used, except that the use of a cost-plus-a-percentage-of-cost contract is prohibited.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1093. Multiterm Contracts

- A.** Unless otherwise provided by law, multiterm contracts for materials or services and contracts for job-order-contracting construction services may be entered into if the duration of the contract and the conditions of renewal or extension, if any, are included in the invitation for bids or the request for proposals and if monies are available for the first fiscal period at the time the contract is executed. The duration of contracts for materials or services and contracts for job-order-contracting construction services shall be limited to no more than five years unless the governing board determines in writing before the procurement solicitation is issued that a contract of longer duration would be advantageous to the school district. Payment and performance obligations for succeeding fiscal periods are subject to the availability and appropriation of monies.
- B.** Before the use of a multiterm contract, it shall be determined in writing by the governing board that:

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1. Estimated requirements cover the period of the contract and are reasonable and continuing.
 2. Such a contract will be advantageous to the school district by encouraging effective competition or otherwise promoting economies in school district procurement.
- C. The school district shall include in all multiterm contracts a clause specifying that the contract shall be canceled if monies are not appropriated or otherwise made available to support the continuation of performance in a subsequent fiscal year.
- D. If monies are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled and the contractor may only be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the materials or services delivered under the contract or which are otherwise not recoverable. The cost of cancellation may be paid from any appropriations available for such purposes.
- E. A contract for specified professional services shall have a term not to exceed five years after the date of contract award by the school district of the first contract under the procurement, except that the contract may continue in effect after the five year term for projects on which the rendering of specified professional services commences within the five year term.
- F. Notwithstanding this Section, contracts for auditors and auditing firms shall have a term as prescribed in A.R.S. § 15-213.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 24 A.A.R. 3283, effective October 22, 2018 (Supp. 18-4).

R7-2-1094. Reserved**R7-2-1095. Reserved****R7-2-1096. Reserved****R7-2-1097. Reserved****R7-2-1098. Reserved****R7-2-1099. Reserved**

ARTICLE 11. SCHOOL DISTRICT PROCUREMENT (CONTINUED)

PART XIV. PROCUREMENT OF CONSTRUCTION

R7-2-1100. Construction Project Delivery Methods

- A. For the design-bid-build project delivery method, the school district shall procure:
1. Design services pursuant to R7-2-1117 through R7-2-1123, except as authorized by R7-2-1053 and R7-2-1055.
 2. Construction by competitive sealed bidding pursuant to R7-2-1021 through R7-2-1032 and R7-2-1102 through R7-2-1105, except as authorized by R7-2-1033, R7-2-1053, R7-2-1055, and R7-2-1101.
- B. For construction-manager-at-risk, design-build and job-order-contracting project delivery methods, the school district shall procure construction services pursuant to R7-2-1102 through R7-2-1115.
- C. For construction-manager-at-risk project delivery method, the school district shall purchase design services pursuant to R7-2-1117 through R7-2-1123.
- D. For job-order-contracting project delivery method, the school district may include design services in the job-order-contract-

ing construction services contract, but if the school district does not include design services in the contract, the school district shall procure any design services relating to construction services projects under the contract pursuant to R7-2-1117 through R7-2-1123.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1101. Qualified Select Bidders List

- A. The school district may use the qualified select bidders list method to determine the vendors who receive the notice of competitive sealed bidding for a construction contract. The qualified select bidders list shall be determined in accordance with this Section.
- B. Sealed prime contractor or construction materials supplier statements of qualifications shall be solicited through requests for qualifications.
1. Notice of the request for qualifications shall be given by the school district pursuant to R7-2-1022 and R7-2-1024(C).
 2. Requests for qualifications shall be issued at least 21 days before the due date and time for submission.
 3. Use of the qualified select bidders list shall be restricted to the specific project identified in the request for qualifications.
 4. The qualified select bidders list shall consist of at least three prime contractors when a contractor is solicited or three construction material suppliers when material suppliers are solicited.
 5. The qualified select bidders list for any specific project is valid for one year but may be extended for an additional year, at the option of the school district.
- C. The request for qualifications shall include the following:
1. Notice that all information and statements of qualifications submitted by persons will be made available for public inspection following the establishment of a qualified select bidders list.
 2. Instructions and information to persons concerning the statement of qualifications submission requirements, including the due date and time for submission, the address of the office at which the statements of qualifications are to be received, and any other special information.
 3. The anticipated evaluation period and selection of a qualified select bidders list.
 4. General information on the project site or sites, scope of work, schedule, evaluation criteria, project design and construction budget, or life cycle budget for a procurement that includes maintenance, operations, and finance services.
 5. The weight prescribed by the school district for each of the criteria to be used in making the evaluation.
 6. The criteria to be used in making the evaluation, which shall include at a minimum:
 - a. Person's capabilities and qualifications for performing the scope of work;
 - b. Person's project team, and key members' education, training and qualifications;
 - c. Method of approach, including subcontractor plan, safety plan;
 - d. Safety record and worker's compensation rate;
 - e. Projected construction schedule;

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- f. Current workload;
 - g. Five most recent representative examples of similar work along with references for each example;
 - h. Current bonding availability and capacity;
 - i. Any judgment or liens against the person within the last three years;
 - j. Any current unresolved bond claims against the person;
 - k. Any deficiency orders issued against the prime contractor by the Arizona Registrar of Contractors within the last three years; and
 - l. Any filing under the United States Bankruptcy Code, assignments for the benefit of creditors, or other measures taken for the protection against creditors during the last three years.
7. The type of contract to be used.
 8. The name of the district representative or district representatives.
 9. The expiration date of the qualified select bidders list if less than one year.
 10. A statement that the school district reserves the right to conduct interviews as part of the evaluation process.
 11. The date, time and location of any pre-submittal conference.
- D.** The school district may conduct a pre-submittal conference not less than 14 days prior to the statement of qualifications due date and time for the purposes of explaining the requirements of the request for qualifications.
- E.** Amendments to request for qualifications.
1. An amendment to a request for qualifications shall be issued if necessary to do any of the following:
 - a. Make changes in the request for qualifications;
 - b. Correct defects or ambiguities;
 - c. Furnish to persons information given to any other person, if the information will assist the persons in submitting their statements of qualifications or if the lack of the information will prejudice the persons;
 - d. Provide additional information or instructions; or
 - e. Extend the due date and time if the school district determines that an extension is advantageous to the school district.
 2. Amendments to a request for qualifications shall be so identified and the school district shall ensure that the amendments are distributed or made available to all persons to whom the original request for qualifications was distributed or made available. The school district shall make a copy of the amendments to a request for qualifications available for public inspection at the school district office. If the school district posted the request for qualifications or a notice of the availability of a request for qualifications on a designated site on the Internet, then the school district shall post any amendments to the request for qualifications on the same designated site on the Internet. The school district shall also do one or more of the following:
 - a. Distribute the amendment, by any method reasonably calculated to ensure delivery, to all persons to whom the request for qualifications was distributed;
 - b. Make the amendment available and issue a notice of amendment which contains instructions for obtaining copies of the amendment. The notice of amendment shall be distributed, by any method reasonably calculated to ensure delivery, to all persons to whom the request for qualifications was distributed. Upon receipt of such notice of amendment, it is the responsibility of the person to obtain the amendment.
 3. Amendments to request for qualifications shall be issued within a reasonable time before the due date and time to allow persons to consider them in preparing their statements of qualifications. If the school district determines that the due date and time in the request for qualifications does not permit sufficient time for statement of qualifications preparation, the due date and time shall be extended in the amendment or, if necessary, by telephone, facsimile, email, or other communications methods, and confirmed in the amendment.
 4. A person shall acknowledge receipt of an amendment in the manner specified in the request for qualifications or the amendment on or before the due date and time.
- F.** Pre-submittal modification or withdrawal of statements of qualifications
1. A person may modify or withdraw a statement of qualifications in writing at any time before the prescribed due date and time if the modification or withdrawal is received before the due date and time at the location designated in the request for qualifications for receipt of statements of qualifications.
 2. All documents concerning a modification or withdrawal of a statement of qualifications shall be retained in the procurement file.
- G.** Late statements of qualifications, late withdrawals and late modifications
1. A statement of qualifications, modification or withdrawal is late if it is received at the location designated in the request for qualifications for receipt of statements of qualifications after the due date and time.
 2. A late statement of qualifications, late modification, or late withdrawal shall be rejected, unless the statement of qualifications, modification or withdrawal would have been timely received but for the action or inaction of school district personnel and is received before the qualified select bidders list is established.
 3. Upon receiving a late statement of qualifications, late modification, or late withdrawal, the school district shall record the time and date of receipt and promptly send notice of late receipt to the person. The school district may discard the document 30 days after the date on the notice unless the person requests the document be returned.
 4. All documents concerning acceptance of a late statement of qualifications, late modification, or late withdrawal shall be retained in the procurement file.
- H.** Receipt, opening and recording statements of qualifications
1. A school district shall maintain a record of statements of qualifications and modifications received for each solicitation, shall record the time and date when each statement of qualifications or modification is received, and shall store each unopened statement of qualifications or modification in a secure place until the due date and time.
 - a. If required to confirm a vendor's inquiry regarding receipt of its statement of qualifications prior to the due date and time, a school district may open a statement of qualifications to identify the vendor. If this occurs, the school district shall record the reason for opening the statement of qualifications, the date and time the statement of qualifications was opened, and the solicitation number. The school district shall

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- secure the statement of qualifications and retain it for public opening.
- b. One or more witnesses shall be present for the opening of a statement of qualifications under subsection (H)(1)(a).
2. Statements of qualifications and modifications shall be opened publicly at the date, time and location designated in the request for qualifications in the presence of one or more witnesses. The name of each person and any other relevant information deemed appropriate by the school district shall be recorded. The person opening the statements of qualifications and all witnesses shall sign the record.
 - a. The record created in subsection (H)(2) shall be available for public inspection.
 - b. The statements of qualifications shall not be open for public inspection until after the qualified select bidders list has been established.
- I. Establishing the qualified select bidders list.**
1. The qualified select bidders list shall be established by determining the highest rated persons from the statements of qualifications received. This will be a minimum of three and a maximum of five.
 2. For each qualified select bidders list process there will be established by the school district an evaluation committee composed of five members. These members shall include the project designer or construction material specifier, one member from the prime contracting or construction material supplier community that performs commensurate level work and is disinterested in this project, a school district facilities representative and two other members as designated by the school district.
 3. The evaluation committee shall review and score each statement of qualifications received according to the established evaluation criteria. The committee shall rank the statements of qualifications in accordance with the scores.
 4. The committee may conduct interviews before making the final determination of the qualified select bidders list. The committee shall document the interviews in writing.
 5. The committee shall select at least three and not more than five of the highest scoring persons for the qualified select bidders list.
 6. The district representative shall review the committee's qualified select bidders list. The district representative shall:
 - a. Accept the list as submitted;
 - b. Return the list for additional committee review;
 - c. Reject the list and terminate the process.
 7. A one-year eligibility period for the qualified select bidders list shall begin on the date the district representative accepts it. The qualified select bidders list may be extended one year at the option of the school district.
 8. Once the qualified select bidders list is established, a written notice of the selected persons shall be sent to all the persons that submitted statements of qualifications.
 9. After the establishment of the qualified select bidders list, a written record showing the basis for determining the qualified select bidders list shall be prepared by the district representative and retained in the procurement file. Within 10 days after the qualified select bidders list has been established, the school district shall make the procurement file, including all statements of qualifications, available for public inspection.
- a. If the procurement file contains information that is confidential under R7-2-1006, a copy of the applicable documents with the confidential information redacted shall be placed in the procurement file for the purpose of public inspection.
 - b. The unredacted original copy of the confidential information shall be placed in a sealed envelope or other appropriate container, identified as confidential information, and maintained in the procurement file.
10. The qualified select bidders shall be provided an invitation for bids in accordance with R7-2-1024 to R7-2-1032. For any projects not identified in the request for qualifications, the school district may not solicit bids on those projects under the qualified select bidders list either in the initial one-year period or the one-year extension period.
 11. The project identified in the request for qualifications shall have invitation for bids issued within the initial one-year period, or in the one-year extension period, to be awarded a contract under that qualified select bidders list.
- J. Terminating the process for insufficient response or selection**
1. In the event that less than three statements of qualifications are received, this procurement process shall cease and the school district may elect to reissue the request for qualifications or pursue other procurement methods.
 2. In the event that less than three persons are identified by the selection committee as being the most highly qualified, this procurement process shall cease and the school district may elect to reissue the request for qualifications or pursue other procurement methods.
- K. A copy of the request for qualifications shall be made available for public inspection at the school district office.**

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1102. Bid Security

- A.** Bid security shall be required for all competitive sealed bidding for construction contracts, and for all competitive sealed proposals for design-build construction services or job-order-contracting construction services procured pursuant to R7-2-1111, if the price, excluding the cost of any finance services, maintenance services, operations services, design services, preconstruction services, or other related services included in the contract, is estimated by the school district to exceed the amount established by R7-2-1002(A).
- B.** Invitations for bid on school district construction contracts and requests for proposals for design-build construction services or job-order-contracting construction services, shall require submission of bid security as follows:
1. For design-bid-build construction services, ten percent of the contractor's bid.
 2. For design-build construction services awarded by competitive sealed proposals pursuant to R7-2-1111, ten percent of the school district's construction budget for the project as stated in the request for proposals, excluding finance services, maintenance services, operations services, design services, preconstruction services or any other related services included in the contract.

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3. For job-order-contracting construction services awarded by competitive sealed proposals pursuant to R7-2-1111, the amount prescribed by the school district in the request for proposals, but not more than ten percent of the school district's reasonably estimated budget for construction that the school district believes is likely to actually be done during the first year under the contract, excluding any finance services, maintenance services, operations services, design services, preconstruction services or other related services included in the contract.
- C. Acceptable bid security shall be limited to:
 1. An annual or one-time bid bond executed and furnished as required by A.R.S. Title 34, Chapter 2 or 6, as applicable; or
 2. A certified check.
- D. The school district may issue a written determination to accept the bid security if the bid security fails to comply in a nonsubstantial manner when:
 1. Only one bid or proposal is received and there is not sufficient time to rebid or resolicit proposals;
 2. The amount of the bid security submitted, although less than the amount required by the invitation for bids or request for proposals, is equal to or greater than the difference between the apparent low bid or highest scoring proposal and the next higher acceptable bid or next highest scoring proposal; or
 3. The bid security is inadequate as a result of modifying or correcting a bid in accordance with R7-2-1027 or R7-2-1030, if the bidder increases the amount of security to required limits within two days after notification.
- E. After the bids and proposals are opened, they are irrevocable for the period specified in the invitation for bids or request for proposals, except as provided in R7-2-1030. If a bidder or offeror is permitted to withdraw its bid before award, no action may be had against the bidder or offeror or the bid security.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1103. Contract Performance and Payment Bonds

- A. The following bonds or security is required and is binding on the parties to the contract if the value of a construction or construction services award exceeds the amount established by R7-2-1002(A):
 1. A performance bond that is executed and furnished as required under Arizona Revised Statutes Title 34, Chapter 2, Article 2 or Chapter 6, as applicable, in an amount equal to 100 percent of the price specified in the contract conditioned on the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract, except that:
 - a. For job-order-contracting construction services, the performance bond shall cover the full amount of construction under the job-order-contracting construction services contract, shall not include any design services, preconstruction services, finance services, maintenance services, operations services or other related services included in the contract, may be a single bond for the full term of the contract, a separate bond for each year of a multiyear

- contract or a separate bond for each job order, as determined by the school district, and, if a single bond for the full term of the contract or a separate bond for each year of a multiyear contract, shall initially be based on the school district's reasonable estimate of the amount of construction that the school district believes is likely to actually be done during the full term of the contract or during the particular year of a multiyear contract, as applicable.
- b. For construction-manager-at-risk construction services and design-build construction services, the amount of the performance bond shall be the price of construction and shall not include the cost of any design services, preconstruction services, finance services, maintenance services, operations services and other related services included in the contract. This bond is solely for the protection of the school district. The conditions and provisions of the performance bond regarding the surety's obligations shall follow the form required under A.R.S. § 34-222(G) or A.R.S. § 34-610(G), as applicable.
- c. For guaranteed energy cost savings contracts and guaranteed energy production contracts, the amount of the performance bond shall be one hundred percent of the project amount to the school district for its faithful performance of the equipment installment.
2. A payment bond that is executed and furnished as required by Arizona Revised Statutes Title 34, Chapter 2, Article 2 or Chapter 6, as applicable, in an amount equal to one hundred percent of the price specified in the contract for the protection of all persons supplying labor or material to the contractor or its subcontractors for the performance of the construction provided for in the contract, except that:
 - a. For job-order-contracting construction services, the payment bond shall cover the full amount of construction under the job-order-contracting construction services contract, shall not include any design services, preconstruction services, finance services, maintenance services, operations services or other related services included in the contract, may be a single bond for the full term of the contract, a separate bond for each year of a multiyear contract or a separate bond for each job order, as determined by the school district, and, if a single bond for the full term of the contract or a separate bond for each year of a multiyear contract, shall initially be based on the school district's reasonable estimate of the amount of construction that the school district believes is likely to actually be done during the full term of the contract or during the particular year of a multiyear contract, as applicable.
 - b. For construction-manager-at-risk construction services and design-build construction services, the amount of the payment bond shall be the price of construction and shall not include the cost of any design services, preconstruction services, finance services, maintenance services, operations services or other related services included in the contract. The conditions and provisions of the payment bond regarding the surety's obligations shall follow the form required under A.R.S. § 34-222(F) or A.R.S. § 34-610(F), as applicable.

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- B.** For design-bid-build construction, the bonds prescribed in subsection (A) shall be provided on and at the same time as execution of the construction contract. For construction-manager-at-risk, design-build and job-order-contracting construction services, the bonds prescribed in subsection (A) shall be provided only on and at the same time as execution of a contract or contract modification that commits the contractor to provide construction for a fixed price, guaranteed maximum price or other fixed amount within a designated time frame.
- C.** If the prime contract or specifications require any persons supplying labor or materials in the prosecution of the work to furnish payment or performance bonds, these bonds shall be executed solely by a surety company or companies holding a certificate of authority to transact surety business in this state issued by the director of the Department of Insurance pursuant to Arizona Revised Statutes Title 20, Chapter 2, Article 1. Notwithstanding the provisions of any other statute, the bonds shall not be executed by an individual surety or sureties, even if the requirements of A.R.S. § 7-101 are satisfied.
- D.** If a contractor fails to deliver the required performance bond or payment bond, the contractor's bid shall be rejected, its bid security shall be enforced, and award of the contract shall be made pursuant to Articles 10 and 11.
- E.** This Section shall not be construed to limit the authority of the school district to require a performance bond or other security in addition to those bonds or in circumstances other than specified in subsection (A).
- F.** Any person who furnishes labor or material to the contractor or its subcontractors for the work provided in the contract, in respect of which a payment bond is furnished under this Section, and who has not been paid in full within 90 days from the date on which the last of the labor was performed or material was supplied by the person for whom the claim is made has the right to sue on the payment bond for any amount unpaid at the time the suit is instituted and to prosecute the action for the amount due the person. However, any person who has a contract with a subcontractor of the contractor, but no express or implied contract with the contractor furnishing the payment bond, has a right of action on the payment bond on giving the contractor, only, a written preliminary 20-day notice as provided for in A.R.S. § 33-992.01, subsection (C)(1), (2), (3), and (4) and subsections (D), (E), and (H), and upon giving written notice to the contractor within 90 days from the date on which the last of the labor was performed or material was supplied by the person for whom the claim is made. The person shall state in the notice the amount claimed and the name of the party for whom the labor was performed or to whom the material was supplied. The notice shall be personally served or sent by registered mail, postage prepaid, in an envelope addressed to the contractor at any place the contractor maintains an office or conducts business.
- Historical Note**
- Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. The term "one hundred" was changed to "100" to reflect current standards in Chapter style and format (Supp. 21-2).
- R7-2-1104. Contract Payment Retention and Substitute Security**
- A.** Ten percent of all construction contract payments shall be retained by the school district as insurance of proper performance of the contract or, at the option of the contractor, a substitute security may be provided by the contractor pursuant to this Section. The contractor is entitled to all interest from any such substitute security. When the contract is fifty percent completed, one-half of the amount retained or securities substituted pursuant to this Section shall be paid to the contractor upon the contractor's request provided the contractor is making satisfactory progress on the contract and there is no specific cause or claim requiring a greater amount to be retained. After the contract is fifty percent completed, no more than five percent of the amount of any subsequent progress payments made under the contract shall be retained providing the contractor is making satisfactory progress on the project, except if at any time the governing board determines satisfactory progress is not being made, ten percent retention shall be reinstated for all progress payments made under the contract subsequent to the determination.
- B.** Notwithstanding subsection (A), there shall be no retention for job-order-contracting construction services contracts. The school district may elect to have no retention for construction-manager-at-risk and design-build construction services contracts. If the school district elects to have retention, then payment retention for construction-manager-at-risk and design-build contracts shall be in accordance with this Section.
- C.** Retention applies only to amounts payable for construction and does not apply to amounts payable for design services, preconstruction services, finance services, maintenance services, operations services, or any other related services included in the contract.
- D.** The form of substitute security is limited to the following:
1. An assignment of time certificates of deposit by financial institutions licensed by this state;
 2. Share certificate of a financial institution or credit union authorized to transact business in this state; or
 3. Security issued or guaranteed as to principal and interest by:
 - a. The United States;
 - b. The state;
 - c. Counties, municipalities and school districts within this state.
- E.** Conditions for use of substitute security.
1. A contractor may submit substitute security to replace contract payment retention if:
 - a. The use of substitute security is requested of the school district or designee for work performed under the contract. The contractor shall have the option of submitting the substitute security:
 - i. Prior to each progress payment in an amount of no less than five percent of each progress payment; or
 - ii. Once, prior to the first progress payment in an amount no less than five percent of the total contract amount.
 - b. The interest earned on such security shall accrue to the benefit of the contractor, but shall be retained until the school district has approved completion and acceptance of all work to be performed under the contract;
 - c. The term of such security shall not mature until after the estimated contract completion date; and
 - d. The security shall mature no later than one year after the estimated contract completion date.
 2. The substitute security shall not be released without written approval by the school district.

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3. A contractor may submit a single substitute security for more than one project provided that:
 - a. The amount of such security is sufficient to cover the aggregate retention amount;
 - b. The school district determines that such single substitute security is advantageous to the school district; and
 - c. Such security complies with the requirements of subsection (E)(1).
- F. Any retention shall be paid or substitute security shall be returned to the contractor within 60 days after final completion and acceptance of work under the contract. Retention of payments by a school district longer than 60 days after final completion and acceptance requires a specific written finding by the governing board of the reasons justifying the delay in payment. No school district may retain any monies after 60 days which are in excess of the amount necessary to pay the expenses the governing board reasonably expects to incur in order to pay or discharge the expenses determined in the finding justifying the retention of monies.
- G. The school district shall not accept any substitute security unless accompanied by a signed and acknowledged waiver of any right or power of the obligor to set off any claim against either the school district or the contractor in relationship to the security assigned. In any instance in which the school district accepts substitute security as provided in this Section, any subcontractor undertaking to perform any part of the contract is entitled to provide such security to the contractor.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1105. Progress Payments

- A. Progress payments may be made by the school district to the contractor on the basis of a duly certified and approved estimate of the work performed during the preceding month if the contractor agrees to adhere to the provisions of A.R.S. § 41-2577(B), (D), and (F). Payment shall be made within 14 days after the estimate of the work is certified and approved, except that a percentage of all estimates shall be retained as provided in R7-2-1104. The estimate of the work shall be deemed received by the school district on submission of the estimate of the work to the school district or a person designated by the school district for the submission, review or approval of the estimate of the work. An estimate of the work submitted under this Section shall be considered approved and certified after seven days from the date of submission unless before that time the school district or designee prepares and issues a specific written finding detailing those items in the estimate of the work that are not approved and certified under the contract or design professional service contract. The school district may withhold an amount from the progress payment sufficient to pay the expenses the school district reasonably expects to incur in correcting the deficiency set forth in the written finding. No contract for construction or design professional service contract may materially alter the rights of any contractor, subcontractor, design professional or material supplier to receive prompt and timely payment as provided under this Section. On completion and acceptance of separate divisions of the contract or design professional service contract on which the price is stated separately in the contract, payment may be made in full including retained percentages, less

deductions, unless a substitute security has been provided pursuant to R7-2-1104.

- B. Progress payments pursuant to subsection (A) are authorized for construction services and design professional services contracts. The requirements of subsection (A) apply only to amounts payable in a construction services contract for construction and in a contract for design services and do not apply to amounts payable in a contract for preconstruction services, finance services, maintenance services, operations services or any other related services included in the contract.
- C. A subcontractor or design professional may notify the school district, in writing, requesting that the subcontractor or design professional be notified by the school district in writing within five days from payment of each progress payment made to the contractor. The subcontractor's or design professional's request remains in effect for the duration of the subcontractor's or design professional's work on the project.
- D. If any payment to a contractor is delayed after the date due, interest shall be paid at the rate of one percent per calendar month, or a fraction of a calendar month, on such unpaid balance as may be due.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1106. Procurement of Construction Using Alternative Project Delivery Methods

- A. A school district may use an alternative project delivery method if it determines in writing that such alternative project delivery method is advantageous to the school district. The following factors may be used for such determination:
 1. Cost and cost control method;
 2. Value engineering;
 3. Market conditions;
 4. Schedule;
 5. Required specialized expertise;
 6. Technical complexity of the project; or
 7. Project management.
- B. Use of alternative project delivery methods
 1. Alternative project delivery methods for construction services shall be procured as provided in R7-2-1100.
 2. For design-build construction services and construction-manager-at-risk construction services, the school district is limited to one contract per procurement.
 - a. Alternatively, for construction-manager-at-risk construction services, a school district may elect separate contracts for preconstruction services during the design phase, for construction during the construction phase and for any other construction services.
 - b. Alternatively, for design-build construction services, a school district may elect separate contracts for preconstruction services and design services during the design phase, for construction and design services during the construction phase and for any other construction services.
 - c. If the school district enters into the first contract for preconstruction services or construction services the procurement ends. After execution of that first contract the school district may not use the procurement or the existing final list in the procurement as the

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basis for entering into a contract with any other person that participated in the procurement.

3. For job-order-contracting construction services, the school district may award a single contract, or multiple contracts for similar job-order-contracting construction services to be awarded to separate persons. If the school district enters into the number of contracts specified under the request for qualifications, the procurement ends. After that time the school district may not use the procurement or any existing final list in the procurement as the basis for entering into a contract with any other person that participated in the procurement.
4. All construction-manager-at-risk construction services or design-build construction services included in a procurement shall be limited to construction services to be performed at a single location, a common location or, if the construction services are all for a similar purpose, multiple locations. For construction-manager-at-risk construction services and design-build construction services to be performed at multiple locations:
 - a. At the time the request for qualifications is issued, the school district shall intend to commence all construction at each location within thirty months after execution of the first contract for preconstruction services or other construction services at any of the locations.
 - b. The request for qualifications shall include the information described in R7-2-1108(B)(2).
5. The school district and the selection committee shall not request or consider fees, price, man-hours or any other cost information at any point in the selection process under this Section and R7-2-1107, R7-2-1108, R7-2-1110, and R7-2-1111, including the selection of persons to be interviewed, the selection of persons to be on the final list, in determining the order of preference of persons on the final list or for any other purpose in the selection process, except as provided in R7-2-1110(D) and R7-2-1111.
6. In determining the persons to participate in any interviews, in determining the persons to be on the final list, and in determining the order on the final list, the selection committee shall use and consider only the criteria and weighting of criteria in the request for qualifications. No other factors or criteria may be used in the evaluation, determinations and other actions.
7. Notwithstanding any other provision specifying the number of persons to be interviewed, the number of persons to be on a final list, or any other numerical specification in R7-2-1106 through R7-2-1115:
 - a. If a smaller number of persons respond to the request for qualifications or if one or more persons drop out of the procurement so there is a smaller number of persons participating in the procurement, the school district, as the school district determines necessary and appropriate, may elect to proceed with the participating persons if there are at least two participating responsive and responsible persons. Alternatively, the school district may elect to terminate the procurement.
 - b. As to a request for qualifications to be negotiated pursuant to R7-2-1110(D), if only one responsive and responsible person responds to the request for qualifications or if one or more persons drop out of the procurement so that only one responsive and

responsible person remains in the procurement, the school district may elect to proceed with the procurement with only one person if the governing board determines in writing that the negotiated fee is fair and reasonable and that either other prospective persons had reasonable opportunity to respond or there is not adequate time for a resolicitation.

- c. If a person on the final list withdraws or is removed from the procurement and the selection committee determines that it is advantageous to the school district, the selection committee may replace that person on the final list with another person that submitted qualifications in the procurement and that is selected as the next most qualified.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1107. Selection Committee

- A. The school district shall initiate an appropriately qualified selection committee for each request for qualifications. The school district shall ensure that selection committee members are competent to serve on the selection committee.
- B. Each selection committee shall include at least one school district representative appointed by the school district.
- C. The selection committee shall not have more than seven members and shall include at least one person who is a senior management employee of a licensed contractor and one person who is an architect or an engineer who is registered pursuant to A.R.S. § 32-121.
- D. Non-school district employees serving on a selection committee shall not receive compensation from the school district for performing this service, but the school district may elect to reimburse non-school district members for travel, lodging and other expenses incurred in connection with service on a selection committee.
- E. A person who is a member of a selection committee shall not be a contractor or subcontractor under a contract awarded under the procurement or provide any specified professional services, construction, construction services, materials or other services under the contract.
- F. For the procurement of multiple contracts for job-order-contracting, the same selection committee shall be used for all contracts in the procurement.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1108. Request for Qualifications

- A. Notice of the need for construction services shall be given by the school district pursuant to R7-2-1022 and R7-2-1024(C). Such notice shall be issued not less than 14 days in advance of when responses shall be received. The notice shall:
 1. Contain a statement of the construction services required that adequately describes the procurement and specifies how a request for qualifications containing specific information on the procurement may be obtained;
 2. Specify whether the procurement is for a single contract or, for job-order-contracting construction services only, for multiple contracts; and
 3. If the procurement is for multiple job-order-contracting construction services contracts:

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- a. Specify that multiple contracts may or will be awarded;
 - b. Specify the number of contracts that may or will be awarded; and
 - c. Describe the construction services to be performed under each contract.
- B. The request for qualifications shall include the following:
 1. Instructions and information to persons concerning the statement of qualifications submission requirements, including the due date and time for receipt of statements of qualifications, the address of the office at which the statements of qualifications are to be received, and any other special information.
 2. In a procurement of construction-manager-at-risk construction services or design-build construction services to be performed at multiple locations, include:
 - a. A brief description of the construction services to be performed at each location;
 - b. The estimated budget for the construction services to be performed at each location; and
 - c. A schedule for the construction services to be performed at each location that shows the school district's intent to commence all construction at each location within thirty months after execution of the first contract for preconstruction services or other construction services at any of the locations.
 3. General information on the project site, scope of work, schedule, selection criteria, project design and construction budget, or life cycle budget for a procurement that includes maintenance, operations, and finance services.
 4. The criteria and the weight prescribed by the school district for each of the criteria to be used in making the evaluation.
 - a. All selection criteria shall be factors that demonstrate competence and qualifications for the type of construction services included in the procurement.
 - b. One of the criteria shall be the person's subcontractor selection plan or procedures to implement the school district's subcontractor selection plan.
 - c. If interviews will be held, state the selection criteria and relative weights to be used in selecting the persons to be interviewed. The request for qualifications may state the selection criteria and relative weights to be used in selecting the persons on the final list and in determining their order on the final list. The final list selection criteria and relative weights may be different than the selection criteria and relative weights used to determine the persons to be interviewed. The request for qualifications also shall state whether the school district will select the persons on the final list and their order on the final list solely through the results of the interview process or through the combined results of both the interview process and the evaluation of statements of qualifications and performance data submitted in response to the school district's request for qualifications.
 - d. If interviews will not be held, state the selection criteria and relative weights to be used in selecting the persons on the final list and in determining their order on the final list.
 5. Whether one contract or multiple contracts may or will be awarded.
 - a. For design-build construction services, construction-manager-at-risk construction services, and a single contract for job-order-contracting construction services, state that one person may or will be awarded the contract.
 - b. For multiple contracts for similar job-order-contracting construction services, state the number of contracts that may or will be awarded, the job-order-contracting construction services to be performed under each of the contracts, and that each of the multiple contracts will be awarded to a separate person.
 6. In a procurement where the contract is to be negotiated under R7-2-1110(D):
 - a. State that there will be a single final list of at least three and not more than five persons for a design-build, construction-manager-at-risk, or single job-order-contracting construction services award.
 - b. In a procurement for multiple contracts for similar job-order-contracting construction services to be awarded to separate persons, state that there will be a single final list and the number of persons on the final list, which shall be the sum of the number of contracts that may or will be awarded, plus another number that is determined by the school district and that is not more than five.
 7. In a procurement in which the contract will be awarded under R7-2-1111:
 - a. State that there will be a single final list and that the number of persons on the final list will be three for a design-build or single job-order-contracting construction services award.
 - b. In a procurement for multiple contracts for similar job-order-contracting construction services to be awarded to separate persons, state that there will be a single final list and the number of persons on the final list, which shall be the sum of the number of contracts that may or will be awarded, plus another number that is determined by the school district and that is not more than five.
 8. The type of contract to be used.
 9. The name of the district representative or district representatives and the publicly available location of the school district's protest policy and procedures.
 10. If the school district will hold interviews as part of the selection process:
 - a. State that interviews will be held and that the interviews will be with at least three and not more than five persons for a design-build, construction-manager-at-risk, or single job-order-contracting construction services procurement.
 - b. In a procurement for multiple contracts for similar job-order-contracting construction services to be awarded to separate persons, state that interviews will be held and that the interviews will be with a specified number of persons. The specified number shall be stated in the request for qualifications, shall be determined by the school district and shall be the sum of the number of contracts that may or will be awarded, plus another number that is determined by the school district and that is not more than five.
 11. The manner in which subcontractors shall be selected, either:
 - a. A requirement that each person submit a proposed subcontractor selection plan and a requirement that

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the proposed subcontractor selection plan shall select subcontractors based on qualifications alone or on a combination of qualifications and price and shall not select subcontractors based on price alone; or

- b. A subcontractor selection plan adopted by the school district that applies to the person that is selected to perform the construction services and that requires subcontractors to be selected based on qualifications alone or on a combination of qualifications and price and not based on price alone and a requirement that each person shall submit a description of the procedures it proposes to use to implement the school district's subcontractor selection plan.
12. Notice that all information and statements of qualifications submitted by persons will be made available for public inspection after the school district has entered into a single contract or all of the multiple contracts.
- C. A copy of the request for qualifications shall be made available for public inspection at the school district office.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1109. Receipt and Opening of Statements of Qualifications, Technical Proposals and Price Proposals for Design-build and Job-order-contracting

- A. Statements of qualifications, technical proposals and price proposals shall be received and opened in accordance with R7-2-1045. Late statements of qualifications, proposals, modifications, or withdrawals shall be considered in accordance with R7-2-1044 and R7-2-1049.
- B. A school district may cancel a request for qualifications or a request for proposals, reject in whole or in part any or all statements of qualifications or proposals or determine not to enter into a contract as specified in the solicitation if it is advantageous to the school district. The school district shall make the reasons for cancellation, rejection or determination not to enter into a contract part of the procurement file.

Historical Note

New Section made by exempt rulemaking at 13 A.A.R. 1266, effective February 26, 2007 (Supp. 07-1). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1110. Committee Evaluation and Contract Award

- A. If interviews are specified in the request for qualifications:
 - 1. The selection committee shall determine the persons to be interviewed by evaluating the statements of qualifications and performance data submitted based solely on the selection criteria and relative weights in the request for qualifications to be used to determine the persons to be interviewed.
 - 2. If the selection criteria and relative weights to be used by the selection committee to select the persons on the final list and to determine their order on the final list are not included in the request for qualifications:
 - a. Before the interviews are held the school district shall distribute to the persons to be interviewed the selection criteria and relative weights to be used to

select the persons on the final list and to determine their order on the final list.

- b. These selection criteria and relative weights may be different than the selection criteria and relative weight used to determine the persons to be interviewed.
3. The selection committee shall conduct interviews with the number of persons specified in the request for qualifications.
- B. Based solely on the selection criteria and relative weights for selection of the persons on the final list and their order on the final list, the selection committee shall select the persons for the final list and, in the case of a final list for a contract that will be negotiated under subsection (D), rank the persons in order of preference.
- C. The school district shall make the following notifications regarding the final lists:
 - 1. If the contract will be negotiated under subsection (D) before or at the same time as the school district notifies the highest ranking person on the final list that it is the highest ranking person, the school district shall send actual notice to each of the following that it is not the highest ranking person or that another person is the highest ranking person:
 - a. If interviews were held, the other persons interviewed.
 - b. If interviews were not held, the other persons that made submittals.
 - 2. If the contract will be awarded under R7-2-1111, before or at the same time as the school district notifies the persons on the final list that they are on the final list, the school district shall send actual notice to each of the following persons that they are not on the final list or that other persons are on the final list:
 - a. If interviews were held, the other persons interviewed.
 - b. If interviews were not held, the other persons that made submittals.
- D. The school district shall conduct negotiations with persons on the final list as follows:
 - 1. The negotiations shall include consideration of compensation and other contract terms that the school district determines to be fair and reasonable to the school district. In making this decision, the school district shall take into account the estimated value, the scope, the complexity and the nature of the construction services to be rendered.
 - 2. If the procurement is for a single contract, there is one final list and the school district shall enter into negotiations with the highest qualified person on the final list. If the school district is not able to negotiate a satisfactory contract with the highest qualified person on the final list, at compensation and on other contract terms the school district determines to be fair and reasonable, the school district shall formally terminate negotiations with that person. The school district shall then undertake negotiations with the next most qualified person on the final list in sequence until an agreement is reached or a determination is made to reject all persons on the final list.
 - 3. If the procurement is for multiple contracts for similar job-order-contracting construction services to be awarded to separate persons, there is one final list and the school district shall enter into separate negotiations for contracts with the number of the highest qualified persons on the final list equal to the number of contracts to be awarded.

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If the school district is not able to negotiate a satisfactory contract with a person with whom the school district has commenced negotiations, the school district shall formally terminate negotiations with that person. The school district shall then undertake negotiations for a contract with the next most qualified person on the final list with whom the school district is not then negotiating and with whom the school district has not previously negotiated in sequence until an agreement is reached for some or all of the multiple contracts included in the request for qualifications or a determination is made to reject all persons on the final list.

4. If the school district terminates negotiations with a person and commences negotiations with another person on the final list, the school district shall not recommence negotiations or enter into a contract for the construction services covered by the final list with any person with whom the school district terminated negotiations.

Historical Note

New Section made by exempt rulemaking at 13 A.A.R. 1266, effective February 26, 2007 (Supp. 07-1). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1111. Alternative Procedure for Design-build or Job-order-contracting Construction Services

- A. As an alternative to R7-2-1110(D), the school district may award a single contract for design-build construction services or a single or multiple contracts for similar job-order-contracting construction services pursuant to this Section.
- B. The school district shall use the selection committee appointed for the request for qualifications pursuant to R7-2-1107.
- C. The school district shall issue a request for proposals to the persons on the final list developed pursuant to R7-2-1110(A) through (C). The request for proposals shall be issued at least 14 days before the due date and time for receipt of proposals unless a shorter time is determined necessary by the school district.
- D. The request for proposals shall include the following:
 1. A statement that the procurement is for a single contract or, for similar job-order-contracting construction services only, for multiple contracts.
 2. If the procurement is for multiple contracts for similar job-order-contracting construction services, the notice shall specify that multiple contracts will be awarded, shall specify the number of contracts that will be awarded, shall specify the number of offerors to whom contracts will be awarded which shall be the number of contracts in the procurement, and shall describe the job-order-contracting services to be performed under each contract.
 3. Instructions and information to persons concerning the proposal submission requirements, including the due date and time for receipt of proposals, the address of the office at which proposals are to be received, the proposal acceptance period, and any other special information.
 4. The school district's project schedule and project final budget for design and construction or life cycle budget for a procurement that includes maintenance services or operations services.
 5. If a single contract will be awarded, a statement that the contract will be awarded to the person whose proposal receives the highest number of points under a scoring method. If multiple contracts for similar job-order-contracting services will be awarded, a statement that the multiple contracts will be awarded to a specified number of offerors whose proposals receive the highest number of points under a scoring method. The specified number of offerors will be the number of contracts included in the procurement.
 6. A description of the scoring method, including a list of the factors in the scoring method and the number of points allocated to each factor.
 7. For design-build constructions services only, the design requirements, including the required features, functions, characteristics, qualities and properties, the anticipated schedule, including start, duration and completion, and the estimated budgets applicable to the specific procurement for design and construction and, if applicable, for operation and maintenance. Drawings and other documents illustrating the scale and relationship of the features, functions and characteristics of the project, which shall all be prepared by an architect or engineer, as appropriate, and additional design information or documents specified by the school district, may also be included.
 8. A requirement that each offeror submit separately a technical proposal and a price proposal and that the offeror's entire proposal is responsive to the requirements in the request for proposals. For design-build construction services, the price in the price proposal shall be a fixed price or a guaranteed maximum price.
 9. A statement that in applying the scoring method, the selection committee will separately evaluate and score the technical proposal before opening, evaluating, and scoring the price proposal.
 10. If the school district desires to conduct discussions with offerors, a statement that discussions may be held and a requirement that each offeror submit a preliminary technical proposal before the discussions are held.
 11. Type of contract to be used.
 12. That offerors may designate as proprietary portions of the proposal.
 13. Notice that all information and proposals submitted by offerors, except as stated in subsection (D)(12), will be made available for public inspection after the school district has entered into a single contract or all of the multiple contracts.
 14. The contract terms and conditions, including warranty and bonding or other security requirements, as applicable.
 15. The name of the district representative or district representatives.
 16. If the request for proposals incorporates documents by reference, the request for proposals shall specify where such documents may be obtained.
- E. The factors in the scoring method described in the request for proposals may include:
 1. For design-build construction services only, demonstrated compliance with the design requirements.
 2. Offeror qualifications.
 3. Offeror financial capacity.
 4. Compliance with the school district's project schedule.
 5. For design-build construction services only, if the request for proposals specifies that the school district will spend its project budget and not more than its project budget and is seeking the best proposal for the project budget, compliance of the offeror's price or life cycle price for procurements that include maintenance services, opera-

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tions services or finance services with the school district's budget as prescribed in the request for proposals.

6. For design-build construction services if the request for proposals does not contain the specifications prescribed in subsection (E)(5) and for job-order-contracting construction services, the price or life cycle price for procurements that include maintenance services, operations services or finance services.
 7. An offeror quality management plan.
 8. Other evaluation factors that demonstrate competence and qualifications for the type of construction services in the request for proposals as determined by the school district, if any.
- F.** If determined by the school district and included in the request for proposals, the selection committee shall conduct discussions with all offerors that submit preliminary technical proposals. Discussions shall be for the purpose of clarification to ensure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair treatment with respect to any opportunity for discussion and for clarification by the school district. Revision of preliminary technical proposals shall be permitted after submission of preliminary technical proposals and before award for the purpose of obtaining best and final proposals. In conducting any discussions, information derived from proposals submitted by competing offerors shall not be disclosed to other competing offerors.
- G.** After completion of any discussions pursuant to subsection (F) or if no discussions are held, each offeror shall submit separately its final technical proposal and its price proposal.
- H.** Before opening any price proposal, the selection committee shall open and evaluate the final technical proposals and score the final technical proposals using the scoring method in the request for proposals. No other factors or criteria may be used in evaluation and scoring.
- I.** After completion of the evaluation and scoring of all final technical proposals, the selection committee shall open, evaluate and score the price proposals, and complete scoring of the entire proposals using the scoring method in the request for proposals. No other factors or criteria may be used in evaluation and scoring.
- J.** The school district shall award the contract to the responsive and responsible offeror whose proposal receives the highest score under the method of scoring in the request for proposals. No other factors or criteria may be used in evaluation and award.
- K.** For procurements of multiple contracts for similar job-order-contracting construction services, the school district may award up to the number of contracts specified in the request for proposals.
- L.** Before or at the same time as the school district notifies the selected offeror of contract award, the school district shall notify all other offerors of the award.
- M.** For design-build construction services only, the school district shall award a stipulated fee equal to a percentage of the school district's project final budget for design and construction, as prescribed in the request for proposals, but not less than two-tenths of one percent of the project final budget for design and construction to each final list offeror who provides a responsive, but unsuccessful, proposal. If the school district does not award a contract, all responsive final list offerors shall receive the stipulated fee based on the school district's project final budget for design and construction as included in the request for proposals. The school district shall pay the stipulated fee to

each offeror within 90 days after the award of the initial contract or the decision not to award a contract. In consideration for paying the stipulated fee, the school district may use any ideas or information contained in the proposals in connection with any contract awarded for the project, or in connection with a subsequent procurement, without any obligation to pay any additional compensation to the offerors. Notwithstanding the other provisions of this subsection, an offeror may elect to waive the stipulated fee. If an offeror elects to waive the stipulated fee, the school district may not use ideas and information contained in the offeror's proposal, except that this restriction does not prevent the school district from using any idea or information if the idea or information is also included in a proposal of an offeror that accepts the stipulated fee.

- N.** The procurement file shall contain the basis on which the award is made, including at a minimum the information and documents required under R7-2-1115.
- O.** A copy of the request for proposals shall be made available for public inspection at the school district office.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1112. Contractor Licenses, Contract and Performance Requirements

- A.** Notwithstanding any other Section:
1. The contractor for design-build or job-order-contracting construction services is not required to be registered to perform design services pursuant to A.R.S. Title 32, Chapter 1 if the person actually performing the design services on behalf of the contractor is appropriately registered.
 2. The contractor for construction-manager-at-risk, design-build or job-order-contracting construction services shall be licensed to perform construction pursuant to A.R.S. Title 32, Chapter 10.
 3. The school district shall obtain and maintain a record of proof in the procurement file that a construction or construction services provider that has been awarded a contract with the school district, or through a cooperative purchasing agreement, has a license in good standing to perform construction work pursuant to A.R.S. Title 32, Chapter 10. The license shall be active on the day the contract is awarded. This subsection does not require licensure for professions that are not licensed pursuant to A.R.S. Title 32, Chapter 10.
- B.** In a procurement for construction-manager-at-risk construction services or design-build construction services, except for design-build contracts awarded pursuant to R7-2-1111, the school district shall enter into a written contract with the contractor for preconstruction services under which the school district shall pay the contractor a fee for preconstruction services in an amount agreed by the school district and the contractor, and the school district shall not request or obtain a fixed price or a guaranteed maximum price for the construction from the contractor or enter into a construction contract with the contractor until after the school district has entered into the written contract for preconstruction services and a preconstruction services fee.
- C.** Construction shall not commence under a construction services contract until the school district and contractor agree in writing on either a fixed price that the school district will pay

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or a guaranteed maximum price for the construction to be commenced. The construction to be commenced may be the entire project or may be one or more phased parts of the project.

- D.** For negotiated construction-manager-at-risk and design-build contracts, preconstruction services, general conditions, schedules, construction contingency, and construction fees shall be part of the contract. For design-build contracts awarded pursuant to a request for proposals, the fees shall be included in the vendor's proposal and shall become part of the awarded contract.
- E.** For job-order-contracting construction services only:
1. The maximum dollar amount of an individual job order for job-order-contracting construction services shall be one million dollars or a higher or lower amount prescribed by the governing board in a policy adopted in a public meeting held pursuant to A.R.S. Title 38, Chapter 3, Article 3.1. Requirements shall not be artificially divided or fragmented in order to constitute a job order that satisfies the requirements of this subsection.
 2. If the contractor subcontracts or intends to subcontract part or all of the work under a job order and if the job-order-contracting construction services contract includes descriptions of standard individual tasks, standard unit prices for standard individual tasks and pricing of job orders based on the number of units of standard individual tasks in the job order:
 - a. The contractor has a duty to deliver promptly to each subcontractor invited to bid a coefficient to the contractor to do all or part of the work under one or more job orders a copy of the descriptions of all standard individual tasks on which the subcontractor is invited to bid and a copy of the standard unit prices for the individual tasks on which the subcontractor is invited to bid.
 - b. If not previously delivered to the subcontractor, the contractor has a duty to promptly deliver to each subcontractor invited to or that has agreed to do any of the work included in any job order a copy of the description of each standard individual task that is included in the job order and that the subcontractor is invited to perform, the number of units of each standard individual task that is included in the job order and that the subcontractor is invited to perform, and the standard unit price for each standard individual task that is included in the job order and that the subcontractor is invited to perform.
- F.** For all construction services contracts, the contractor performing the construction services is permitted to self-perform part of the construction work, if and to the extent agreed in writing by the school district and the contractor. The school district may use methods other than competitive bidding to assure itself that the price the school district pays to the contractor for self-performed work is fair and reasonable. Permitted methods to evaluate fairness and reasonableness of the price of self-performed work include evaluation of the contractor's proposed scope of work and price for self-performed work by an estimator who is hired and paid by the school district, who is independent of the contractor and who may be an employee of the school district. Although the school district may elect to so require, nothing in Articles 10 and 11 shall be construed or interpreted to require the school district to require a contractor desiring to self-perform part of the construction work to com-

petitively bid that part of the construction work against other contractors in a bid competition.

- G.** For all construction services contracts, the following requirements apply to the construction work to be performed by subcontractors and do not apply to construction work that the school district and the contractor agree in writing will be self-performed by the contractor:
1. The person selected to perform the construction services shall select subcontractors based on qualifications alone or on a combination of qualifications and price and shall not select subcontractors based on price alone. A qualifications and price selection may be a single-step selection based on a combination of qualifications and price or a two-step selection. In a two-step selection, the first step shall be based on qualifications alone and the second step may be based on a combination of qualifications and price or on price alone.
 2. The school district shall include in each contract:
 - a. If the school district included its subcontractor selection plan in the request for qualifications, the school district's subcontractor selection plan and the procedures to implement the school district's subcontractor selection plan proposed by the awarded contractor in submitting its qualifications with those modifications to the procedures as the school district and the contractor agree.
 - b. If the school district did not include its subcontractor selection plan in the request for qualifications, the subcontractor selection plan proposed by the awarded contractor in submitting its qualifications with those modifications as the school district and the contractor agree.
 3. In making the selection of subcontractors, the contractor shall use the subcontractor selection plan and any procedures included in its contract.
- H.** The school district shall include in each contract for construction services the full street or physical address of each separate location at which the construction will be performed and a requirement that the contractor and each subcontractor at any level include in each of its subcontracts the same address information. The contractor and each subcontractor at any level shall include in each subcontract the full street or physical address of each separate location at which construction work will be performed.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 24 A.A.R. 3283, effective October 22, 2018 (Supp. 18-4). The word "rule" has been changed to "Section" to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-1113. Prohibitions

- A.** Notwithstanding any contrary provision of Articles 10 and 11, a school district shall not enter into a contract to provide construction-manager-at-risk construction services, design-build construction services or job-order-contracting construction services.
- B.** The prohibitions prescribed in subsection (A) do not prohibit a school district from providing construction for itself as provided by law.

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Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1114. Bid Security, Contract Performance and Payment Bonds, and Payment and Retention

- A. Bid security shall be provided pursuant to R7-2-1102.
- B. Contract performance and payment bonds shall be provided pursuant to R7-2-1103.
- C. Contract payment retention and substitute security shall be in accordance with R7-2-1104.
- D. Progress payments shall be in accordance with R7-2-1105.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended effective March 21, 1991 (Supp. 91-1).
Amended effective October 22, 1992 (Supp. 92-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1115. Procurement File Contents and Review

- A. At a minimum, the school district shall retain the following for each procurement under R7-2-1106 through R7-2-1114:
 - 1. For each request for qualifications procurement process:
 - a. If interviews were not held:
 - i. The submittal of the person listed first on the final list and the submittal of each person with whom the school district enters into a contract.
 - ii. The final list.
 - iii. A list of the selection criteria and relative weight of selection criteria used to select the persons for the final list and to determine their order on the final list.
 - iv. A list that contains the name of each person that submitted qualifications and that shows the person's final overall rank or score.
 - v. Documents that show the final score or rank on each selection criteria of each person that submitted qualifications and that support the final overall rankings and scores of the persons that submitted qualifications. The school district shall retain the individual scoring sheets for individual selection committee members.
 - b. If interviews were held:
 - i. All submittals of the person listed first on the final list and the submittal of each person with whom the school district enters into a contract.
 - ii. The final list.
 - iii. A list of the selection criteria and relative weight of selection criteria used to select the persons for the final list and to determine their order on the final list.
 - iv. A list that contains the name of each person that was interviewed and that shows the person's final overall rank or score.
 - v. Documents that show the final score or rank on each selection criteria of each person that was interviewed and that support the final overall rankings and scores of the persons that were interviewed. The school district shall retain the individual scoring sheets for individual selection committee members.

- vi. A list of the selection criteria and relative weight of the selection criteria used to select the persons for the short list to be interviewed.
- vii. A list that contains the name of each person that submitted qualifications and that shows the person's final overall rank or score in the selection of the persons to be on the short list to be interviewed.
- viii. Documents that show the final score or rank on each selection criteria of each person that submitted qualifications and that support the final overall rankings and scores of the persons that submitted qualifications. The school district shall retain the individual scoring sheets for individual selection committee members.

- 2. For each request for proposals procurement process under R7-2-1111:
 - a. The entire proposal submitted by the person that received the highest score in the scoring method in the request for proposals and the entire proposal submitted by each person with whom the school district enters into a contract.
 - b. The description of the scoring method, the list of factors in the scoring method and the number of points allocated to each factor, all as included in the request for proposals.
 - c. A list that contains the name of each offeror that submitted a proposal and that shows the offeror's final overall score.
 - d. Documents that show the final score or rank on each factor in the scoring method in the request for proposals of each offeror that submitted a proposal and that support the final overall scores of the offerors that submitted proposals. The school district shall retain the individual scoring sheets for individual selection committee members.
- B. Information relating to each procurement under R7-2-1106 through R7-2-1114 shall be made available to the public as follows:
 - 1. Until the school district awards a single contract or all of the multiple contracts or terminates the procurement, only the name of each person on the final list may be made available to the public. All other information received by the school district in response to the request for qualifications shall be confidential in order to avoid disclosure of the contents that may be prejudicial to competing respondents during the selection process.
 - 2. After the school district awards a single contract or all of the multiple contracts or terminates the procurement, the school district shall make the contents of the procurement file, except the proposals and statements of qualifications submitted in response to a solicitation and the documents described in subsections (A)(1)(a)(v), (A)(1)(b)(v), (A)(1)(b)(viii), and (A)(2)(d), available to the public.
 - 3. After the school district has entered into a single contract or all of the multiple contracts or has terminated the procurement, the school district shall make the proposals and statements of qualifications and the documents described in subsections (A)(1)(a)(v), (A)(1)(b)(v), (A)(1)(b)(viii), and (A)(2)(d) available to the public.
 - 4. To the extent that an offeror designates and the school district concurs, trade secrets and other proprietary data contained in a proposal or statement of qualifications shall remain confidential.

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5. If the procurement file contains information that is confidential under R7-2-1006, a copy of the applicable documents with the confidential information redacted shall be placed in the procurement file for the purpose of public inspection. The unredacted original copy of the confidential information shall be placed in a sealed envelope or other appropriate container, identified as confidential information, and maintained in the procurement file.
- C. The school district shall retain the records of a procurement under R7-2-1106 through R7-2-1114 in accordance with R7-2-1085.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

Amended effective March 21, 1991 (Supp. 91-1).

Amended effective October 22, 1992 (Supp. 92-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1116. Repealed**Historical Note**

New Section made by exempt rulemaking at 13 A.A.R. 1266, effective February 26, 2007 (Supp. 07-1). Section repealed by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

PART XV. PROCUREMENT OF SPECIFIED PROFESSIONAL SERVICES**R7-2-1117. Procurement of Specified Professional Services**

- A. Specified professional services, which is defined in R7-2-1001(120), as services of an architect, engineer, land surveyor, assayer, geologist and landscape architect, shall be procured as provided in R7-2-1117 through R7-2-1123, except as authorized in R7-2-1033, R7-2-1053, R7-2-1055, and R7-2-1122.
- B. Prior to public notice of the need for specified professional services, the school district shall determine that the services to be acquired are specified professional services.
- C. In the procurement of specified professional services:
 1. The school district shall specify whether the procurement is for a single contract or for multiple contracts. Multiple contracts may be awarded to separate persons or may be awarded to a single person as specified in the request for qualifications.
 2. The school district and the selection committee shall not request or consider fees, price, man-hours or any other cost information at any point in the selection process under this Section and R7-2-1120 or R7-2-1121, including the selection of persons to be interviewed, the selection of persons to be on the final list, in determining the order of preference of persons on a final list or for any other purpose in the selection process except as provided in R7-2-1121.
 3. In determining the persons to participate in any interviews, in determining the persons to be on the final list, and in determining the order on the final list, the selection committee shall use and consider only the criteria and weighting of criteria in the request for qualifications. No other factors or criteria may be used in the evaluation, determinations and other actions.
 4. If the school district enters into the number of contracts specified in the request for qualifications, the procurement ends. After that time the school district may not use the procurement or any final list in the procurement as the basis for entering into a contract with any other person that participated in the procurement.
5. Notwithstanding any other provision specifying the number of persons to be interviewed, the number of persons to be on a final list, or any other numerical specification in this Section or R7-2-1121:
 - a. If a smaller number of persons respond to the request for qualifications or if one or more persons drop out of the procurement so that there is a smaller number of persons participating in the procurement, the school district, as the school district determines necessary and appropriate, may elect to proceed with the participating persons if there are at least two participating responsive and responsible persons. Alternatively, the school district may elect to terminate the procurement.
 - b. As to a request for qualifications to be negotiated pursuant to R7-2-1121(D), if only one responsive and responsible person responds to the request for qualifications, or if one or more persons drop out of the procurement so that only one responsive and responsible person remains in the procurement, the school district may elect to proceed with the procurement with only one person if the governing board determines in writing that the negotiated fee is fair and reasonable and that either other prospective persons had reasonable opportunity to respond or there is not adequate time for a resolicitation.
 - c. If a person on the final list withdraws or is removed from the procurement and the selection committee determines that it is advantageous to the school district, the selection committee may replace that person on the final list with another person that submitted qualifications in the procurement and that is selected as the next most qualified.
- D. The request for qualifications shall:
 1. Provide instructions and information to persons concerning the statement of qualifications submission requirements, including the due date and time for receipt of statements of qualifications, the address of the office at which the statements of qualifications are to be received, and any other special information.
 2. State whether one contract or multiple contracts may or will be awarded.
 - a. If one contract will be awarded, state that one contract may or will be awarded, describe the services to be performed under the contract and state that one person may or will be awarded the contract.
 - b. If multiple contracts may or will be awarded, state the number of contracts that may or will be awarded, the services to be performed under each of the multiple contracts, and either that each contract will be awarded to a separate person or that all of the contracts will be awarded to the same person.
 3. State the number of persons to be included on the final list.
 - a. If a single contract will be awarded, state that there will be a single final list of at least three and not more than five persons.
 - b. If multiple contracts will be awarded to a single person, state that there will be a single final list of at least three and not more than five persons.
 - c. In a procurement for multiple contracts for similar specified professional services to be awarded to sep-

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- arate persons, state that there will be a single final list and the number of persons on the final list, which shall be the sum of the number of contracts that may or will be awarded plus another number that is determined by the school district and that is not more than five.
- d. If multiple contracts for different specified professional services will be awarded to separate persons, state that there will be a separate final list for each type of specified professional services and that the number of persons on each final list will be equal to the number of contracts that may or will be awarded for each type of specified professional services plus a number determined by the school district not to exceed five.
4. State the selection criteria and relative weight to be used. All selection criteria shall be factors that demonstrate competence and qualifications for the type of specified professional services included in the procurement.
 - a. If interviews will be held, state the selection criteria and relative weights to be used in selecting the persons to be interviewed. The request for qualifications may state the selection criteria and relative weights to be used in selecting the persons on the final list and in determining their order on the final list. The final list selection criteria and relative weights may be different than the selection criteria and relative weights used to determine the persons to be interviewed. The request for qualifications also shall state whether the school district will select the persons on the final list and their order on the final list solely through the results of the interview process or through the combined results of both the interview process and the evaluation of statements of qualifications and performance data submitted in response to the request for qualifications.
 - b. If interviews will not be held, state the selection criteria and relative weights to be used in selecting the persons on the final list and in determining their order on the final list.
 5. State whether interviews will be held.
 - a. If a single contract will be awarded, state that there will be interviews with at least three and not more than five persons.
 - b. If multiple contracts will be awarded to a single person, state that there will be interviews with at least three and not more than five persons.
 - c. In a procurement for multiple contracts for similar specified professional services to be awarded to separate persons, state that interviews will be held and that the interviews will be with a specified number of persons. The specified number shall be stated in the request for qualifications, shall be determined by the school district and shall be the sum of the number of contracts that may or will be awarded, plus another number that is determined by the school district and that is not more than five.
 - d. If multiple contracts for different specified professional services will be awarded to separate persons, state that interviews will be held and that the interviews will be with a specified number of persons. The specified number shall be stated in the request for qualifications, shall be determined by the school district, shall be at least three times the number of contracts that may or will be awarded and shall not be more than five times the number of contracts that may or will be awarded.
 6. The name of the district representative or district representatives and the publicly available location of the school district's protest policy or procedure.
 7. Notice that all information and statements of qualifications submitted by persons will be made available for public inspection after the school district has entered into a single contract or all of the multiple contracts.
- E. Statements of qualifications shall be received and opened in accordance with R7-2-1045. Late statements of qualifications, late modifications, or late withdrawals shall be considered in accordance with R7-2-1044 and R7-2-1049.
 - F. A copy of the request for qualifications shall be made available for public inspection at the school district office.
- Historical Note**
 Adopted effective December 17, 1987 (Supp. 87-4).
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).
- R7-2-1118. Public Notice of Specified Professional Services**
- A. Notice of the need for specified professional services shall be given by the school district pursuant to R7-2-1022 and R7-2-1024(C). Such notice shall be issued not less than 14 days in advance of when responses shall be received.
 - B. The notice shall:
 1. Contain a statement of the services required that adequately describes the procurement and specifies how a request for qualifications containing specific information on the procurement may be obtained.
 2. Specify whether the procurement is for a single contract or for multiple contracts; and
 3. If the procurement is for multiple contracts:
 - a. Specify that multiple contracts may or will be awarded;
 - b. Specify the number of contracts that may or will be awarded; and
 - c. Describe the specified professional services to be performed under each contract.
- Historical Note**
 Adopted effective December 17, 1987 (Supp. 87-4).
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.
- R7-2-1119. Cancellation or Rejection of the Solicitation**
- A school district may cancel a request for qualifications, reject in whole or in part any or all statements of qualifications or determine not to enter into a contract as specified in the solicitation if it is advantageous to the school district. The school district shall make the reasons for cancellation, rejection or determination not to enter into a contract part of the procurement file.
- Historical Note**
 Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.
- R7-2-1120. Specified Professional Services Selection Committee**

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- A. The school district shall initiate an appropriately qualified selection committee for each request for qualifications. The school district shall ensure that selection committee members are competent to serve on the selection committee.
- B. Each selection committee shall include at least one school district representative appointed by the school district.
- C. The school district shall determine the number and qualifications of the selection committee members. These members may be employees of the school district or non-school district appointees.
- D. Non-school district employees serving on a selection committee shall not receive compensation from the school district for performing this service, but the school district may elect to reimburse non-school district members for travel, lodging and other expenses incurred in connection with service on a selection committee.
- E. A person who is a member of a selection committee shall not be a contractor or subcontractor under a contract awarded under the procurement or provide any specified professional services or other services under the contract.
- F. For the procurement of multiple contracts for specified professional services, the same selection committee shall be used for all contracts in the procurement.
- C. Before or at the same time as the school district notifies the highest ranking person on the final list or final lists that it is the highest ranking person, the school district shall send actual notice to each of the following that it is not the highest ranking person or that another person is the highest ranking person:
 - 1. If interviews were held, the other persons interviewed.
 - 2. If interviews were not held, the other persons that made submittals.
- D. The school district shall conduct negotiations with persons on the final list or final lists as follows:
 - 1. The school district shall negotiate a contract with the highest qualified person for the required specified professional services at compensation determined in writing to be fair and reasonable to the school district. Contract negotiations shall be directed toward:
 - a. Making certain that the person has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required services;
 - b. Determining that the person will make available the necessary personnel and facilities to perform the services within the required time; and
 - c. Agreeing upon compensation that is fair and reasonable.
 - 2. The negotiations shall include consideration of compensation and other contract terms that the school district determines to be fair and reasonable to the school district. In making this decision, the school district shall take into account the estimated value, the scope, the complexity and the nature of the specified professional services to be rendered.
 - 3. If the procurement is for a single contract, there is one final list and the school district shall enter into negotiations with the highest qualified person on the final list. If the school district is not able to negotiate a satisfactory contract with the highest qualified person on the final list, at compensation and on other contract terms the school district determines to be fair and reasonable, the school district shall formally terminate negotiations with that person. The school district shall then undertake negotiations with the next most qualified person on the final list in sequence until an agreement is reached or a determination is made to reject all persons on the final list.
 - 4. If the procurement is for multiple contracts for specified professional services to be awarded to a single person on the final list, there is one final list and the school district shall enter into negotiations with the highest qualified person on the final list. If the school district is not able to negotiate a satisfactory contract with the highest qualified person on the final list, at compensation and on other contract terms the school district determines to be fair and reasonable, the school district shall formally terminate negotiations with that person. The school district shall then undertake negotiations with the next most qualified person on the final list in sequence until an agreement is reached or a determination is made to reject all persons on the final list.
 - 5. If the procurement is for multiple contracts for similar specified professional services to be awarded to separate persons, there is one final list and the school district shall enter into separate negotiations for contracts with the number of the highest qualified persons on the final list equal to the number of contracts to be awarded. If the school district is not able to negotiate a satisfactory con-

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1121. Committee Evaluation and Selection

- A. If interviews are specified in the request for qualifications:
 - 1. The selection committee shall determine the persons to be interviewed by evaluating the statements of qualifications and performance data submitted based solely on the selection criteria and relative weights in the request for qualifications to be used to determine the persons to be interviewed.
 - 2. If the selection criteria and relative weights to be used by the selection committee to select the persons on the final list or final lists and to determine their order on the final list or final lists are not included in the request for qualifications:
 - a. Before the interviews are held the school district shall distribute to the persons to be interviewed the selection criteria and relative weights to be used to select the persons on the final list and to determine their order on the final list.
 - b. These selection criteria and relative weight may be different than the selection criteria and relative weight used to determine the persons to be interviewed.
 - 3. The selection committee shall conduct interviews with the number of persons specified in the request for qualifications.
- B. Based solely on the selection criteria and relative weights for selection of the persons on the final list or final lists and their order on the final list or final lists, the selection committee shall select the persons for the final list or final lists and rank the persons on the final list or final lists in order of preference. If the procurement is for multiple contracts for different specified professional services to be awarded to separate persons, and if a person submitted qualifications for more than one type of specified professional services, the person may be on more than one final list.

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tract with a person with whom the school district has commenced negotiations, the school district shall formally terminate negotiations with that person. The school district shall then undertake negotiations for a contract with the next most qualified person on the final list with whom the school district is not then negotiating and with whom the school district has not previously negotiated in sequence until an agreement is reached for some or all of the multiple contracts included in the request for qualifications or a determination is made to reject all persons on the final list.

6. If the procurement is for multiple contracts for different specified professional services to be awarded to separate persons, there is a separate final list for each type of specified professional services and the school district shall enter into separate negotiations for contracts with the number of the highest qualified persons on each final list equal to the number of contracts to be awarded. If the school district is not able to negotiate a satisfactory contract with a person with whom the school district has commenced negotiations, the school district shall formally terminate negotiations with that person. The school district shall then undertake negotiations for a contract with the next most qualified person on the applicable final list with whom the school district is not then negotiating and with whom the school district has not previously negotiated in sequence until an agreement is reached for some or all of the multiple contracts included in the request for qualifications or a determination is made to reject all persons on the final list.
7. If the school district terminates negotiations with a person and commences negotiations with another person on the final list, the school district shall not recommence negotiations or enter into a contract for the specified professional services covered by the final list with any person with whom the school district terminated negotiations.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1122. Specified Professional Services Contracts Not Exceeding Certain Amounts

- A. A school district may procure a single contract or multiple contracts for specified professional services under this Section if the contract is for specified professional services by an architect or architect firm and the contract amount is \$250,000 or less or if the contract is for specified professional services by a person other than an architect and the contract amount is \$500,000 or less. For such procurements, the school district shall encourage persons engaged in the lawful practice of the profession to submit annually a statement of qualifications and experience.
- B. For each procurement of specified professional services under this Section, the school district shall establish a selection committee pursuant to R7-2-1120.
- C. The selection committee shall evaluate current statements of qualifications and experience on file with the school district, together with those that may be submitted by other persons regarding the procurement.
- D. The school district and the selection committee shall not request or consider fees, price, man-hours or any other cost information at any point in the selection process under this

Section, including the selection of the persons to be interviewed, the selection of persons to be on a final list, in determining the order of preference of persons on a final list or for any other purpose in the selection process, except as provided in subsection (F).

- E. If possible and practicable, the selection committee shall conduct interviews regarding the procurement and the relative methods of furnishing the required specified professional services and, if possible, shall select, in order of preference and based on criteria established and published by the selection committee, one or more final lists of the persons deemed to be the most qualified to provide the specified professional services required. The selection committee shall base the selection of each final list and the order of preference on demonstrated competence and qualifications only.
 1. If the procurement is for a single contract or if the procurement is for multiple contracts to be awarded to a single person, there shall be one final list of three persons.
 2. If the procurement is for multiple contracts for different specified professional services to be awarded to separate persons, there shall be a separate final list of three persons for each contract.
 3. In a procurement for multiple contracts for similar specified professional services to be awarded to separate persons, there shall be one final list and the number of persons on the final list shall be the number of contracts, plus another number that is determined by the school district and that is not more than five.
- F. The school district shall enter into negotiations with the highest qualified person on each final list or, in the case of a single final list for multiple contracts for the same specified professional services to be awarded to separate persons, the school district shall enter into negotiations with a number of the highest qualified persons on the final list equal to the number of contracts that may or will be awarded.
 1. Negotiations shall include consideration of compensation and other contract terms that the school district determines to be fair and reasonable to the school district. In making this determination, the school district shall take into account the estimated value, the scope, the complexity and the nature of the specified professional services to be rendered.
 2. If the school district is unable to negotiate a satisfactory contract with a person with whom the school district is negotiating at a price and on other contract terms the school district determines to be fair and reasonable to the school district, the school district shall formally terminate negotiations with that person.
 3. The school district may undertake negotiations with the next most qualified person on the final list in sequence until an agreement is reached or a determination is made to reject all persons on the final list.
 4. If the school district terminates negotiations with a person on a final list and commences negotiations with another person on the final list, the school district shall not in that procurement recommence negotiations or enter into a contract or contracts with any person with whom the school district has terminated negotiations.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

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Amended by final exempt rulemaking at 26 A.A.R. 597,
effective July 1, 2020 (Supp. 20-1).

R7-2-1123. Procurement File Contents and Review for Procurements Conducted under R7-2-1117 through R7-2-1121

A. At a minimum, the school district shall retain the following for each procurement under R7-2-1117 through R7-2-1121:

1. If interviews were not held:
 - a. The submittal of the person listed first on the final list and the submittal of each person with whom the school district enters into a contract. If the procurement has multiple final lists, the school district shall retain the submittal of the person listed first on the final list and the submittal of each person with whom the school district enters into a contract, for each final list.
 - b. The final list or final lists.
 - c. A list of the selection criteria and relative weight of selection criteria used to select the persons for the final list or final lists and to determine their order on the final list or final lists.
 - d. A list that contains the name of each person that submitted qualifications and that shows the person's final overall rank or score.
 - e. Documents that show the final score or rank on each selection criteria of each person that submitted qualifications and that support the final overall rankings and scores of the persons that submitted qualifications. The school district shall retain the individual scoring sheets for individual selection committee members.
2. If interviews were held:
 - a. All submittals of the person listed first on the final list and the submittal of each person with whom the school district enters into a contract. If the procurement has multiple final lists, the school district shall retain the submittal of the person listed first on the final list and the submittal of each person with whom the school district enters into a contract, for each final list.
 - b. The final list or final lists.
 - c. A list of the selection criteria and relative weight of selection criteria used to select the persons for the final list or final lists and to determine their order on the final list or final lists.
 - d. A list that contains the name of each person that was interviewed and that shows the person's final overall rank or score.
 - e. Documents that show the final score or rank on each selection criteria of each person that was interviewed and that support the final overall rankings and scores of the persons that were interviewed. The school district shall retain the individual scoring sheets for individual selection committee members.
 - f. A list of the selection criteria and relative weight of the selection criteria used to select the persons for the short list or short lists to be interviewed.
 - g. A list that contains the name of each person that submitted qualifications and that shows the person's final overall rank or score in the selection of the persons to be on the short list or short lists to be interviewed.
 - h. Documents that show the final score or rank on each selection criteria of each person that submitted qualifications and that support the final overall rankings

and scores of the persons that submitted qualifications. The school district shall retain the individual scoring sheets for individual selection committee members.

- B.** Information relating to each procurement under R7-2-1117 through R7-2-1121 shall be made available to the public as follows:
1. Until the school district awards a single contract or all of the multiple contracts or terminates the procurement, only the name of each person on the final list may be made available to the public. All other information received by the school district in response to the request for qualifications shall be confidential in order to avoid disclosure of the contents that may be prejudicial to competing respondents during the selection process.
 2. After the school district awards a single contract or all of the multiple contracts or terminates the procurement, the school district shall make the contents of the procurement file, except the statements of qualifications and the documents described in subsections (A)(1)(e), (A)(2)(e), and (A)(2)(h), available to the public.
 3. After the school district has entered into a single contract or all of the multiple contracts or has terminated the procurement, the school district shall make the statements of qualifications and the documents described in subsections (A)(1)(e), (A)(2)(e), and (A)(2)(h) available to the public.
 4. To the extent that a person designates and the school district concurs, trade secrets and other proprietary data contained in a statement of qualifications shall remain confidential.
 5. If the procurement file contains information that is confidential under R7-2-1006, a copy of the applicable documents with the confidential information redacted shall be placed in the procurement file for the purpose of public inspection. The unredacted original copy of the confidential information shall be placed in a sealed envelope or other appropriate container, identified as confidential information, and maintained in the procurement file.
- C.** The school district shall retain the records of a procurement under R7-2-1117 through R7-2-1121 in accordance with R7-2-1085.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1124. Reserved**PART XVI. COST PRINCIPLES****R7-2-1125. Cost Principles**

The cost principles adopted by the director of the Department of Administration pursuant to A.R.S. § 41-2591 shall be used to determine the allowability of incurred costs for the purpose of reimbursing costs under contract provisions that provide for the reimbursement of costs.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R.

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1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1126. Reserved

R7-2-1127. Reserved

R7-2-1128. Reserved

R7-2-1129. Reserved

R7-2-1130. Reserved

PART XVII. MATERIALS MANAGEMENT

R7-2-1131. Material Management and Disposition

- A.** The school district shall ascertain or verify that materials, services, or construction items procured by the school district conform to specifications as set forth in the solicitation.
- B.** The school district shall determine the fair market value of excess and surplus material.
- C.** Disposition of surplus materials.
 1. Except as provided in A.R.S. § 15-342(7) related to sales or leases to the state, a county, a city, another school district, or a tribal government agency, and A.R.S. § 15-342(18) related to the disposition of surplus or outdated learning materials, educational equipment and furnishings, surplus materials, regardless of value, shall be offered through competitive sealed bids, public auction, on-line sales, established markets, trade in, posted prices or state surplus property. If unusual circumstances render the above methods impractical, the school district may employ other disposition methods, including appraisal or barter, provided the school district makes a written determination that such procedure is advantageous to the school district. Only United States Postal Money Orders, certified checks, cashiers' checks or cash shall be accepted for sales of surplus material unless otherwise approved by the school district.
 2. Competitive sealed bidding.
 - a.** Notice for sale bids shall be publicly available from the school district at least 10 days before the due date set for bids. Notice of the sale bids shall be provided to prospective bidders, including those bidders on lists maintained by the school district pursuant to R7-2-1023. The notice for sale bids shall list the materials offered for sale, their location, availability for inspection, the terms and conditions of sale and instructions to bidders including the bid due date and time. Bids shall be opened publicly pursuant to the requirements of R7-2-1029.
 - b.** The award shall be made in accordance with the provisions of the notice for sale bids to the highest responsive and responsible bidder, provided that the price offered by such bidder is acceptable to the school district. If the school district determines that the bid is not advantageous to the school district, the school district may reject the bids in whole or in part and may resolicit bids or the school district may negotiate the sale, provided that the negotiated sale price is higher than the highest responsive and responsible bidder's price.
 3. Auctions shall be advertised in the official newspaper of the county as prescribed in A.R.S. § 11-255 or a newspaper of general circulation, in accordance with A.R.S. § 41-2533. The publication shall not be less than 14 days before the auction date. All the terms and conditions of

any sale shall be available to the public at least 24 hours prior to the auction date. The school district or any agent acting on the school district's behalf may also advertise the auction in any other manner determined advantageous to the school district.

4. Internet-based on-line sales shall not be subject to the advertisement requirements in subsection (C)(3). For such disposal services, the school district shall post and maintain a notice explaining the use of Internet-based on-line sales on a designated site on the Internet. The notice shall include:
 - a.** The name of the on-line sales provider and the designated site on the Internet where potential buyers may obtain information or participate in the on-line auctions;
 - b.** A link to the Internet-based on-line sales service;
 - c.** A link to the terms and conditions of sale;
 - d.** Instructions for bidding on the Internet-based on-line sales site; and
 - e.** A period of not less than 14 days for each Internet-based on-line sale during which persons may submit offers to purchase the specified materials.
5. Before surplus materials are disposed of by trade-in to a vendor for credit on an acquisition, the school district shall approve such disposal. The school district shall base this determination on whether the trade-in value is expected to exceed the value realized through the sale or other disposition of such materials.
6. An employee of the school district or a governing board member, or an employee of a school district's agent conducting an auction on behalf of the school district, shall not directly or indirectly purchase or agree with another person to purchase surplus property if said employee or board member is, or has been, directly or indirectly involved in the purchase, disposal, maintenance, or preparation for sale of the surplus material.
7. State surplus property manager. The school district may enter into an agreement with the State Surplus Property Manager for the disposition of materials pursuant to Article 8 of the Arizona Procurement Code (A.R.S. § 41-2601 et seq.) and the rules adopted thereunder.
8. Pursuant to A.R.S. § 15-342(35), a school district may offer to sell outdated learning materials, educational equipment or furnishings at a posted price commensurate with the value of the items to pupils who are currently enrolled in that school district before those materials are offered for public sale.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

Amended effective March 21, 1991 (Supp. 91-1).

Amended effective October 22, 1992 (Supp. 92-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1132. State and Federal Surplus Materials Program

- A.** The governing board may acquire surplus materials from the state and the United States government.
- B.** The governing board may enter into an agreement with the State Surplus Property Manager for the purpose of acquiring surplus materials from the United States government pursuant to A.R.S. § 41-2603 and the rules adopted thereunder.

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Adopted effective December 17, 1987 (Supp. 87-4).

Amended effective March 21, 1991 (Supp. 91-1).

R7-2-1133. Authority for Transfer of Material

Notwithstanding any law to the contrary, the governing board may secure the transfer of surplus materials and obligate its monies to the extent necessary to comply with the laws and conditions of such transfers.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1134. Reserved

R7-2-1135. Reserved

R7-2-1136. Reserved

R7-2-1137. Reserved

R7-2-1138. Reserved

R7-2-1139. Reserved

R7-2-1140. Reserved

PART XVIII. BID PROTESTS**R7-2-1141. Resolution of Bid Protests**

- A.** Informal resolution of bid protests. Nothing in Articles 10 and 11 are intended to eliminate the informal resolution of problems by school district personnel.
- B.** Formal resolution of bid protests. The governing board pursuant to R7-2-1007 shall designate a district representative, as defined in R7-2-1001, to resolve bid protests. All solicitations issued by the school district shall include the name of the district representative and shall indicate that any bid protest shall be filed with the district representative. Appeal from the decision of the district representative may be made to the hearing officer pursuant to R7-2-1147 and R7-2-1181.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 27 A.A.R. 2342 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-1142. Filing of a Protest

- A.** Any interested party may protest a solicitation issued by the school district, a determination that a proposal is unacceptable, or the proposed award or the award of a school district contract. Protests shall be filed with the district representative.
- B.** Content of protest. The protest shall be in writing and shall include the following information:
 1. The name, address and telephone number of the interested party;
 2. The signature of the interested party or the interested party's representative;
 3. Identification of the solicitation or contract number;
 4. A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
 5. The form of relief requested.
- C.** The interested party shall supply any other information requested by the district representative within 10 days of the request.

- D.** The interested party may file a written request with the district representative for an extension of the time limit for providing additional information set forth in subsection (C). The written request shall be filed before the expiration of the time limit set forth in subsection (C) and shall set forth good cause as to the specific reason that the interested party is unable to provide the additional information with the 10 days. The district representative shall approve or deny the request in writing, state the reasons for the determination, and if an extension is granted, set forth a new date for submission of the filing.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1143. Time for Filing Protests

- A.** Protests based upon alleged improprieties in a solicitation that are apparent before the due date and time for responses to the solicitation, shall be filed before the due date and time for responses to the solicitation.
- B.** In cases other than those covered in subsection (A), the interested party shall file the protest within 10 days after the school district makes the procurement file available for public inspection.
- C.** The interested party may file a written request with the district representative for an extension of the time limit for protest filing set forth in subsection (B). The written request shall be filed before the expiration of the time limit set forth in subsection (B) and shall set forth good cause as to the specific action or inaction of the school district that resulted in the interested party being unable to file the protest within the 10 days. The district representative shall approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted, set forth a new date for submission of the filing.
- D.** If the interested party shows good cause and it is advantageous to the school district, the district representative may consider any protest that is not filed timely.
- E.** The district representative shall immediately give notice of the protest to the successful contractor if award has been made or, if no award has been made, to all interested parties.
- F.** At any time the district representative or hearing officer may refer the protest to the governing board for resolution in accordance with R7-2-1152.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1144. Stay of Procurements During the Protest

The district representative may stay all or part of the procurement or contract if it is determined that there is a reasonable probability the protest will be upheld or that a stay is advantageous to the school district. The district representative shall notify the successful contractor if award has been made or, if no award has been made, all interested parties of the stay in writing no later than the time of issuance of the district representative's decision in accordance with R7-2-1145.

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Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1145. Decision by the District Representative

- A. The district representative shall have the authority granted to the district representative by the governing board to settle and resolve a protest.
- B. The district representative shall issue a written decision within 14 days after a protest has been filed, or after additional information requested by the district representative has been submitted, pursuant to R7-2-1142. The decision shall include:
 1. A statement of the decision of the district representative with supporting rationale; and
 2. A paragraph substantially as follows: "This is the decision of the district representative of the _____ School District. The decision may be appealed to a hearing officer. If you appeal, you must file a written notice of appeal with the district representative within 30 days from the date of the decision."
- C. The district representative shall furnish a copy of the decision to the interested party by any method that provides evidence of receipt.
- D. On agreement of all interested parties, the time limit for decisions set forth in subsection (B) may be extended by the district representative for good cause for a reasonable time not to exceed an additional 30 days. The district representative shall notify the interested party in writing that the time for the issuance of a decision has been extended and the date by which a decision will be issued.
- E. If the district representative fails to issue a decision within the time limits set forth in subsections (B) or (D), the interested party may proceed as if the district representative had issued an adverse decision.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1146. Remedies

- A. If the district representative sustains the protest in whole or part and determines that a solicitation, a determination that a proposal is unacceptable, proposed contract award, or contract award does not comply with Articles 10 and 11, the school district shall implement an appropriate remedy.
- B. In determining an appropriate remedy, the district representative shall consider all the circumstances surrounding the procurement or proposed procurement including, but not limited to, the seriousness of the procurement deficiency, the degree of prejudice to other interested parties or to the integrity of the procurement system, the good faith of the parties, the extent of performance, costs to the school district, the urgency of the procurement, the impact of the relief on the mission of the school district, and other relevant issues.
- C. An appropriate remedy may include one or more of the following:
 1. Decline to exercise an option to renew under the contract;
 2. Terminate the contract;

3. Amend the solicitation;
4. Issue a new solicitation;
5. Award a contract consistent with procurement statutes and regulations; or
6. Such other relief as is determined necessary to ensure compliance with Articles 10 and 11.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1147. Appeals to a Hearing Officer

- A. An appeal to a hearing officer from a decision entered or deemed to be entered by the district representative shall be filed with the district representative within 30 days from the date of decision.
- B. Content of appeal. The appeal shall contain:
 1. The information set forth in R7-2-1142(B); and
 2. The precise factual or legal error in the decision of the district representative from which an appeal is taken.
- C. All costs associated with conducting a hearing, including the costs of the hearing officer, shall be paid by the school district. If the hearing officer decides in favor of the school district, the other party shall reimburse the school district for the costs of the hearing within 30 days of receipt of a copy of the hearing officer's invoice.
- D. The Executive Director of the State Board of Education ("Executive Director") shall prepare and maintain a list of individuals who meet the qualifications specified in R7-2-1185 to serve as hearing officers.
- E. A hearing officer may be selected by mutual agreement of both parties. If the parties are unable to mutually agree on a hearing officer, three hearing officers shall be selected randomly by the Executive Director and shall be screened to determine availability and possible bias. Once the Executive Director has selected three hearing officers who are available and show no evidence of bias, the three names shall be provided to both parties. Both parties have the opportunity to strike one name from the list provided, but shall do so within 14 calendar days from the date on which the Executive Director provided the list to the parties. If after the time period for striking a hearing officer has passed and more than one person remains on the list, the Executive Director shall select one of the remaining individuals on the list as the hearing officer unless either party objects for cause and provides such reason in writing to the Executive Director. If after the time period for striking a hearing officer has passed and there is only one person remaining on the list, the remaining individual shall be named as the hearing officer unless either party objects for cause and provides such reason in writing to the Executive Director. Objections for cause shall require specific evidence that the individual does not meet the criteria specified in R7-2-1185. The Executive Director shall review the evidence submitted and determine the qualifications of the individual. If the Executive Director determines that the individual is not qualified to serve as the hearing officer, the Executive Director shall repeat the process and select three additional hearing officers to be provided to the parties.
- F. Issuance of a school district purchase order shall constitute the official selection date of the hearing officer.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R.

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1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1148. Notice of Appeal

The district representative shall within three working days give notice of the filing of the appeal to the governing board and the successful contractor if award has been made.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1149. Stay of Procurement During Appeal

If an appeal is filed and the procurement or contract was stayed by the district representative pursuant to R7-2-1144, the filing of an appeal shall automatically continue the stay unless the hearing officer makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the school district. If no such determination is made, the stay shall automatically end upon written decision of the hearing officer pursuant to R7-2-1151 or R7-2-1181.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1150. District Representative's Response

- A. The district representative shall file a complete response to the appeal within 21 days from the date the appeal is filed or within five days after the hearing officer has been selected, whichever is later. At the same time, the district representative shall furnish a copy of the response to the appellant and to any interested party.
- B. The district representative may submit a written request to the hearing officer for an extension of the period for submission of response, identifying the reasons for the extension. The hearing officer shall approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted, set forth a new date for the submission of filing a response. The hearing officer shall notify the district representative and the interested party of any extension.
- C. The interested party shall file comments on the district representative's response with the hearing officer within 10 days after receipt of the response. The interested party shall provide copies of the comments to the district representative and other interested parties.
- D. The interested party may submit a written request to the hearing officer for an extension of the period for submission of comments, identifying the reasons for the extension. The hearing officer shall approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted, set forth a new date for the submission of filing comments. The hearing officer shall notify the district representative and the interested party of any extension.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year

corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1151. Dismissal Before Hearing

- A. The hearing officer shall dismiss, upon a written determination, an appeal before scheduling a hearing if:
 1. The appeal does not state a valid basis for protest;
 2. The appeal is untimely pursuant to R7-2-1147(A); or
 3. The appeal attempts to raise issues not raised in the protest.
- B. The hearing officer shall notify the interested party and the district representative in writing of a determination to dismiss an appeal before hearing.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1152. Hearing

Hearings on appeals of bid protest decisions shall be conducted pursuant to R7-2-1181 and A.R.S. § 41-1092.07 as contested cases.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1153. Remedies

If the hearing officer sustains the appeal in whole or part and determines that a solicitation, a determination that a proposal is unacceptable, proposed award, or award does not comply with Articles 10 and 11, remedies shall be implemented pursuant to R7-2-1146.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1154. Reserved**PART XIX. CONTRACT CLAIMS AND CONTROVERSIES****R7-2-1155. Resolution of Contract Claims and Controversies**

- A. The district representative shall have the authority granted to the district representative by the governing board to settle and resolve contract claims and controversies including claims relating to assignees of the contractor.
- B. The district representative shall receive prior written approval of the governing board for the settlement or resolution of a claim exceeding the dollar amount specified in A.R.S. § 41-2535.
- C. Appeals from decisions of the district representative may be made to the hearing officer pursuant to R7-2-1158.
- D. A claimant shall file a contract claim with the district representative within 180 days after the claim arises. The claim shall include the following:
 1. The name, address, and telephone number of the claimant;
 2. The signature of the claimant or claimant's representative;
 3. Identification of the solicitation or contract number;
 4. A detailed statement of the legal and factual grounds of the claim including copies of the relevant documents; and
 5. The form and dollar amount of the relief requested.

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Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1156. District Representative's Decision

- A. If a controversy cannot be resolved by mutual agreement, the district representative shall issue a written decision within no more than 60 days from receipt of the contractor's written request for a decision. Before issuing a written decision, the district representative shall review the facts pertinent to the claim and secure any necessary assistance from legal, fiscal, and other advisors.
- B. Decision of the district representative. The district representative shall furnish a copy of the decision to the contractor by any method that provides evidence of receipt. The decision shall include:
1. A description of the claim;
 2. A reference to the pertinent contract provision;
 3. A statement of the factual areas of agreement or disagreement;
 4. A statement of the district representative's decision, with supporting rationale; and
 5. A paragraph substantially as follows:
 "This is the decision of the district representative of the _____ School District. This decision may be appealed to a hearing officer. If you appeal, you must file a written notice of appeal with the district representative within 30 days from the date of decision."

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Amended by final rulemaking at 6 A.A.R. 3750, effective September 8, 2000 (Supp. 00-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1157. Issuance of a Timely Decision

- A. On agreement of all interested parties, the time limit for decisions set forth in R7-2-1156(A) may be extended for good cause for a reasonable time not to exceed 14 days. The district representative shall notify the contractor in writing that the time for the issuance of a decision has been extended and the date by which a decision shall be issued.
- B. If the district representative fails to issue a decision within 60 days after the request is filed or within the time prescribed under subsection (A), the contractor may proceed as if the district representative had issued an adverse decision.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1158. Appeals to a Hearing Officer

- A. An appeal from a decision entered or deemed to be entered by the district representative on a contract claim or controversy

shall be filed with the district representative within 30 days from the date of decision.

- B. The appeal shall contain the basis for the precise factual or legal error in the decision of the district representative from which an appeal is taken.
- C. The district representative shall file a complete response to the appeal within 21 days from the date the appeal is filed or within five days after the hearing officer has been selected, whichever is later. At the same time, the district representative shall furnish a copy of the response to the appellant and to any interested party.
- D. The district representative may submit a written request to the hearing officer for an extension of the period for submission of response, identifying the reasons for the extension. The hearing officer shall approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted, set forth a new date for the submission of filing a response. The hearing officer shall notify the district representative and the interested party of any extension.
- E. The interested party shall file comments on the district representative's response with the hearing officer within 10 days after receipt of the response. The interested party shall provide copies of the comments to the district representative and other interested parties.
- F. The interested party may submit a written request to the hearing officer for an extension of the period for submission of comments, identifying the reasons for the extension. The hearing officer shall approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted, set forth a new date for the submission of filing comments. The hearing officer shall notify the district representative and the interested party of any extension.
- G. All costs associated with conducting a hearing, including the costs of the hearing officer, shall be paid by the school district. If the hearing officer decides in favor of the school district, the other party shall reimburse the school district for the costs of the hearing within 30 days of receipt of a copy of the hearing officer's invoice.
- H. The Executive Director of the State Board of Education ("Executive Director") shall prepare and maintain a list of individuals who meet the qualifications specified in R7-2-1185 to serve as hearing officers.
- I. A hearing officer may be selected by mutual agreement of both parties. If the parties are unable to mutually agree on a hearing officer, three hearing officers shall be selected randomly by the Executive Director and shall be screened to determine availability and possible bias. Once the Executive Director has selected three hearing officers who are available and show no evidence of bias, the three names shall be provided to both parties. Both parties have the opportunity to strike one name from the list provided, but shall do so within 14 calendar days from the date on which the Executive Director provided the list to the parties. If after the time period for striking a hearing officer has passed and more than one person remains on the list, the Executive Director shall select one of the remaining individuals on the list as the hearing officer unless either party objects for cause and provides such reason in writing to the Executive Director. If after the time period for striking a hearing officer has passed and there is only one person remaining on the list, the remaining individual shall be named as the hearing officer unless either party objects for cause and provides such reason in writing to the Executive Director. Objections for cause shall require specific evidence that the individual does not meet the criteria specified in R7-2-

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1185. The Executive Director shall review the evidence submitted and determine the qualifications of the individual. If the Executive Director determines that the individual is not qualified to serve as the hearing officer, the Executive Director shall repeat the process and select three additional hearing officers to be provided to the parties.

- J.** Issuance of a school district purchase order shall constitute the official selection date of the hearing officer.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Amended by final rulemaking at 6 A.A.R. 3750, effective September 8, 2000 (Supp. 00-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1159. Hearing

Hearings on appeals of contract claim and controversy decisions shall be conducted pursuant to R7-2-1181 and A.R.S. § 41-1092.07 as contested cases.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1160. Reserved**PART XX. DEBARMENT AND SUSPENSION****R7-2-1161. Authority to Debar or Suspend**

- A.** Except as provided in A.R.S. § 41-1279.21(B), the governing board has the sole authority to debar or suspend a person from participating in school district procurements.
- B.** The causes for debarment or suspension include the following:
1. Conviction of any person or any subsidiary or affiliate of any person for commission of a criminal offense arising out of obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.
 2. Conviction of any person or any subsidiary or affiliate of any person under any statute of the federal government, this state or any other state for embezzlement, theft, fraudulent schemes and artifices, fraudulent schemes and practices, bid rigging, perjury, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which affects responsibility as a school district contractor.
 3. Conviction or civil judgment finding a violation by any person or any subsidiary or affiliate of any person under state or federal antitrust statutes.
 4. Violations of contract provisions of a character which are deemed to be so serious as to justify debarment action, such as either of the following:
 - a. Knowingly fails without good cause to perform in accordance with the specification or within the time limit provided in the contract.
 - b. Failure to perform or unsatisfactory performance in accordance with the terms of one or more contracts, except that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment.

5. Any other cause deemed to affect responsibility as a school district contractor, including suspension or debarment of such person or any subsidiary or affiliate of such person by another governmental entity for any cause.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1162. Initiation of Debarment

Upon receipt of information concerning a possible cause for debarment, the school district shall investigate the possible cause. If the school district has a reasonable basis to believe that a cause for debarment exists, the school district may propose debarment under R7-2-1164.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1163. Period of Debarment

- A.** The period of time for a debarment shall not exceed three years from the date of the debarment determination.
- B.** If debarment is based solely upon debarment by another governmental agency including another school district, the period of debarment may run concurrently with the period established by that other debarring agency.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1164. Notice

- A.** If the school district proposes debarment, the school district shall notify the person and affected affiliates in writing within seven days of the proposed debarment by any means evidencing receipt, which notice shall indicate that a hearing shall be scheduled, if requested, in accordance with R7-2-1181 as contested cases.
- B.** The notice of debarment shall state:
1. The basis for debarment;
 2. The period, including dates, of the debarment;
 3. That bids or proposals shall not be solicited or accepted from the person and, if received, will not be considered; and
 4. That the person is entitled to a hearing on the suspension if the person files a written request for a hearing with a designated district representative within 10 days after receipt of the notice.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1165. Notice to Affiliates

- A.** If the school district proposes to debar an affiliate, the affiliate shall have a right to appear in any hearing on the proposed debarment to show mitigating circumstances.
- B.** The affiliate shall in writing advise the school district within 10 days of receipt of the notice under R7-2-1164 of its intention to appear under subsection (A). Failure to provide written notice of appearance within the 10-day period shall be a waiver of the right to appear in the hearing.

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Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1166. Imputed Knowledge

- A. Improper conduct may be imputed to an affiliate for purposes of debarment where the impropriety occurred in connection with the affiliate's duties for or on behalf of, or with the knowledge, approval, or acquiescence of, the contractor.
- B. The improper conduct of a person or its affiliate having a contract with a contractor may be imputed to the contractor for purposes of debarment where the impropriety occurred in connection with the person's duties for or on behalf of, or with the actual or constructive knowledge, approval, or acquiescence of, the contractor.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1167. Reinstatement

- A. The governing board may at any time reinstate a debarred person or rescind the debarment upon a determination that the cause upon which the debarment is based no longer exists or upon a determination that such reinstatement or rescission is advantageous to the school district. The governing board's determination shall include any limitations on the debarred person's ability to contract with the school district.
- B. Any debarred person may request reinstatement by submitting a petition to the school district supported by documentary evidence showing that the cause for debarment no longer exists or has been substantially mitigated.
- C. The school district may require a hearing on the request for reinstatement.
- D. The school district shall make a written decision on reinstatement within 30 days after the request is filed and specify the factors on which it is based.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1168. Suspension

- A. If adequate grounds for debarment exist, the governing board may suspend a person from participating in any procurement or receiving any award in accordance with the procedures in R7-2-1170.
- B. The governing board shall not suspend a person pending debarment unless compelling reasons require suspension to protect school district interests.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1169. Period and Scope of Suspension

- A. Unless otherwise agreed to by the parties, the period of suspension shall not exceed 35 days without satisfying the notice

requirements of R7-2-1170. If the notice requirements are satisfied the period of suspension shall not exceed six months.

- B. For purpose of suspension, a person's conduct may be imputed to an affiliate or another person in accordance with R7-2-1166.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1170. Notice and Hearing

- A. The school district shall notify the person suspended by any means evidencing receipt.
- B. The notice of suspension shall state:
 1. The basis for suspension;
 2. The period, including dates, of the suspension;
 3. That bids or proposals shall not be solicited or accepted from the person and, if received, will not be considered; and
 4. That the person is entitled to a hearing on the suspension if the person files a written request for a hearing, including the basis for the request, with a designated district representative within 10 days after receipt of the notice.
- C. A hearing requested under this Section shall be conducted pursuant to R7-2-1181.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1171. List of Debarments, Suspensions and Voluntary Exclusions

The school district shall maintain a list of debarment, suspensions, and voluntary exclusions. It is recommended that the school district provide notice of any debarments, suspensions and voluntary exclusions to the state purchasing office.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1172. Reserved**R7-2-1173. Reserved****R7-2-1174. Reserved****R7-2-1175. Reserved****R7-2-1176. Reserved****R7-2-1177. Reserved****R7-2-1178. Reserved****R7-2-1179. Reserved****R7-2-1180. Reserved****PART XXI. HEARING PROCEDURES****R7-2-1181. Hearing Procedures**

- A. If a hearing is required or permitted under Articles 10 and 11, this Section shall apply. Hearing officers shall be selected pursuant to R7-2-1147(D) and (E) or R7-2-1158(E) and (F).
- B. The Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) shall apply where the Act is not inconsistent with Articles 10 and 11.
- C. The hearing officer shall arrange for a hearing to be held within 30 days of receiving required responses and comments

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from both parties and notify the parties in writing of the time and place of the hearing.

D. The hearing officer may:

1. Hold pre-hearing conferences to settle, simplify, or identify the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding;
2. Require parties to state their positions concerning the various issues in the proceeding;
3. Require parties to produce for examination those relevant witnesses and documents under their control;
4. Rule on motions and other procedural items on matters pending before such officer;
5. Regulate the course of the hearing and conduct of participants;
6. Establish time limits for submission of motions or memoranda;
7. Impose appropriate sanctions against any person failing to obey an order under these procedures, which may include:
 - a. Refusing to allow the person to assert or oppose designated claims or defenses, or prohibiting that person from introducing designated matters in evidence;
 - b. Excluding all testimony of an unresponsive or evasive witness; and
 - c. Expelling person from further participation in the hearing;
8. Take official notice of any material fact not appearing in evidence in the record, if the fact is among the traditional matters of judicial notice; and
9. Administer oaths or affirmations.

E. A transcribed record of the hearing shall be made available at cost to any requesting party.

F. Decision by the hearing officer. A decision by the hearing officer shall be sent within 30 days after the conclusion of the hearing to all parties by any means evidencing receipt. A decision shall contain:

1. A statement of facts;
2. A statement of the decision with supporting rationale; and
3. A statement that the parties may file a motion for rehearing within 15 days from the date a copy of this decision is served upon the party.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final rulemaking at 6 A.A.R. 3750, effective September 8, 2000 (Supp. 00-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1182. Rehearing of Decisions

A. Procedure; grounds. A decision of the hearing officer may be vacated and new hearing granted on motion of the aggrieved party for any of the following causes materially affecting the party's rights:

1. Irregularity in the proceedings of the hearing officer or prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing.
2. Misconduct of the prevailing party.
3. Accident or surprise not preventable by ordinary prudence.

4. Material evidence, newly discovered, which despite reasonable diligence was not discovered and produced at the hearing.
5. Excessive or insufficient damages or penalties.
6. Error of law occurring at the hearing or during the progress of the proceeding.
7. That the findings of fact or decision is not justified by the evidence or is contrary to law.

B. Scope. A rehearing may be granted to all or any of the parties and on all or part of the issues in the proceeding for any of the reasons for which rehearings are authorized by law or rule of court. On a motion for a rehearing, the hearing officer may open the decision, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new decision.

C. Contents of motion; amendment; rulings reviewable.

1. The motion for rehearing shall be in writing, shall specify generally the grounds upon which the motion is based, and may be amended at any time before it is ruled upon by the hearing officer.
2. Upon the general ground that the hearing officer erred in admitting or rejecting evidence, the hearing officer shall review all rulings during the hearing upon objections to evidence.
3. Upon the general ground that the findings of fact or decision are not justified by the evidence, the hearing officer shall review the sufficiency of the evidence.

D. Time for motion for rehearing. A motion for rehearing shall be filed not later than 15 days after service of the decision upon the party.

E. Time for serving affidavits. When a motion for rehearing is based upon affidavits they shall be served with the motion. The opposing party has 10 days after such service within which to serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days either by the hearing officer for good cause shown or by the parties by written stipulation. The hearing officer may permit reply affidavits.

F. On initiative of hearing officer. Not later than 15 days after the date of the decision, the hearing officer may order a rehearing for any reason for which it might have granted a rehearing on motion of a party. After giving the parties notice and an opportunity to be heard on the matter, the hearing officer may grant a motion for a rehearing, timely served, for a reason not stated in the motion. In either case, the hearing officer shall specify in the order the grounds therefor.

G. Questions to be considered in rehearing. A rehearing, if granted, shall be only a rehearing of the question or questions with respect to which the decision is found erroneous, if separable. If a rehearing is ordered because the damages or penalties are excessive or inadequate and granted solely for that reason, the decision shall be set aside only in respect of the damages or penalties, and shall stand in all other respects.

H. Motion on ground of excessive or inadequate damages. When a motion for rehearing is made upon the ground that the damages or penalties awarded are either excessive or insufficient, the hearing officer may grant the rehearing conditionally upon the filing within a fixed period of time, not to exceed 15 days, of a statement by the party adversely affected by reduction or increase of damages or penalties accepting that amount of damages or penalties which the hearing officer shall designate. If such a statement is filed with the prescribed time, the motion for rehearing shall be regarded as denied as of the date of such filing. If no statement is filed, the motion for rehearing shall be

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regarded as granted as of the date of the expiration of the time period within which a statement may have been filed. No further written order shall be required to make an order granting or denying the rehearing final. If the conditional order of the hearing officer requires a reduction of or increase in damages or penalties, then the rehearing will be granted in respect of the damages or penalties only and the decision shall stand in all other respects.

- I.** Number of motions for rehearing. Not more than two motions for rehearing shall be granted to any party in the same action.
- J.** Specifications of grounds of rehearing in order. An order granting a motion for rehearing shall specify with particularity the ground or grounds on which the rehearing is granted.
- K.** Final decision.
 - 1. If a motion for rehearing is denied, the final decision denying the motion for rehearing shall be sent within five days after the denial to all parties by any means evidencing receipt. A final decision shall contain a paragraph substantially as follows: "This is the final decision of the hearing officer in the matter of _____."
 - 2. If the motion for rehearing was granted, after the rehearing is completed, a final decision shall be made and shall be sent within five days after the conclusion of the rehearing to all parties as required in subsection (K)(1). A final decision shall contain:
 - a. A statement of facts;
 - b. A statement of the decision with supporting rationale; and
 - c. A paragraph substantially as stated in subsection (K)(1).

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final rulemaking at 6 A.A.R. 3750, effective September 8, 2000 (Supp. 00-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1183. Judicial Review

Any final decision made as a result of a hearing held pursuant to Articles 10 and 11 are subject to judicial review in accordance with A.R.S. Title 12, Chapter 7, Article 6.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 3750, effective September 8, 2000 (Supp. 00-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1184. Exclusive Remedy

Articles 10 and 11 (R7-2-1001 et seq.) provide the exclusive procedure for asserting a cause against the school district and its governing board arising in relation to any procurement conducted under Articles 10 and 11.

Historical Note

Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1185. Qualifications for Hearing Officers

- A.** A "hearing officer" means a person assigned to preside at a hearing held pursuant to Articles 10 and 11 and whose duty it is to assure that proper procedures are followed and that the rights of the parties are protected.

- B.** A hearing officer shall be:
 - 1. Unbiased - not prejudiced for or against any party in the hearing;
 - 2. Disinterested - not having any personal or professional interest which would conflict with his/her objectivity in the hearing; and
 - 3. Independent - may not be an officer, employee or agent of the contractor or governing board, or of any other public agency involved in the dispute to be settled. A person who otherwise qualifies to conduct a hearing is not an employee of the contractor or governing board solely because he or she is paid by the parties to serve as a hearing officer.
- C.** A hearing officer shall have:
 - 1. A minimum of three years of verified experience in the practice of law; or
 - 2. A minimum of three years of verified experience in school procurement or school facilities management and a minimum of one year of verified experience in conducting hearings. Completion of a course or program in conducting a hearing or arbitration may substitute for the one year of verified experience in conducting hearings.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 3750, effective September 8, 2000 (Supp. 00-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1186. Reserved

R7-2-1187. Reserved

R7-2-1188. Reserved

R7-2-1189. Reserved

R7-2-1190. Reserved

PART XXII. INTERGOVERNMENTAL PROCUREMENTS**R7-2-1191. Cooperative Purchasing Authorized**

- A.** A school district may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any materials, services, specified professional services, construction, or construction services with one or more eligible procurement units in accordance with an agreement entered into between the participants. An agreement entered into as provided in R7-2-1191 through R7-2-1195 is exempt from A.R.S. § 11-952(D) and (E). Parties under a cooperative purchasing agreement may:
 - 1. Sponsor, conduct, or administer a cooperative purchasing agreement for the procurement or disposal of any materials, services or construction.
 - 2. Cooperatively use materials or services.
 - 3. Commonly use or share warehousing facilities, capital equipment and other facilities.
 - 4. Provide personnel, except that the requesting public procurement unit shall pay the public procurement unit providing the personnel the direct and indirect cost of providing the personnel, in accordance with the agreement.
 - 5. On request, make available to other public procurement units informational, technical or other services or software that may assist in improving the efficiency or economy of procurement. The public procurement unit furnishing the informational, technical, or other services

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or software has the right to request reimbursement for the reasonable and necessary costs of providing such services or software.

- B. The activities described in subsections (A)(1) through (A)(5) do not limit what parties may do under a cooperative purchasing agreement.
- C. A nonprofit corporation shall comply with Articles 10 and 11 in any cooperative purchasing agreement the nonprofit corporation administers in which a school district participates.
- D. Whether administering or purchasing from the agreement, this Section does not abrogate the responsibility of each school district to perform due diligence in order to ensure compliance with Articles 10 and 11 notwithstanding the fact that the cooperative purchase is administered by another eligible procurement unit.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1192. Contract Provisions in a Cooperative Purchasing Agreement

Any contract entered pursuant to R7-2-1191 shall provide that:

1. Payment for materials and services and inspection and acceptance of materials or services ordered by an eligible procurement unit under a cooperative purchasing agreement shall be the exclusive obligation of such procurement unit;
2. The exercise of any rights or remedies by a using eligible procurement unit shall be the exclusive obligation of such procurement unit. The administering public procurement unit, as the contract administrator and without subjecting itself to any liability, may join in the resolution of any controversy;
3. Any school district may terminate without notice any cooperative purchasing agreement if another eligible procurement unit fails to comply with the terms of the contract;
4. Failure of an eligible procurement unit to secure performance from the contractor in accordance with the terms and conditions of its purchase order does not necessarily require any other eligible procurement unit to exercise its own rights or remedies; and
5. An eligible procurement unit shall not use a cooperative purchasing contract as a method for obtaining concessions or reduced prices for non-contract purchases of similar materials or services.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1193. Use of Payments Received by a Supplying Public Procurement Unit

All payments received by a public procurement unit supplying personnel or services shall be available to the supplying public procurement unit to defray the cost of the cooperative program.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1194. Public Procurement Units in Compliance with Article Requirements

- A. If the eligible procurement unit administering a cooperative purchase complies with the requirements of Articles 10 and 11, any public procurement unit participating in such a purchase is deemed to have complied with Articles 10 and 11. Public procurement units may not enter into a cooperative purchasing agreement for the purpose of circumventing Articles 10 and 11.
- B. A participating public procurement unit using a contract awarded by another eligible procurement unit shall only purchase awarded materials, services, specified professional services, construction, or construction services in compliance with the terms, conditions and prices in the contract.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1195. Contract Controversies

- A. Under a cooperative purchasing agreement in which a school district is a party, controversies arising between an administering public procurement unit and its bidders, offerors or contractors shall be resolved in accordance with Articles 10 and 11.
- B. Any local public procurement unit which is not subject to R7-2-1181 through R7-2-1185 may enter into an agreement with a school district to establish procedures or use such school district's existing procedures to resolve controversies with contractors, whether or not such controversy arose from a cooperative purchasing agreement.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1196. General Services Administration Contracts

- A. The governing board may authorize purchases under a current General Services Administration contract for materials or services without complying with the requirements of Articles 10 and 11 if the governing board determines in writing before proceeding with a General Services Administration contract procurement that all of the following apply:
 1. The price for materials or services is equal to or less than the contractor's current federal supply contract price with the General Services Administration and is fair and reasonable.
 2. The contractor has indicated in writing that the contractor is willing to extend the current federal supply contract pricing, terms and conditions to the school district.
 3. The purchase order adequately identifies the federal supply contract on which the order is based, including the name of the contractor, contract number and procurement description.
 4. The purchase contract is cost effective based on price, quality and other relevant factors, and is advantageous to the school district.
- B. The school district shall only purchase materials or services awarded under the applicable General Services Administration contract.
- C. The governing board shall comply with all federal requirements applicable to state and local government use of General Services Administration contracts.

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Historical Note

Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1197. Reserved

R7-2-1198. Reserved

R7-2-1199. Reserved

R7-2-1200. Reserved

ARTICLE 12. REPEALED

R7-2-1201. Repealed

Historical Note

Adopted effective April 27, 1989 (Supp. 89-2). Repealed effective February 20, 1997 (Supp. 97-1).

ARTICLE 13. CONDUCT**R7-2-1301. Definitions**

In this Article, unless the context otherwise specifies:

1. "Alleging party" means an individual, partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any character or other agency who completes a statement alleging immoral or unprofessional conduct against a certificated individual.
2. "Applicant" means a noncertificated person who has been disciplined by the Board and who has submitted an application requesting reinstatement of the person's legal right to work in a public school, or a person who has submitted an application to the Department requesting an evaluation of the requirements set forth in R7-2-601 et seq., requesting issuance of a certificate pursuant to R7-2-601 et seq., requesting renewal of a certificate issued pursuant to R7-2-601 et seq. or requesting changes of coding to existing files or certificates pursuant to R7-2-601 et seq.
3. "Board" means the State Board of Education.
4. "Certificated individual" means an individual who holds or has held an Arizona certificate issued pursuant to R7-2-601 et seq.
5. "Complaint" means the filing of a charge by the Board against a certificated individual alleging immoral or unprofessional conduct.
6. "Department" means the Arizona Department of Education.
7. "Hearing" means an adjudicative proceeding held pursuant to A.R.S. Title 41, Chapter 6 and R7-2-701 et seq.
8. "Noncertificated individual" means a noncertificated person defined in A.R.S. § 15-505, as determined by the Board.
9. "PPAC" means the Professional Practices Advisory Committee established pursuant to R7-2-205.

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by final exempt rulemaking at 25 A.A.R. 967, effective March 27, 2019 (Supp. 19-1). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-1302. Statement of Allegations

- A. Any person may file, with the Board, a statement of allegations against a certificated or noncertificated individual on forms provided by the Board.
- B. A statement of allegations shall state the facts under which a party is alleging immoral or unprofessional conduct and shall be signed and notarized.
- C. The facts in a statement of allegations shall clearly state the details of the alleged immoral or unprofessional conduct.
- D. A statement of allegations shall contain the names, addresses and telephone numbers of individuals who can be contacted to provide information regarding the allegations contained in the statement. The list of individuals shall also include a brief summary of the substance and extent of each individual's knowledge regarding the allegations contained in the statement.
- E. The alleging party may attach written or other evidence to a statement of allegations at the time that the statement is filed with the Board.
- F. A statement of allegations may be returned to the alleging party if the statement is not complete or not legible.
- G. The Board shall conduct an investigation of all statements of allegations filed pursuant to this Article.

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by final exempt rulemaking at 25 A.A.R. 967, effective March 27, 2019 (Supp. 19-1). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-1303. Complaint

- A. Upon completion of an investigation resulting from a statement of allegations, the Board may file a complaint against a certificated or noncertificated individual, may issue or deny certification to an applicant, or may reinstate a noncertificated individual's legal right to work in a public school and matters related to immoral or unprofessional conduct, unfitness to teach, and the discipline of noncertificated individuals pursuant to A.R.S. § 15-505.
- B. The Board may, at its own discretion, investigate any matter and file a complaint against a certificated or noncertificated individual upon receiving any information, from any source, indicating immoral or unprofessional conduct has occurred.
- C. A hearing shall be held on a complaint before the PPAC.

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4). Section R7-2-1303 renumbered to R7-2-1304; new Section R7-2-1303 renumbered from R7-2-1304 and amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by final exempt rulemaking at 25 A.A.R. 967, effective March 27, 2019 (Supp. 19-1). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-1304. Notification; Investigation

The certificated or noncertificated individual shall have 20 days from service by U.S. mail and email of the notice of investigation to file a written response with the Board.

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4). Section R7-2-1304 renumbered to R7-2-1303; new Section R7-2-1304 renumbered from R7-2-1303 and amended by

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final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1). Amended by final exempt rulemaking at 25 A.A.R. 967, effective March 27, 2019 (Supp. 19-1). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-1305. Investigation

- A.** Applicants shall certify on forms that are provided by the Department whether the applicant:
1. Has ever received any disciplinary action, including revocation, suspension or reprimand, involving any professional certification or license;
 2. Is currently under investigation or has ever been the subject of any investigation by the Department of Child Safety or a similar department in this state or another jurisdiction;
 3. Has ever been convicted of a felony offense;
 4. Has ever been arrested, cited and released, or received a criminal summons for any offense, regardless if eventually convicted of a crime or if a conviction was set aside or expunged; or
 5. Has ever been arrested, cited and released, or received a criminal summons for any offense involving a child, regardless if eventually convicted of a crime or if a conviction was set aside or expunged.
- B.** Upon receipt of notification that an applicant, certificated, or noncertificated individual has engaged in unprofessional or immoral conduct pursuant to R7-2-1308, conduct that would warrant disciplinary action if the person had been certified at the time that the alleged conduct occurred, or conduct listed in subsections (A)(1) through (5), the Board shall initiate an investigation.
- C.** Applicants, certificated, and noncertificated individuals who are alleged to have engaged in unprofessional or immoral conduct pursuant to R7-2-1308, conduct that would warrant disciplinary action if the person had been certified at the time that the alleged conduct occurred, or conduct listed in subsections (A)(1) through (5) shall provide the Board with copies of court records and law enforcement reports pertaining to the offense.

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by final exempt rulemaking at 25 A.A.R. 967, effective March 27, 2019 (Supp. 19-1). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-1306. Repealed**Historical Note**

Adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Repealed by final exempt rulemaking at 25 A.A.R. 967, effective March 27, 2019 (Supp. 19-1).

R7-2-1307. Criminal Offenses

- A.** The Board shall revoke, not issue, or not renew the certification of a person who has been convicted of committing or attempting, soliciting, facilitating or conspiring to commit any of the following criminal offenses in this state or similar offenses in another jurisdiction:
1. Sexual abuse of a minor;

2. Incest;
 3. First-degree murder;
 4. Second-degree murder;
 5. Manslaughter;
 6. Sexual assault;
 7. Sexual exploitation of a minor;
 8. Commercial sexual exploitation of a minor;
 9. A dangerous crime against children as defined in A.R.S. § 13-705;
 10. Armed robbery;
 11. Aggravated assault;
 12. Sexual conduct with a minor;
 13. Molestation of a child;
 14. Exploitation of minors involving drug offenses;
 15. Sexual abuse of a vulnerable adult;
 16. Sexual exploitation of a vulnerable adult;
 17. Commercial sexual exploitation of a vulnerable adult;
 18. Child sex trafficking as prescribed in A.R.S. § 13-3212;
 19. Child abuse;
 20. Abuse of a vulnerable adult;
 21. Molestation of a vulnerable adult;
 22. Taking a child for the purpose of prostitution as prescribed in A.R.S. § 13-3206;
 23. Neglect or abuse of a vulnerable adult;
 24. Sex trafficking;
 25. Sexual abuse;
 26. Production, publication, sale, possession and presentation of obscene items as prescribed in A.R.S. § 13-3502;
 27. Furnishing harmful items to minors as prescribed in A.R.S. § 13-3506;
 28. Furnishing harmful items to minors by internet activity as prescribed in A.R.S. § 13-3506.01;
 29. Obscene or indecent telephone communications to minors for commercial purposes as prescribed in A.R.S. § 13-3512;
 30. Luring a minor for sexual exploitation;
 31. Enticement of persons for purposes of prostitution;
 32. Procurement by false pretenses of person for purposes of prostitution;
 33. Procuring or placing persons in a house of prostitution;
 34. Receiving earnings of a prostitute;
 35. Causing one's spouse to become a prostitute;
 36. Detention of persons in a house of prostitution for debt;
 37. Keeping or residing in a house of prostitution or employment in prostitution;
 38. Pandering;
 39. Transporting persons for the purpose of prostitution, polygamy and concubinage;
 40. Portraying adult as a minor as prescribed in A.R.S. § 13-3555;
 41. Admitting minors to public displays of sexual conduct as prescribed in A.R.S. § 13-3558;
 42. Unlawful sale or purchase of children;
 43. Child bigamy; or
 44. Trafficking of persons for forced labor or services.
- B.** Upon notification by the clerk of the court, magistrate or court of competent jurisdiction, the Board shall immediately and permanently revoke the certificate of a person who has been convicted of any of the following offenses:
1. A dangerous crime against children as defined in A.R.S. § 13-705;
 2. Sexual abuse as prescribed in A.R.S. § 13-1404 in which the victim was a minor;

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3. Sexual assault as prescribed in A.R.S. § 13-1406 in which the victim was a minor;
 4. Sexual conduct with a minor as prescribed A.R.S. § 13-1405;
 5. A preparatory offense as prescribed in A.R.S. § 13-1001 of any of the offenses listed in subsections (B)(1), (2), (3), or (4);
 6. Any crime that requires the person to register as a sex offender; or
 7. An act committed in another state or territory that if committed in this state would have been one of the offenses listed in subsections (B)(1), (2), (3), or (4).
- C. If the Board takes disciplinary action against a noncertificated individual, does not issue, does not renew, or revokes a certificate due to a person's conviction or admission of an offense listed in subsections (A)(1) through (44), but which is not an offense listed in subsections (B)(1) through (7), the notice of non-issuance, non-renewal or revocation shall inform the person of that person's right to request a hearing within 20 days of service of the notice.
- D. The Board shall prohibit from employment at a public school a noncertificated individual who has been convicted of committing or attempting, soliciting, facilitating or conspiring to commit any of the criminal offenses in this state or similar offenses in another jurisdiction listed in subsections (A)(1) through (44).
- E. Upon notification by the clerk of the court, magistrate or court of competent jurisdiction, the Board shall immediately and permanently prohibit a noncertificated individual from employment at a public school if the individual has been convicted of any offense listed in subsections (B)(1) through (7).

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4).
 Amended by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by final exempt rulemaking at 25 A.A.R. 967, effective March 27, 2019 (Supp. 19-1).
 The phrase "paragraphs one, two, three or four" was changed to "subsections (B)(1), (2), (3) or (4)" to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-1308. Unprofessional and Immoral Conduct

- A. Noncertificated individuals and individuals holding certificates issued by the Board pursuant to R7-2-601 et seq. and individuals applying for certificates issued by the Board pursuant to R7-2-601 et seq. shall:
1. Make reasonable efforts to protect pupils from conditions harmful to learning, health, or safety;
 2. Account for all funds collected from pupils, parents, or school personnel;
 3. Adhere to provisions of the Uniform System of Financial Records related to use of school property, resources, or equipment; and
 4. Abide by copyright restrictions, security, or administration procedures for a test or assessment.
- B. Noncertificated individuals and individuals holding certificates issued by the Board pursuant to R7-2-601 et seq. and individuals applying for certificates issued by the Board pursuant to R7-2-601 et seq. shall not:

1. Discriminate against or harass any pupil or school employee on the basis of race, national origin, religion, sex, including sexual orientation, disability, color or age;
 2. Deliberately suppress or distort information or facts relevant to a pupil's academic progress;
 3. Misrepresent or falsify pupil, classroom, school, or district-level data from the administration of a test or assessment;
 4. Engage in a pattern of conduct for the sole purpose or with the sole intent of embarrassing or disparaging a pupil;
 5. Use professional position or relationships with pupils, parents, or colleagues for improper personal gain or advantage;
 6. Falsify or misrepresent documents, records, or facts related to professional qualifications or educational history or character;
 7. Assist in the professional certification or employment of a person the certificate holder knows to be unqualified to hold a position;
 8. Accept gratuities or gifts that influence judgment in the exercise of professional duties;
 9. Possess, consume, or be under the influence of alcohol on school premises or at school-sponsored activities;
 10. Illegally possess, use, or be under the influence of marijuana, dangerous drugs, or narcotic drugs, as each is defined in A.R.S. § 13-3401;
 11. Make any sexual advance towards a pupil or child, either verbal, written, or physical;
 12. Engage in sexual activity, a romantic relationship, or dating of a pupil or child;
 13. Submit fraudulent requests for reimbursement of expenses or for pay;
 14. Use school equipment to access pornographic, obscene, or illegal materials; or
 15. Engage in conduct which would discredit the teaching profession.
- C. Individuals found to have engaged in unprofessional or immoral conduct shall be subject to, and may be disciplined by, the Board.
- D. Procedures for making allegations, complaints, and investigation of unprofessional or immoral conduct shall be as set forth in this Article.
- E. Application forms and certificates shall include the rules and statutes related to unprofessional and immoral conduct, including resignation from a contracted position without authorization and duties to report as required by law.
- F. Individuals applying for certificates issued by the Board pursuant to R7-2-601 et seq shall certify:
1. That they have read and understood the rules and statutes related to unprofessional and immoral conduct, including resignation from a contracted position without authorization and duties to report as required by law; and
 2. Whether they have been disciplined or are under investigation in another state for engaging in conduct that is immoral or unprofessional.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 1544, effective June 28, 2003 (Supp. 03-2). Amended by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1). Amended by final exempt

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rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-1309. Summary Suspension

- A. If a certificate holder is arrested, cited and released, or received a criminal summons for an offense listed in R7-2-1307 and if the Board finds the public health, safety or welfare imperatively requires emergency action, the Board may proceed under A.R.S. § 41-1064(C) ordering a summary suspension of a certificate while other proceedings are pending. The Board shall provide notice to the certificate holder of the meeting pursuant to R7-2-703 and R7-2-704.
- B. Summary suspensions issued by the Board shall remain in effect pending a public hearing and final decision by the Board pursuant to Article 7.

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 66, effective December 13, 2019 (Supp. 19-4).

R7-2-1400. Reserved**ARTICLE 14. CHARTER SCHOOLS****R7-2-1401. Definitions**

For the purpose of this Article the following definitions shall apply:

1. "Applicant" means a person, public body, or private organization that has applied to the State Board of Education to establish a charter school under the provisions of A.R.S. § 15-181 et seq.
2. "Background check" means a report received related to an applicant and the identified governing board members regarding the status of each person's credit and credit history, and any criminal activity identified by the law enforcement agency processing the applicant and governing board member's fingerprints.
3. "Committee" means the Charter School Committee established pursuant to this Article.
4. "Charter School" means a school chartered pursuant to A.R.S. § 15-181 et seq. and sponsored by the Board of Education.
5. "Contract" means a document outlining the terms and conditions of an agreement between the parties.
6. "Governing board" means the governing body responsible for the policy and operational decisions of the charter school formed pursuant to A.R.S. § 15-183 et seq.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4).

R7-2-1402. Charter School Committee

- A. The Board of Education shall establish a Charter School Committee that shall have the responsibility of reviewing applications and preparing a recommendation for the Board of Education's consideration.
- B. The Board of Education shall appoint the members of the committee. The committee shall consist of seven members as follows:
1. An individual knowledgeable in building construction or renovation;
 2. An individual knowledgeable in finance and accounting and in generally accepted accounting practices;
 3. An individual representing a city in this state who is knowledgeable about zoning and operating permit requirements;

4. An individual knowledgeable about elementary and high school curricula and the development and evaluation of curricula;
 5. An individual knowledgeable about assessments and the administration of assessments;
 6. An individual representing the Board of Education;
 7. A current operator of a charter school sponsored by the Board of Education.
- C. Terms of each member of the committee shall be for three years. Members may be appointed for subsequent terms upon approval by the Board of Education.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4).

R7-2-1403. Application

- A. Interested parties or individuals may submit an application for approval by the Board of Education pursuant to A.R.S. § 15-181 et seq. Applications shall be on forms approved by the Board of Education.
- B. Applications shall be evaluated by the committee. The committee shall prepare a recommendation for the Board of Education's consideration. The recommendation shall be based upon a review of all aspects of the application, including, for example, completeness of the application, the viability of the school including the financial viability, the projected funding sources, the number and population to be served, including school-aged students who are deemed to be unserved or underserved.
1. The committee may request additional information as needed to assist in evaluating the application and preparing a recommendation for the Board of Education's consideration.
 2. Recommendations of the committee to the Board of Education may include approval of the application, denial of the application, or deferral of the application pending further information or clarification.
 3. Applicants shall be notified in writing at least 10 days prior to the Board of Education meeting of the date, time, and place of the meeting at which the Board of Education shall consider the charter school committee's recommendation related to the application.
 4. Action by the Board of Education may include approval of the application, denial of the application, or deferral of the application pending further information or clarification. The Board of Education shall state the reasons for denial or deferral of the application.
 5. Applicants shall be notified in writing of the decision of the Board of Education. Written notification that the Board of Education has denied an application shall include reasons for denial. Written notification shall be provided to applicants within 15 days following a decision of the Board of Education.
- C. An approved application does not constitute an approved contract, and approval of an application shall not be construed to imply that a contract will be issued.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4).

R7-2-1404. Contract

- A. A contract shall be on forms approved by the Board of Education.

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- B. At least once per year, the Board of Education shall consider issuance of a contract to approved applicants.
- C. Upon review and recommendation from the committee, the Board of Education may approve the issuance of a contract, approve the issuance of a contract pending receipt of specific information or completion of requirements, defer the issuance of a contract, or deny the issuance of a contract. The Board of Education shall state the reasons for denial or deferral of issuance of a contract.
- D. Applicants shall be notified in writing at least 10 days prior to the Board of Education meeting of the date, time, and place of the meeting at which the Board of Education shall consider the charter school committee's recommendation related to issuance of a charter.
- E. Applicants shall be notified in writing of the decision of the Board of Education. Written notification that the Board of Education has denied issuance of a contract shall include reasons for denial. Written notification shall be provided to applicants within 15 days following a decision of the Board of Education.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4).

R7-2-1405. Execution of a Contract

- A. Contracts shall be signed by the applicant, or a person with signatory authority for the applicant, within six months from the date of approval of issuance of the contract by the Board of Education, unless an extension of time is granted by the Board of Education. If issuance of a contract was approved by the Board of Education pending receipt of additional information, the contract shall be signed by the applicant or a person with signatory authority for the applicant within six months of receipt of the additional information by the Board of Education.
- B. Contracts which have not been signed pursuant to this Section shall require reapplication and approval during a subsequent application cycle.
- C. The following items shall be submitted to the Board of Education prior to signing of a contract:
 1. Background check, including fingerprint clearance for all authorized signatories and all governing board members approved;
 2. Certificate of Occupancy or a written exemption from the local municipality or county that the certificate is not required for operation of a public school. A set of architectural plans approved by the local planning and zoning office may be submitted in lieu of a certificate of occupancy for the purposes of this subsection for construction of new buildings or renovation of existing buildings. A certificate of occupancy will be required to be submitted prior to opening of the school.
 3. A lease agreement or proof of building availability;
 4. Executed statement of assurances;
 5. Written verification that the facility meets the requirements established by the state and local fire marshal;
 6. Written verification from an insurance company authorized to do business in the state of Arizona that arrangements have been finalized to provide the required amount of insurance;
 7. Proof of local County Health Department approval.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4). The word

“rule” has been changed to “Section” to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-1406. Amendments to a Contract

- A. Any changes to the contract shall be submitted on forms approved the Board of Education.
- B. All amendments to the contract shall be accompanied by a signed governing board resolution or an official copy of the minutes of a governing board meeting that the amendment was approved by the governing board.
- C. No amendment shall be effective or implemented prior to being approved by the governing board, submitted to and approved by the Board of Education.
- D. Amendments requesting a change in the membership of the governing board shall, in addition to the requirements specified in subsection (B), include a completed fingerprint application and a signed affidavit authorizing a background check.
- E. If an extension of time was granted pursuant to R7-2-1405(A), amendments to update the application shall be submitted at the time the contract is executed.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4).

R7-2-1407. Revocation of a Contract

- A. The Board of Education may issue a Notice of Intent to Revoke a Contract and Notice of Hearing to any contract holder who is alleged to be in violation of the contract and the governing board.
- B. Within 10 days of receipt of a Notice of Intent to Revoke a Contract and Notice of Hearing, the governing board shall:
 1. Notify the parents or guardians of the students enrolled in the charter school that a Notice of Intent to Revoke a Contract and Notice of Hearing has been received;
 2. Hold a public meeting to inform the public and discuss the specific charges outlined in the Notice of Intent to Revoke a Contract;
 3. Provide the Board of Education with copies of all correspondence and communications used to comply with subsection (B)(1) and minutes of the meeting as evidence of compliance with subsection (B)(2);
 4. Provide the Board of Education with the names and mailing addresses of parents or guardians of all students enrolled in the charter school at the time the Notice of Intent to Revoke a Contract and Notice of Hearing was received.
- C. Hearings held pursuant to a Notice of Intent to Revoke a Contract and Notice of Hearing shall be held in accordance with Sections R7-2-701 through R7-2-709.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4). The word “above” was removed from subsection (3) to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-1408. Renewal of Contract

When considering renewal of a contract, the following, as a minimum, shall be provided to the Board of Education:

1. Assessment results, including scores of the norm-referenced achievement test, the scores of the Arizona's Instrument to Measure Standards (AIMS), and scores of any school assessment programs;
2. Results of any audits conducted, including independent audits, Uniform System of Financial Records or Uniform System of Financial Records for Charter Schools compli-

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- ance audits, or any audits conducted by the Auditor General's Office;
3. Enrollment reports that include enrollment figures, funding sources, budget updates, and financial reporting of expenditures;
 4. All complaints received;
 5. Copies of Board of Education minutes where consideration and action was taken on all issues related to the charter school;
 6. Any other reports, information, or materials pertinent to the charter school.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4).

ARTICLE 15. EMPOWERMENT SCHOLARSHIP ACCOUNTS**R7-2-1501. Definitions**

In this Article, unless the context otherwise specifies:

1. "Administratively complete" means an ESA application that contains all components required by statute or this Article.
2. "Board" means the State Board of Education.
3. "Curriculum" means a course of study for content areas or grade levels, including any supplemental materials required or recommended by the curriculum, approved by the Department.
4. "Department" means the Arizona Department of Education.
5. "Eligible postsecondary institution" means a community college as defined in A.R.S. § 15-1401, a university under the jurisdiction of the Arizona Board of Regents, or an accredited private postsecondary institution.
6. "Empowerment scholarship account" or "ESA" means an account administered by the Department and funded by the state to provide options for the education of qualified students pursuant to A.R.S. § 15-2401 et seq.
7. "Hearing Officer" means a non-partial representative with either at least three years of verified experience in the practice of law or at least one year of verified experience in conducting hearings, who oversees hearings pursuant to this Article.
8. "Informal Settlement Conference" means a meeting between the Department and the Parent in an attempt to settle the appeal prior to an appeal hearing. The Board and the Hearing Officer do not attend.
9. "Misuse of funds" means the use of ESA funds on goods or services not permitted by A.R.S. § 15-2402, this Article or the Department pursuant to R7-2-1507.
10. "Parent" means a resident of this state who is the parent, stepparent, legal guardian, or account holder of a qualified student.
11. "Program" means the Empowerment Scholarship Account Program.
12. "Qualified school" means a nongovernmental primary or secondary school or a preschool for pupils with disabilities that is located in this state or, for qualified students who reside within the boundaries of an Indian reservation in this state, and that is located in an adjacent state and that is within two miles of the border of the state in which the qualified student resides, and that does not discriminate on the basis of race, color or national origin.
13. "Qualified student" means a resident of this state who:
 - a. Is any of the following:
 - i. Identified as having a disability under section 504 of the rehabilitation act of 1973 (29 U.S.C. 794);
 - ii. Identified by a school district or by an independent third party pursuant to A.R.S. § 15-2403(J) as a child with a disability as defined in A.R.S. § 15-731 or § 15-761;
 - iii. A child with a disability who is eligible to receive services from a school district under A.R.S. § 15-763;
 - iv. Attending a school or school district that was assigned a letter grade of D or F pursuant to A.R.S. § 15-241 for the most recent year in which letter grades were assigned or is currently eligible to attend kindergarten and who resides within the attendance boundary of a school that was assigned a letter grade of D or F pursuant to A.R.S. § 15-241 for the most recent year in which letter grades were assigned. A child who meets the requirements of this item and who meets the income eligibility requirements for free and reduced-price lunches under the National School Lunch and Child Nutrition Acts (42 U.S.C. 1751 through 1793) is not subject to R7-2-1501(12)(b);
 - v. A previous recipient of a scholarship issued pursuant to A.R.S. § 15-891 or this Section, unless the qualified student's parent has been removed from eligibility in the Program for failure to comply pursuant to A.R.S. § 15-2403(C);
 - vi. A child of a parent who is a member of the armed forces of the United States and who is on active duty or was killed in the line of duty. A child who meets the requirements of this subsection is not subject to R7-2-1501(12)(b);
 - vii. A child who is a ward of the juvenile court and who is residing with a prospective permanent placement pursuant to A.R.S. § 8-862 and the case plan is adoption or permanent guardianship;
 - viii. A child who was a ward of the juvenile court and who achieved permanency through adoption or permanent guardianship;
 - ix. A child who is the sibling of a current or previous ESA recipient or of an eligible qualified student who accepts the terms of and enrolls in an ESA;
 - x. A child who resides within the boundaries of an Indian reservation in this state as determined by the Department or a tribal government; or
 - xi. A child of a parent who is legally blind or deaf or hard of hearing as defined in A.R.S. § 36-1941.
 - b. And, except as provided in R7-2-1501(12)(a)(iv) and R7-2-1501(12)(a)(vi), who meets any of the following requirements:
 - i. Attended a governmental primary or secondary school as a full-time student as defined in A.R.S. § 15-901 for at least 45 days of the current or prior fiscal year and who transferred from a governmental primary or secondary school under a contract to participate in an ESA. Kindergarten students who are enrolled in

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- Arizona online instruction must receive 100 hours of logged instruction to be eligible pursuant to this subsection. First, second and third grade students who are enrolled in Arizona online instruction must receive 200 hours of logged instruction to be eligible pursuant to this subsection. Fourth, fifth and sixth grade students who are enrolled in Arizona online instruction must receive 250 hours of logged instruction to be eligible pursuant to this subsection. Seventh and eighth grade students who are enrolled in Arizona online instruction must receive 275 hours of logged instruction to be eligible pursuant to this subsection. High school students who are enrolled in Arizona online instruction must receive 250 hours of logged instruction to be eligible pursuant to this subsection. For the purposes of this subsection, students may accumulate days of enrollment and hours of instruction in the current or prior fiscal year, or a combination thereof;
- ii. Previously participated in an ESA;
 - iii. Received a scholarship under A.R.S. § 43-1505 and who continues to attend a qualified school if the student attended a governmental primary or secondary school as a full-time student as defined in A.R.S. § 15-901 for at least 90 days of the prior fiscal year or one full semester before attending a qualified school;
 - iv. Was eligible for an Arizona scholarship for pupils with disabilities and received monies from a school tuition organization pursuant to A.R.S. § 43-1505 or received an Arizona scholarship for pupils with disabilities but did not receive monies from a school tuition organization pursuant to A.R.S. § 43-1505 and who continues to attend a qualified school if the student attended a governmental primary or secondary school as a full-time student as defined in A.R.S. § 15-901 for at least 90 days of the prior fiscal year or one full semester prior to attending a qualified school;
 - v. Attended a nonpublic school for pupils with disabilities in the prior year if placement at the school was approved by the Department and contracted for by a public school district;
 - vi. Has not previously attended a governmental primary or secondary school but is currently eligible to enroll in a kindergarten program in a school district or charter school in this state or attended a program for preschool children with disabilities. For the purposes of this item, a child is eligible to enroll in a kindergarten program if the child is at least five years of age on January 1 of the current school year, is under seven years of age, and has not already completed a kindergarten program and is not enrolled in grade one of a private or governmental school in the current year; or
 - vii. Has not previously attended a governmental primary or secondary school but is currently eligible to enroll in a program for preschool children with disabilities in this state.
14. “Stay” means a Parent may have access to a terminated ESA account pending the resolution of their appeal.
 15. “Substantively complete” means an ESA application that meets all substantive criteria required by statute or this Article.
 16. “Supplemental materials” referenced in A.R.S. § 15-2401(2), means relevant materials directly related to the course of study for which they are being used that introduce content and instructional strategies or that enhance, complement, enrich, extend or support the curriculum.
 17. “Treasurer” means the Office of the State Treasurer.
 18. Unless otherwise specifically defined herein, all defined terms shall have the same meaning as those ascribed to them in the A.R.S., Title 41.
- Historical Note**
- New Section made by final exempt rulemaking at 26 A.A.R. 2900, effective November 1, 2020 (Supp. 20-4). Amended by final exempt rulemaking at 28 A.A.R. 187 (January 14, 2022), effective December 13, 2021 (Supp. 21-4). Amended by final exempt rulemaking at 29 A.A.R. 542 (February 10, 2023), effective January 23, 2023 (Supp. 23-1).
- R7-2-1501.01. Expanded Qualified Student Definition**
- Notwithstanding A.R.S. § 15-2401 and R7-2-1501, beginning in the 2022-2023 school year, unless the context otherwise requires, “Qualified Student” includes a resident of this state who both:
1. Is eligible to enroll in a public school in this state in any of the following:
 - a. A preschool program for children with disabilities,
 - b. A kindergarten program, or
 - c. Any of grades 1 through 12.
 2. Does not otherwise qualify for an Arizona Empowerment Scholarship Account pursuant to this Article.
- Historical Note**
- New Section made by final exempt rulemaking at 29 A.A.R. 542 (February 10, 2023), effective January 23, 2023 (Supp. 23-1).
- R7-2-1502. General Provisions**
- A. This Section is adopted pursuant to A.R.S. § 15-2403.
 - B. The Department and the Treasurer shall administer and provide general supervision and oversight of the Program pursuant to A.R.S. § 15-2401 et seq and this Article.
 - C. The Department and the Board shall include intermediate Saturday, Sundays, and legal holidays when computing days under this Article. If the final day of a deadline established pursuant to this Article falls on a Saturday, Sunday or legal holiday, the next business day is the final day of the deadline.
 - D. Unless otherwise specified, the Department shall serve a notice or decision that removes a parent from the Program, through personal delivery, first class mail, or certified mail to the parent’s last address with the Department, and also by any other method or methods that are reasonably determined to give actual notice to the parent, including electronic mail, text message, phone call, or through an online portal. Each parent shall provide the Department with the parent’s mailing address, home address, phone number and email and shall inform the Department of any change of mailing address, home address, phone number or email within 30 days of the change. For all other communications that do not contain notice of removal from the Program, the Board and the Department may communicate through any method or meth-

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ods, including first class mail, certified mail, electronic mail, text message, phone call or through an online portal.

- E. A document is filed with the Board or the Department on the date it is received by the Board or the Department, as established by the Board's or the Department's date stamp on the face of the document. A notice or decision containing an appealable action issued by the Board or the Department pursuant to this Article is served on a party as follows:
1. On the date it is personally served,
 2. Five days after it is mailed by first class mail, or
 3. On the date of the return receipt if it is mailed by certified mail.

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 2900, effective January 1, 2021 (Supp. 20-4). The word "rule" has been changed to "Section" to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 28 A.A.R. 187 (January 14, 2022), effective December 13, 2021 (Supp. 21-4).

R7-2-1503. Department Responsibilities

The Department shall:

1. On or before March 1 of each year, provide the Board with a handbook, developed in consultation with parents of children on the Program, that includes information relating to policies and processes of ESAs and complies with A.R.S. § 15-2401 et seq and this Article. The Board shall adopt the handbook on or before May 1 of each year. The Board shall limit substantive changes to the handbook to once every three years. The Board may approve changes to the handbook more frequently than every three years to conform and comply with changes to statute or this Article or at the Board's discretion. The handbook shall be posted on the Department's website and distributed to parents and shall clearly identify changes from the prior version, and include the date and time the new handbook was changed:
 - a. The yearly handbook, when adopted, shall become effective July 1st of each fiscal year.
 - b. If the yearly handbook is adopted after July 1st, the newly adopted handbook would become effective immediately following adoption.
2. Establish a dedicated call center for exclusive use for the ESA Program that works in conjunction with the Exceptional Student Services division of the Department or its successor division. Subject to review and approval by the Board, the Department may contract with a third party to operate the call center;
3. Implement customer service performance management policies, procedures, and metrics;
4. Provide training to parents who use the private financial management firm contracted to assist with financial management of the program;
5. Provide a quarterly report to the Board on the ESA Program, including:
 - a. The number of students in the program disaggregated by eligibility, grade level and the school district or charter school associated with each student:
 - i. The total number of special needs students by grade level,
 - ii. The number of special needs students by disability category, and
 - b. The annual award amount associated with each student;
 - c. The number of ESA applications received, approved and denied in the preceding quarter, including the justification for the denied applications;
 - d. The number of applications processed within 30 days of receipt and the number of administratively incomplete applications. Provide the reasons the administratively incomplete applications were not approved;
 - e. A summary of any parent input or feedback collected pursuant to R7-2-1503(6) and how the Department is responding to concerns submitted as part of the process;
 - f. Information on the private financial management firm contracted to assist with financial management of the Program, including:
 - i. The number and eligibility type of accounts utilizing the firm,
 - ii. The number of providers and vendors on the firm's platform,
 - iii. Communications and training provided to parents,
 - iv. Concerns from parents submitted to the Department, the Treasurer and the private financial management firm and how the Department, Treasurer and private financial management firm are addressing the concerns, and
 - g. Information regarding appeals filed with the Board that were resolved prior to a hearing;
 - h. Information related to the audits completed, including:
 - i. Scope of the audit,
 - ii. Data and narratives on audit findings from the Quarter,
 - iii. Data and narratives of finding outcomes from the Quarter, and
 - i. Summary of all outages within the Department, private financial management firm, Department of Treasury, GAO, ADOA, etc. that cause a delay of the ESA program;
 - j. Information related to MCC Codes, including:
 - i. Cumulative list of all MCC code expansions requested and specific reason for each denial,
 - ii. Cumulative list of all MCC code expansions and exceptions granted by the Department, and
 - k. Data related reimbursement submissions, including:
 - i. The average number of days it takes a reimbursement submission to be assigned to a Department staffer,
 - ii. The average number of days it takes a reimbursement submission to be reviewed by a Department staffer,
 - iii. The average number of days it takes a reimbursements submission to be approved by a Department staffer, and
 - l. Provide data related to Help Desk Tickets, including:
 - i. The quantity of help desk tickets not responded to within three business days,
 - ii. The quantity of help desk tickets prematurely closed and reopened, and
 - m. Provide data related to the escalation of Help Desk Tickets, including:

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- i. The quantity of escalated help desk tickets by category type,
- ii. The average number of days to resolution,
- iii. A summary of resolutions, and
- n. Provide updates on the bidding process for all eligible Department contracts, including:
 - i. A.R.S. § 15-2403(A): The treasurer may contract with private financial management firms to manage Arizona empowerment scholarship accounts,
 - ii. A.R.S. § 15-2403(B): The Department shall conduct or contract for annual audits of Arizona empowerment scholarship accounts to ensure compliance with A.R.S. § 15-2402(B)(4),
 - iii. A.R.S. § 15-2403(B): The Department shall also conduct or contract for random, quarterly and annual audits of Arizona empowerment scholarship accounts as needed to ensure compliance with A.R.S. § 15-2402(B)(4),
 - iv. A.R.S. § 15-2403(J): The Department shall contract with an independent third party for the purposes of determining whether a qualified student is eligible to receive educational therapies or services pursuant to A.R.S. § 15-2402(B)(4)(c),
 - v. R7-2-1503(2): Subject to review and approval by the Board, the Department may contract with a third party to operate the call center,
 - vi. Any other eligible Department contracts, and
- o. The date of the most recent update to the online database of approved expenses and disallowed expenses. A summarization of the changes made.
- p. An approximation of the most common award amount. Provide the method or methods and Formula utilized to calculate award amounts.
- q. Any other information the Board requests.
- 6. Establish and provide to the Board a process to collect parent input and feedback regarding the Program.

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 2900, effective January 1, 2021 (Supp. 20-4). Amended by final exempt rulemaking at 28 A.A.R. 187 (January 14, 2022), effective December 13, 2021 (Supp. 21-4). Amended by final exempt rulemaking at 29 A.A.R. 542 (February 10, 2023), effective January 23, 2023 (Supp. 23-1).

R7-2-1504. Application and Account Activation

- A. The Department shall accept applications to participate in the Program between July 1 and June 30 of each year.
- B. The Department shall provide information for prospective applicants on eligibility.
- C. The Department shall enroll and issue an award letter to eligible applicants within 30 days after receipt of a completed application and all required documentation. The award letter shall include information on how to activate the account and the amount of ESA funding the student will receive.
- D. Within 30 days of issuing the award letter, the Department shall issue the contract to eligible applicants.
- E. Prior to issuing a notice of a denied application, the Department shall provide notice describing the administrative or substantive incompleteness of the application and provide the applicant 30 days to provide the missing documentation or

information. The Department shall include the justification for the denial and, if the application was substantively incomplete, the Department shall include the applicant's right to appeal.

- F. Pursuant to R7-2-1511, a person who has had an application denied due to being substantively incomplete may file a written request for a hearing within 30 days after being served the notice of denial. Administratively incomplete applications are not appealable.
- G. If the Board finds in favor of a parent who appealed a denied application, the Department shall expedite the contract and funding to the parent to the extent possible.

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 2900, effective January 1, 2021 (Supp. 20-4). Amended by final exempt rulemaking at 28 A.A.R. 187 (January 14, 2022), effective December 13, 2021 (Supp. 21-4).

R7-2-1505. Contract Between Parent and Department

- A. To enroll a qualified student in an ESA, a parent of the qualified student shall sign a contract with the Department. The parent:
 - 1. Shall use a portion of the ESA monies allocated annually to provide an education for the qualified student in at least the subjects of reading, grammar, mathematics, social studies and science, unless the ESA is allocated monies according to a transfer schedule other than quarterly transfers pursuant to A.R.S. § 15-2403(F). This subsection does not require a parent to spend a portion of ESA monies on each subject every quarter;
 - 2. Shall not enroll the qualified student in a school district or charter school, and shall release the school district from all obligations to educate the qualified student. This subsection does not:
 - a. Relieve the school district or charter school that the qualified student previously attended from the obligation to conduct an evaluation pursuant to A.R.S. § 15-766, or
 - b. Require a qualified student to withdraw from a school district or charter school before enrolling for an ESA if the qualified student withdraws from the school district or charter school before receiving any monies in the qualified student's ESA.
 - c. Prevent a qualified student from applying in advance for an ESA to be funded beginning the following school year.
 - 3. Shall not accept a scholarship from a school tuition organization pursuant to A.R.S., Title 43 concurrently with an ESA for the qualified student in the same year a parent signs the contract pursuant to this Section;
 - 4. Shall use the monies deposited in the qualified student's ESA only for the expenses listed in A.R.S. § 15-2402(B)(4);
 - 5. Shall not file an affidavit of intent to homeschool pursuant to A.R.S. § 15-802(B)(2) or (3);
 - 6. Shall not use monies deposited in the qualified student's account for any of the following:
 - a. Computer hardware or other technological devices, except as provided in R7-2-1505(B) and A.R.S. § 15-2402(B)(4)(p); or
 - b. Transportation of the pupil, except for transportation services described in A.R.S. § 15-2402(B)(4)(o).
 - 7. Shall submit expenses and documentation as required in R7-2-1508.

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- B.** If a qualified student meets any of the criteria specified in A.R.S. § 15-2401(7)(a)(i), (ii), or (iii), as determined by a school district or by an independent third party under A.R.S. § 15-2403(J), the qualified student may use the following additional services:
1. Educational therapies from a licensed or accredited practitioner or provider including and up to any amount not covered by insurance if the expense is partially paid by a health insurance policy for the qualified students,
 2. A licensed or accredited paraprofessional or educational aide,
 3. Tuition for vocational and life skills education approved by the Department, and
 4. Associated goods and services that include, but are not limited to, educational and psychological evaluations, assistive technology rentals and braille translation goods and services approved by the Department. Associated goods as described in this subsection may include computer hardware or technological devices that assist in accessing educational materials or services and that are associated with the qualified student's needs. Parents that are seeking to use Program funds for an associated good or service pursuant to this subsection shall provide to the Department the special education course of study, service or educational need that the good or service is associated with or may provide the Department with the most current individualized education program, evaluation, or a letter from a qualified service provider. Parents are not advised to contact their districts seeking to update or change their students' individualized education programs or request special education reevaluations in order to make ESA purchases.
 5. Pursuant to A.R.S. § 15-2403(J)(2), the Department shall accept independent educational evaluations that are obtained by the parent of a student and performed by a qualified examiner. A "qualified examiner" is defined in A.R.S. § 15-2403(J)(2). A "parent" is defined in R7-2-1501. Such evaluations shall not be denied based solely on the age of the evaluation.
- C.** A parent shall renew ESAs on an annual basis as follows:
1. The Department shall provide renewal contracts on or before May 1 to each parent who meets R7-2-1506(A) of this Section;
 2. Each parent shall submit the renewal contract to the Department on or before June 30; and
 3. Within 30 days of receipt, the Department shall notify each parent of the renewal of the contract. The Department may provide notification through an online portal.
- D.** If a parent does not submit a renewal contract pursuant to R7-2-1506(C), the Department shall temporarily close the account and cease funding to the ESA until the parent submits the appropriate signed renewal contract. During the temporary closure, funding shall remain in the account until the parent signs the appropriate renewal contract in a format provided by the Department or the Department closes the ESA pursuant to R7-2-1506(E).
- E.** After an ESA has been temporarily closed for non-renewal pursuant to R7-2-1506(D), a parent may submit the appropriate signed renewal contract in a format provided by the Department to reactivate the ESA. If a parent does not submit a renewal contract for a period of three academic years, the Department shall provide notice through certified mail, email and telephone, if applicable, that the ESA will be closed. To renew the ESA, the parent shall submit a renewal contract within 60 days of receipt of the notification. If the parent does not submit a renewal contract within 60 days, the Department shall close the ESA and return any remaining monies in the ESA to the state general fund. Notwithstanding R7-2-1506(C)(1) and (2), a parent may submit the appropriate signed renewal contract between July 1 and June 30 for the purposes of this subsection.
- F.** Notwithstanding R7-2-1506(E), on the qualified student's graduation from a postsecondary institution or after any period of four consecutive years after high school graduation in which the student is not enrolled in an eligible postsecondary institution, but not before this time as long as the account holder continues using a portion of account monies for eligible expenses each year and is in good standing, the qualified student's Arizona empowerment scholarship account shall be closed and any remaining monies shall be returned to the state general fund.
- G.** Pursuant to R7-2-1511, a parent whose contract was not renewed by the Department may file a written request for a hearing within 30 days after being served the notice of the non-renewal.
- H.** At the written request of a parent, the Department shall extend the renewal contract timeframe for up to 30 days from the deadline prescribed in this Section if the parent demonstrates hardship, including an act of God or similar circumstance that prevented the parent from responding by the deadline.

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 2900, effective November 1, 2020 (Supp. 20-4). Amended by final exempt rulemaking at 28 A.A.R. 187 (January 14, 2022), effective December 13, 2021 (Supp. 21-4). Amended by final exempt rulemaking at 29 A.A.R. 542 (February 10, 2023), effective January 23, 2023 (Supp. 23-1).

R7-2-1506. Contract Renewal

- A.** A parent is eligible to renew an ESA if:
1. Pursuant to R7-2-1508, the parent submitted expenses and documentation or submitted quarterly attestations;
 2. If required, the Department approved expenses pursuant to R7-2-1508;
 3. The parent spent monies to provide an education in at least reading, grammar, mathematics, social studies, and science for the contract year pursuant to R7-2-1505(A)(1); and
 4. The parent does not owe the Department monies for disallowed expenses. A parent remains eligible to renew an ESA if the parent has an unresolved appeal regarding a disallowed expense.
- B.** A student with a disability as defined in A.R.S. § 15-2401(7)(a)(i), (ii), or (iii), as determined by a school district or

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 2900, effective January 1, 2021 (Supp. 20-4). Amended by final exempt rulemaking at 28 A.A.R. 187 (January 14, 2022), effective December 13, 2021 (Supp. 21-4). Amended by final exempt rulemaking at 29 A.A.R.

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542 (February 10, 2023), effective January 23, 2023
(Supp. 23-1).

R7-2-1507. Use of Funds

- A. The Department shall establish and maintain a database of approved expenses and disallowed expenses for the current and upcoming fiscal years pursuant to A.R.S. § 15-2401 et seq, and this Article. The Department shall make the database available to parents online and disaggregate the approved expenses by eligibility category.
- B. The Department shall establish a process to review an expense before making an administrative decision to deny the expense. The Department shall provide a copy of the process to the Board and include the process in the handbook adopted pursuant to R7-2-1503.
- C. The Department shall not request repayment for an expense it has approved for a specific ESA. The Department shall treat similar expenditures by similarly situated account holders in the same manner. This Section does not create authorization for an account holder to expend funds in a manner not permitted by statute.
- D. The Department shall consider all account holder requests for MCC Code expansions. Any MCC code exceptions granted to one parent, shall be extended to all parents within five business days.
- E. Pursuant to R7-2-1511, a parent who has had an expense disallowed by the Department may file a written request for a hearing within 30 days after being served the notice of the disallowed expense.

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 2900, effective January 1, 2021 (Supp. 20-4).
Amended by final exempt rulemaking at 28 A.A.R. 187 (January 14, 2022), effective December 13, 2021 (Supp. 21-4). Amended by final exempt rulemaking at 29 A.A.R. 542 (February 10, 2023), effective January 23, 2023 (Supp. 23-1).

R7-2-1508. Review of Expenses

- A. The Department may conduct or contract for random or annual audits as needed to ensure monies are used only for expenses that were approved or allowed at the time the expense was made. The Department shall use record retention requirements that were in place at the time the expense was made to determine compliance. The Department may only audit account activity from the last two fiscal years, including the current fiscal year.
- B. The Department shall provide annual notice to each parent of when and how the Department will conduct reviews of expenses and audits. The notice may be provided in the handbook adopted pursuant to R7-2-1503. Notwithstanding any other Section, the Department may review expenses less frequently using a risk-based approach, if the Department provides notice to parents and the Board pursuant to this Section.
- C. Parents shall submit expenses that shall include, but are not limited to, the following:
 1. Invoices for each vendor, individual or product;
 2. Invoices for private schools, which shall include the following:
 - a. The name of the qualified student,
 - b. The name of the private school,
 - c. The transaction date,
 - d. Tuition or fee amounts, and
 - e. Total charged to the card, and for reimbursements, proof of method of payment;

3. Invoices for tutors, paraprofessionals, service type or therapists which shall include:
 - a. Name of the qualified student,
 - b. The name of one of the following: the vendor, facility, therapist or tutor,
 - c. A description of the services,
 - d. The transaction date,
 - e. The rate amounts,
 - f. Any processing fees, and
 - g. Total charged to the card, and for reimbursements, proof of method of payment.
- D. For debit card transactions, a parent shall submit all debit card transaction expense receipts to the Department as follows:
 1. On or before October 31 for quarter one,
 2. On or before January 31 for quarter two,
 3. On or before April 30 for quarter three, and
 4. On or before July 31 for quarter four.
- E. The Department shall review and approve expenses and make its next quarterly disbursement of funds within 30 days of the deadlines prescribed in R7-2-1508(D).
- F. On receipt and approval of debit card transaction expense receipts or reimbursements, the Department shall notify the parent through electronic mail or through an online portal. The Department shall not withhold funds for a subsequent quarter if it fails to review expenses, debit card transaction expense receipts or reimbursements within 30 days of the deadline. A parent may submit corrected debit card transaction expense receipts any time prior to the quarterly submission deadline.
- G. If a parent fails to submit debit card transaction expense receipts, if required, by the deadlines prescribed in R7-2-1508(D) or submits incomplete debit card transaction expense receipts or reimbursements, the Department shall:
 1. Serve notice to the parent of the deficiencies,
 2. Provide the parent 15 days from the date of receipt of the notice to submit complete debit card transaction expense receipts or reimbursements, and
 3. Review debit card transaction expense receipts or reimbursements submitted pursuant to this subsection within five days of receipt from the parent.
- H. Following the 15 day period provided in R7-2-1508(G)(2), the Department may remove a parent from the Program for failing to submit required debit card transaction expense receipts or failing to correct the deficiencies of a debit card transaction expense receipt.
- I. Pursuant to R7-2-1511, a parent that has been removed from the Program may file a written request for a hearing within 30 days after being served the notice of removal. Except in cases in which the Board has found misuse of funds or fraud pursuant to R7-2-1509, the Department shall not withhold funding to one qualified student's ESA due to deficiencies in the expense reporting of a sibling's account.
- J. At the written request of a parent, the Department shall extend the deadlines prescribed in R7-2-1508(D) for up to 30 days from the deadlines prescribed in this Section if the parent demonstrates hardship, including an act of God or similar circumstance that prevented the parent from responding by the deadline.
- K. If a parent does not make any expenses in a quarter, the parent shall submit attest to that fact in a format provided by the Department.

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 2900, effective January 1, 2021 (Supp. 20-4). The word "rule" has been changed to "Section" to reflect cur-

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rent standards in Chapter style and format (Supp. 21-2).
Amended by final exempt rulemaking at 28 A.A.R. 187
(January 14, 2022), effective December 13, 2021 (Supp.
21-4). Amended by final exempt rulemaking at 29 A.A.R.
542 (February 10, 2023), effective January 23, 2023
(Supp. 23-1).

R7-2-1509. Misuse of Funds

- A.** Based on a finding that a parent knowingly misuses funds, the Department shall temporarily suspend the account and provide notice to the parent. The notice shall:
 1. Include the reason for the temporary suspension and a detailed description of the disallowed expense; and
 2. Provide the parent 15 days, not including weekends, to either:
 - a. Present documentation that demonstrates the expense is allowable or that the parent was victim to identity theft or fraud; or
 - b. Agree to repay the amount.
- B.** The Department shall review the documentation submitted pursuant to R7-2-1509(A)(2)(a) within five days of receipt to determine if the expense is allowable or if the parent was victim to identity theft or fraud. If the Department determines the expense is allowable or that the parent was victim to identity theft or fraud, the Department shall lift the temporary suspension, reinstate the account and make any disbursements that were withheld during the suspension.
- C.** If the Department determines the documentation fails to demonstrate the expense is allowable or that the parent was victim to identity theft or fraud, the Department shall provide notification to the parent that the amount must be repaid. The Department shall withhold the disbursement of any additional ESA funds until repayment is made. The Department may agree to a gradual repayment plans at the request of the parent and shall reinstate additional ESA funding once repayment has begun. The Department may remove a parent from the Program that fails to repay an amount or agree to a repayment plan.
- D.** Once a parent agrees to a gradual repayment plan or repays an amount pursuant to R7-2-1509(A)(2)(b) or R7-2-1509(C), the Department shall lift the temporary suspension, reinstate the account and make any disbursements that were withheld during the suspension as follows:
 1. Within one day, if the repayment is made by cashier's check or money order; or
 2. Within seven days, if repayment is made by personal check.
- E.** Except in cases which the Attorney General determines that a parent or account holder has committed fraud, any expenditure from an Arizona Empowerment Scholarship Account for a purchase that is deemed ineligible pursuant to A.R.S. § 15-2402 and that is subsequently repaid by the parent or account holder shall be credited back to the Arizona Empowerment Scholarship Account balance within 30 days after the receipt of payment.
- F.** Pursuant to R7-2-1511, a parent who has been removed from the Program pursuant to this Section may file a written request for a hearing within 30 days after being served the notice of removal.
- G.** The Department shall refer a case to the Board if a parent does not file an appeal pursuant to R7-2-1511 and either:
 1. Fails to repay the amount of a disallowed expense; or
 2. Fails to make a payment on a gradual repayment plan.
- H.** On a finding of misuse of monies, the Board may refer the case to the Attorney General who may bring an action to

recover the monies. Upon obtaining evidence of fraudulent use of an account, the Board may refer the case to the Attorney General for the purpose of a criminal investigation.

- I.** A parent or qualified student is not eligible to enroll a qualified student in the ESA Program if that parent was an account holder on an account that was referred to the Attorney General for misuse of monies unless the parent's expense was subsequently found to be allowable or the parent was the victim of identity theft or fraud.
- J.** If a parent commits fraud, the Department shall withhold funds from all accounts in the parent's name and close the accounts.

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 2900, effective January 1, 2021 (Supp. 20-4).
Amended by final exempt rulemaking at 28 A.A.R. 187 (January 14, 2022), effective December 13, 2021 (Supp. 21-4). Amended by final exempt rulemaking at 29 A.A.R. 542 (February 10, 2023), effective January 23, 2023 (Supp. 23-1).

R7-2-1510. Corrective Action

- A.** Except for misuse of funds or failing to submit debit card transaction expense receipts pursuant to R7-2-1508, if the Department finds that a parent violated A.R.S. § 15-2401 et seq, this Article or the terms and conditions set forth by the Department in the contract signed by the parent, the Department shall:
 1. Temporarily suspend the account;
 2. Provide notice to the parent of the violation, including an explanation of the violation; and
 3. Provide the parent 15 days to correct the violation.
- B.** The Department may remove a parent or qualified student from the Program for failing to correct a violation pursuant to this Section.
- C.** Pursuant to R7-2-1511, a parent or qualified student who has been removed from the Program pursuant to this Section may file a written request for a hearing within 30 days after being served the notice of removal.

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 2900, effective January 1, 2021 (Supp. 20-4).
Amended by final exempt rulemaking at 28 A.A.R. 187 (January 14, 2022), effective December 13, 2021 (Supp. 21-4). Amended by final exempt rulemaking at 29 A.A.R. 542 (February 10, 2023), effective January 23, 2023 (Supp. 23-1).

R7-2-1511. Appeals

- A.** A parent may appeal to the Board any administrative decision the Department makes pursuant to A.R.S. Title 15, Chapter 19, Article 1, including determinations of allowable expenses, removal from the Program or enrollment eligibility.
- B.** Stay
 1. Pending the resolution of an appeal during which an account is suspended, a parent may request a stay on the account suspension.
 - a. Included in the request for a hearing filed pursuant to R7-2-1511(F), a parent may file a request to the Board to stay an account suspension. Such request shall be in writing and shall address the matters stated in the Department's notice in R7-2-1511(E).
 - b. The Department may file a response to the parent's request to stay the suspension of the account. Such

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response shall be filed with the Board within five business days of receipt of the parent's request to stay the suspension. Such response shall be in writing and shall address the matters stated in the parent's request.

- c. Within 10 business days after receipt of the Department's response, the executive director of the Board or the executive director's designee shall make a written determination to either:
 - i. Proceed with suspension of the account, or
 - ii. Stay all or part of the suspension of the account if there is a reasonable probability that the appeal will be upheld or that the stay is in the best interest of the State. If a stay is issued, the Department may not withhold funding or contract renewal for the account holder on account of the appealed administrative decision during the stay unless directed by the Board to do so.
 - d. The executive director or the executive director's designee shall provide the parent and the Department with a written copy of the stay determination including the basis for the determination.
- C.** Notwithstanding any other Section, the Department may, with the agreement of the account holder on the resolution, informally resolve a disputed administrative action at any time without a formal appeal pursuant to this Article.
- D.** The Department, on its website and in the parent handbook, shall provide information on the Board's appeals process.
- E.** The Department shall provide parents with written notice of an appealable action taken by the Department. Such written notice shall inform the parents of his/her right to request a hearing on the action and shall include the following:
- 1. The statute or rule that is alleged to have been violated or on which the action is based;
 - 2. Identify, with reasonable particularity, the nature of any alleged violation or action;
 - 3. Include a description of the parent's right to request a hearing on the appealable agency action; and
 - 4. Include a description of the parent's right to request an informal settlement conference.
- F.** Within 30 days after being served with notice of an appealable action, a parent may file a request for a hearing. The notice must be in writing and shall state the following:
- 1. The identity of the party requesting the hearing,
 - 2. The mailing address of the party requesting the hearing,
 - 3. The agency that rendered the decision related to the appealable action,
 - 4. Identification of the action being appealed,
 - 5. A concise statement of the reasons for the request for hearing,
 - 6. A copy of the administrative decision issued by the Department, and
 - 7. Any other information or documentation requested by the Board applicable to the appeal process.
- G.** If good cause is submitted, the Board may accept a request for a hearing that is not filed in a timely manner. Such request must be made in writing and state the basis for not filing the request on time.
- H.** If a parent requests a hearing pursuant to R7-2-1511(F) and includes all of the items listed in R7-2-1511(F)(1) through (7), the Board shall schedule a hearing.
- I.** The Board shall provide all parties with a written notice at least 20 days prior to the date set for the hearing. The notice shall include:
- 1. A statement of the time, place and nature of the hearing;
 - 2. A statement of the legal authority and jurisdiction under which the hearing is to be held;
 - 3. A reference to the particular sections of the statutes and rules involved; and
 - 4. A short and plain statement of the matters asserted. If a party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application a more definite and detailed statement shall be furnished.
- J.** All notices shall be served via personal delivery or certified mail, return receipt requested or by any other method reasonably calculated to effect actual notice on the agency and all parties to the action at each party's last address of record.
- K.** A hearing on the appealable action shall be held after a complete appeal is filed and may be advanced or delayed on the agreement of the parties or on a showing of good cause.
- L.** Informal Settlement Conference
- 1. A parent may request an informal settlement conference be held with the Department. The request shall be in writing and shall be filed with the Department, and a copy provided to the Board, no later than 10 days after the Board provides notice that the appeal is complete. The Department shall hold an informal settlement conference within seven days after receiving the request. The Department shall notify the Board of the result of the informal settlement conference within five days of the conclusion of the informal settlement conference or prior to the hearing date, whichever is first. The request for an informal settlement conference does not alter the date the hearing is to be held.
 - 2. If an informal settlement conference is held, a person with the authority to act on behalf of the Department must represent the Department at the conference. The Department representative shall notify the parent in writing that statements, either written or oral, made at the conference, including a written document, created or expressed solely for the purpose of settlement negotiations are inadmissible in any subsequent administrative hearing.
- M.** Informal disposition may be made by stipulation, agreed settlement, consent order or default.
- N.** Hearing Process
- 1. All hearings shall be conducted before a hearing officer pursuant to this Section.
 - 2. The parties to the appealable agency action have the right to be represented by legal counsel or to proceed without counsel, to submit evidence and to cross-examine witnesses.
 - a. Pursuant to A.R.S. § 15-2403(E), a parent may designate a representative, not necessarily an attorney, before any hearing held pursuant to this Section. Any designated representative who is not an attorney admitted to practice may not charge for any services rendered in connection with such a hearing.
 - b. The fact that a representative participated in the hearing or assisted the account holder is not grounds for reversing any administrative decision or order if the evidence supporting the decision or order is substantial, reliable and probative.
 - 3. The Board shall schedule a prehearing conference on request of any party. A prehearing conference may be held for the following purposes:
 - a. Clarify or limit procedural, legal or factual issues;

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- b. Consider amendments to any pleading;
 - c. Identify and exchange lists of witnesses and exhibits intended to be introduced at the hearing;
 - d. Obtain stipulations or rulings regarding testimony, exhibits, facts or law;
 - e. Schedule deadlines, hearing dates and locations if not previously set; or
 - f. Allow the parties opportunity to discuss settlement.
 - 4. The record in a contested case shall include:
 - a. All pleadings, motions and interlocutory rulings.
 - b. Evidence received or considered.
 - c. A statement of matters officially noticed.
 - d. Objections and offers of proof and rulings thereon.
 - e. Proposed findings of fact and conclusions of law and exceptions thereto.
 - f. Any decision, opinion, recommendation or report of the hearing officer.
 - g. All staff memoranda, other than privileged communications, or data submitted to the hearing officer in connection with its consideration of the case.
 - 5. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.
 - 6. A participant of record shall not communicate, either directly or indirectly, with the Hearing Officer about any substantive issue in a pending matter unless:
 - a. All participants of record are present;
 - b. Communication is during a scheduled proceeding, where an absent participant of record fails to appeal after proper notice; or
 - c. Communication is by written motion with copies to all participants of record.
 - 7. The Hearing Officer may postpone, continue, or cancel a hearing for good cause upon the written request of either party. The participant of record must establish good cause for the written request.
 - 8. For good cause shown, the hearing officer may grant continuances and extensions of time for filing notices or other documents.
 - 9. The Hearing Officer may direct a party to submit additional memorandum or information within a reasonable period of time. The Hearing Officer shall grant the opposing party a reasonable period of time to respond to the additional memorandum or information.
 - 10. Upon written request, any party may request an opportunity to compare a document copy with the original. The Hearing Officer may grant the request if the record establishes good cause.
- O. Conduct of Hearing**
- 1. All hearings shall be recorded. The Board shall secure either a court reporter or an electronic means of producing a clear and accurate record of the proceeding.
 - 2. A hearing may be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. Neither the manner of conducting the hearing nor the failure to adhere to the rules of evidence required in judicial proceedings shall be grounds for reversing any administrative decision or order if the evidence supporting the decision or order is substantial, reliable and probative.
 - 3. The parties may submit proposed findings of fact and conclusions of law prior to the hearing. The hearing officer may require that the parties submit proposed findings of fact and conclusions of law prior to the hearing or at the close of evidence.
 - 4. All interested parties shall be ready and present with all witnesses and documents at the time and place specified in the notice of hearing and shall be prepared at such time to dispose of all issues and questions involved in the appeal. An interested party shall arrange for the presence of that party's witnesses at a hearing.
 - 5. If a party fails to appear at a hearing, the hearing body may proceed with the presentation of the evidence of the appearing party.
 - 6. The Hearing Officer conducting the hearing may close the hearing to other than interested parties to the extent necessary to protect the interests and rights of the interested parties, within the requirements of A.R.S. §§ 38-431.01, and 38-431.03.
 - 7. The Hearing Officer may conduct all or part of the hearing by telephone other electronic means, as long as each party has an opportunity to participate in the entire proceeding as it takes place.
 - 8. Conduct at any hearing that is disruptive or shows contempt for the proceeding shall be grounds for exclusion from further participation.
- P. Evidence**
- 1. All witnesses shall testify under oath or affirmation. The hearing officer shall administer oaths and affirmations.
 - 2. The hearing officer shall afford interested parties an opportunity either to present oral or documentary evidence, or both, and to conduct such cross-examination as may be required for a full and fair disclosure of the facts. The hearing officer may limit the time of oral argument.
 - 3. The hearing officer may choose to admit evidence, a witness' deposition, or a witness' affidavit and determine evidentiary weight of all submitted evidence. The party taking a witness' deposition or affidavit shall bear all deposition-related or affidavit-related costs. The hearing officer shall make rulings necessary to prevent argumentative, repetitive, or irrelevant questioning, to exclude evidence the hearing officer determines to be irrelevant, immaterial or unduly repetitious, and to expedite the examination to the extent consistent with the disclosure of all relevant testimony and information.
- Q. Stipulations.** Parties to any contested case may stipulate, in writing, agreement upon any matter involved in the proceeding. If approved by the hearing officer, agreement on matters of procedure shall be binding upon the parties to the stipulation. No substantive matter agreed to by the parties shall be binding upon the Board unless incorporated into the decision of the Board.
- R. Final Administrative Decision**
- 1. The hearing officer shall issue a written recommendation within 20 days after the hearing is concluded. The written recommendation shall contain a concise explanation of the reasons supporting the recommendation, including the findings of fact and conclusions of law.
 - 2. The hearing officer shall serve a copy of the recommendation on the Board. On request of the Board, the hearing officer shall also transmit to the Board the record of the hearing as described in A.R.S. § 12-904.
 - 3. At one of the following two regularly scheduled meetings of the Board after the hearing officer sends a copy of the recommendation to the Board, the Board may review the recommendation and accept, reject or modify it.
 - a. If the Board declines to review the hearing officer's recommendation, the Board shall serve a copy of the recommendation on all parties.

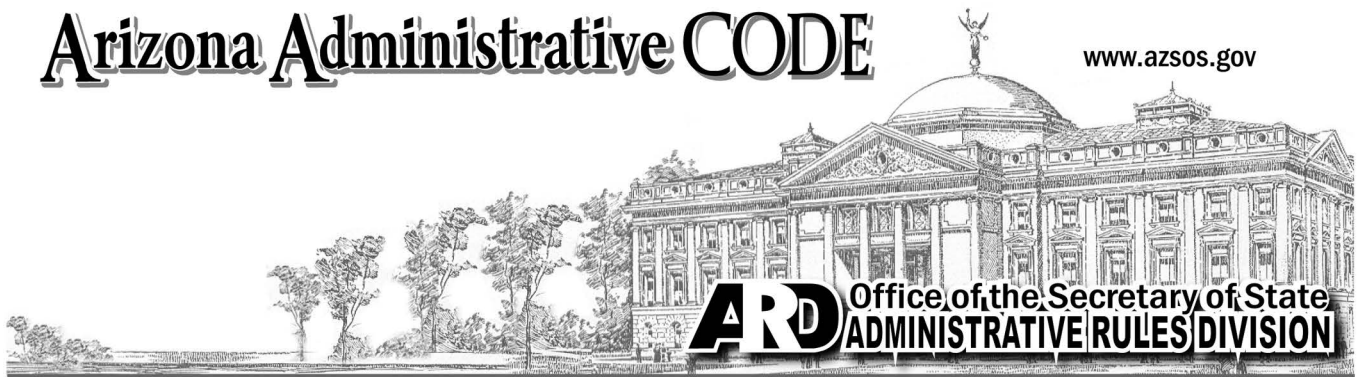
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- b. If the Board rejects or modifies the recommendation, the Board shall serve on all parties, a copy of the hearing officer's recommendation with the rejection or modification and a written justification setting forth the reasons for the rejection or modification of each finding of fact or conclusion of law.
4. The Board shall provide all parties with at least 20 days written notice of the date, time and location of the public meeting at which the Board will consider the hearing officer's recommendation.
- S. Rehearing and Review of Decisions
 1. A party may file a motion for rehearing or review within 10 days after service of the final administrative decision. The motion shall be in writing and state the basis upon which the rehearing or review is requested. The motion shall be filed with the Board and a copy provided to the opposing party. When a motion of rehearing is based on new evidence, the new evidence shall be served to the Board with the written motion.
 2. The opposing party may file a response to the motion for rehearing within 15 days after the date the motion for rehearing is filed. The response shall be in writing and address the basis upon which the rehearing or review is requested. The motion shall be filed with the Board and a copy provide to the moving party.
 3. A rehearing of a final administrative decision by the Board may be granted for any of the following causes materially affecting the moving party's rights:
 - a. Except as provided for in R7-2-1511(O)(2), irregularity in the administrative proceedings of the hearing, or abuse of discretion, whereby the moving party was deprived of a fair hearing;
 - b. Misconduct of the hearing officer; or
 - c. Newly discovered materials which could not with reasonable diligence have been discovered and produced at the hearing.
 4. The filed motion shall be considered at one of the following two regularly scheduled meetings of the Board.
 5. Service is complete on personal service or five days after the date the final administrative decision is mailed to the party's last known address.
 6. After a hearing has been held and a final administrative decision has been entered a party is not required to file a motion for rehearing or review of the decision in order to exhaust the party's administrative remedies.

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 2900, effective January 1, 2021 (Supp. 20-4). The word "rule" has been changed to "Section" to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 28 A.A.R. 187 (January 14, 2022), effective January 1, 2022 (Supp. 21-4). Amended by final exempt rulemaking at 29 A.A.R. 542 (February 10, 2023), effective January 23, 2023 (Supp. 23-1).



9 A.A.C. 15

Supp. 23-2

TITLE 9. HEALTH SERVICES

CHAPTER 15. DEPARTMENT OF HEALTH SERVICES - LOAN REPAYMENT

The table of contents on page one contains links to the referenced page numbers in this Chapter.

Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
April 1, 2023 through June 30, 2023

Editor's note: This Chapter contains rules that were renewed under emergency rulemaking. Since an emergency rulemaking is effective for 180 days, the original rule text made before the emergency remain in the Chapter until the Department either:

- 1. Makes, amends, repeals, and renumbers the emergency rules under the regular rulemaking process; or*
- 2. Lets the renewal of the emergency rulemaking expire after the additional 180 days, in which case the rules revert back to the original rule text.*

Refer to the Table of Contents on page 1 for a list of the emergency rules.

Questions about these rules? Contact:

Department: Arizona Department of Health Services
Public Health Prevention Services, Public Health
Prevention

Address: 150 N. 18th Ave., Suite 520
Phoenix, AZ 85007

Website: <https://www.azdhs.gov/>

Name: Sheila Sjolander, Assistant Director

Telephone: (602) 542-2818

Email: sheila.sjolander@azdhs.gov

The release of this Chapter in Supp. 23-2 replaces Supp. 22-4, 1-52 pages.

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

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

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

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

ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

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

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

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

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

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

PERSONAL USE/COMMERCIAL USE

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division

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TITLE 9. HEALTH SERVICES

CHAPTER 15. DEPARTMENT OF HEALTH SERVICES - LOAN REPAYMENT

Authority: A.R.S. §§ 36-136(G) and 36-2175

Supp. 23-2

Editor's Note: Laws 2015, Chapter 3, § 8, required the Department to provide public notice and an opportunity for the public to comment on proposed exempt rules in Supp. 16-1. The Department posted a draft of the rule amendments on its website on February 19, 2016. Even though the proposed exempt rules were not published in the Register, the rules are considered final exempt rules because the Department provided a means for the public to comment on the draft rules (Supp. 16-1).

Editor's Note: Articles 1, 2, and 3 made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001. The Office of the Secretary of State publishes all Chapters on white paper (Supp. 01-2).

Editor's Note: Sections R9-15-102 through R9-15-117 were repealed effective October 1, 1992; filed with the Office of the Secretary of State October 14, 1992, under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6), pursuant to Laws 1992, Ch. 301, § 61. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit notice of this rulemaking to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council; the Department was not required to hold public hearings on these rules; and the Attorney General did not certify these rules. For the text of the rules which were repealed through this exemption, please refer to Supp. 89-4.

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Article 1 consisting of Sections R9-15-101 through R9-15-114 adopted effective November 16, 1983.

Former Article 1 consisting of Sections R9-15-101 through R9-15-117 repealed effective November 16, 1983.

Sections R9-15-102 through R9-15-104 repealed and new Section R9-15-102 adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6).

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Article 2, consisting of Sections R9-15-201 through R9-15-218, made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2).

Sections R9-15-211 through R9-15-230 repealed effective February 7, 1995 (Supp. 95-1).

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ARTICLE 3. REPEALED

Article 3, consisting of new Sections R9-15-301 through R9-15-307, emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

Article 3, consisting of new Sections R9-15-301 through R9-15-307, made by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4).

Article 3, consisting of Sections R9-15-301 through R9-15-318, repealed by final exempt rulemaking at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

Article 3, consisting of Sections R9-15-301 through R9-15-318, made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2).

Former Article 3 consisting of Sections R9-15-301 through R9-15-313 repealed effective November 16, 1983 (Supp. 83-6).

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CHAPTER 15. DEPARTMENT OF HEALTH SERVICES - LOAN REPAYMENT

ARTICLE 1. GENERAL

EMERGENCY RULEMAKING

R9-15-101. Definitions

In addition to the definitions in A.R.S. §§ 36-401 and 36-2171, the following definitions apply in this Chapter unless otherwise stated:

1. "Administrative completeness review time-frame" has the same meaning as in A.R.S. § 41-1072.
2. "AHCCCS" means the Arizona Health Care Cost Containment System, an Arizona state agency established by A.R.S. Title 36, Chapter 29 to administer 42 U.S.C. 1396-1, Title XIX or XXI health care programs.
3. "Applicant" means an individual who submits to the Department an application for approval to participate in a loan repayment program.
4. "Application" means the information and documents submitted to the Department by an individual requesting to participate in a loan repayment program.
5. "Arizona State Hospital" has the same meaning as in A.R.S. § 36-202.
6. "Awardee" means an individual who has been approved by the Department to participate in a loan repayment program.
7. "AzMUA" means an Arizona medically underserved area, a primary care area where access to primary care service is limited, as designated according to A.R.S. § 36-2352.
8. "Behavioral health care provider" has the same meaning as "behavioral health provider" in A.R.S. § 36-2171.
9. "Behavioral health residential facility" has the same meaning as in A.A.C. R9-10-101.
10. "Behavioral health hospital" means:
 - a. A special hospital, as defined in A.A.C. R9-10-101, that is only licensed to provide behavioral health services; or
 - b. A facility, operated as a hospital in this state by the United States federal government or by a sovereign tribal nation, that only provides behavioral health services.
11. "Calendar day" means each day, not excluding the day of the act, event, or default from which a designated period of time begins to run and including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
12. "Calendar year" means the period of 365 days starting from the first day of January.
13. "Cancellation" means the discharge of an awardee's loan repayment contract based on one of the criteria in R9-15-108.
14. "Critical access hospital" means a facility certified by the Centers for Medicare & Medicaid Services under Section 1820 of the Social Security Act.
15. "Dental services" means the same as "dentistry" in A.R.S. § 32-1201.
16. "Dentist" means an individual licensed under A.R.S. Title 32, Chapter 11, Article 2.
17. "Direct patient care" means medical services, dental services, pharmaceutical services, or behavioral health services provided to a specific individual by a primary care provider and for services provided by the primary care provider to or for the specific individual including:
 - a. Documenting the services in the specific individual's medical records,
 - b. Consulting with other health care professionals about the specific individual's need for services, and
 - c. Researching information specific to the individual's need for services.
18. "Educational expenses" has the same meaning as in 42 C.F.R. § 62.22.
19. "Encounter" means a face-to-face visit, which may include a visit using telemedicine, between a patient and an awardee during which primary care services or behavioral health services, as applicable, are provided.
20. "Family unit" means a group of individuals residing together who are related by birth, marriage, or adoption or an individual who does not reside with another individual to whom the individual is related by birth, marriage, or adoption.
21. "Federal prison" means a secure facility, managed and run by or on behalf of the Federal Bureau of Prisons, that confines an individual convicted of a crime.
22. "Full-time" means working at least 40 hours per week for at least 45 weeks per service year.
23. "Free-clinic" means a facility that provides primary care services, on an outpatient basis, to individuals at no charge.
24. "Governing authority" has the same meaning as in A.R.S. § 36-401.
25. "Half-time" means working at least 20 hours per week, but not more than 39 hours per week, for at least 45 weeks per service year.
26. "Health professional school" has the same meaning as "school" in 42 C.F.R. § 62.2.
27. "Health professional service obligation" means a legal commitment in which an individual agrees to provide primary care services or behavioral health services for a specified period of time in a designated area or through a designated service site.
28. "Health service experience to a medically underserved population" means at least 500 clock hours of medical services, dental services, pharmaceutical services, or behavioral health services provided by an individual, including clock hours completed during the individual's residency or graduate education:
 - a. Under the direction of a governmental agency, an accredited educational institution, or a non-profit organization; and
 - b. At a service site located in:
 - i. A medically underserved area designated by the U.S. Department of Health and Human Services according to 42 CFR § 51c.102,
 - ii. A medically underserved population,
 - iii. An AzMUA, or
 - iv. A HPSA designated by a federal agency.
29. "Health service priority" means the number assigned by the Department to an initial application or renewal application and used to determine whether loan repayment funds are allocated to an applicant requesting approval to participate in a loan repayment program.
30. "HPSA" means a health professional shortage area, a geographic region, population group, or public or non-profit private medical facility or other public facility determined by the U.S. Department of Health and Human Services under 42 U.S.C. § 254e to have an inadequate

TITLE 9. HEALTH SERVICES

CHAPTER 15. DEPARTMENT OF HEALTH SERVICES - LOAN REPAYMENT

- number of providers of medical services, dental services, or behavioral health services.
31. "Immediate family" means an individual in any of the following relationships to an awardee:
 - a. Spouse;
 - b. Natural, adopted, foster, or stepchild;
 - c. Natural, adoptive, or stepparent;
 - d. Brother or sister;
 - e. Stepbrother or stepsister;
 - f. Grandparent or spouse of a grandparent;
 - g. Grandchild or spouse of a grandchild;
 - h. Father-in-law or mother-in-law;
 - i. Brother-in-law or sister-in-law; or
 - j. Son-in-law or daughter-in-law.
 32. "Living expenses" has the same meaning as in 42 C.F.R. § 62.22.
 33. "Loan repayment funds" means:
 - a. Monies provided to the Department from the U.S. Department of Health and Human Services, Health Resources and Services Administration for use in a loan repayment program;
 - b. Monies specified by the Arizona State Legislature and provided to the Department for use in a loan repayment program; or
 - c. Monies donated to the Department and designated for use as part of a loan repayment program.
 34. "Loan repayment program" means one of the following, according to this Chapter:
 - a. The Primary Care Provider Loan Repayment Program, established according to A.R.S. § 36-2172;
 - b. The Rural Private Primary Care Provider Loan Repayment Program, established according to A.R.S. § 36-2174; or
 - c. The Behavioral Health Care Provider Loan Repayment Program, established according to A.R.S. § 36-2175.
 35. "Medically underserved population" means a group of individuals who have limited access to health services, as designated by the U.S. Department of Health and Human Services under 42 CFR § 51c.102.
 36. "Newly employed" means that a primary care provider's first-time employee start date with a service site or employer identified in an initial application occurred within 12 months before the primary care provider's initial application submission date.
 37. "Overall time-frame" has the same meaning as in A.R.S. § 41-1072.
 38. "Pharmaceutical services" has the same meaning as "practice of pharmacy" in A.R.S. § 32-1901.
 39. "Pharmacist" has the same meaning as in A.R.S. § 32-1901.
 40. "Physician" has the same meaning as in A.R.S. § 36-2351.
 41. "Physician assistant" has the same meaning as in A.R.S. § 32-2501.
 42. "Population" means the total number of permanent residents according to the most recent decennial census published by the U.S. Census Bureau or according to the most recent Population Estimates for Arizona's Counties and Incorporated Places published by the Arizona Department of Economic Security.
 43. "Poverty level" means a measure of income, issued annually by the U.S. Department of Health and Human Services and published in the Federal Register.
 44. "Primary care area" has the same meaning as in A.A.C. R9-24-201.
 45. "Primary care provider" means one of the following providing direct patient care:
 - a. A physician practicing:
 - i. Family medicine,
 - ii. Internal medicine,
 - iii. Pediatrics,
 - iv. Geriatrics,
 - v. Obstetrics-gynecology, or
 - vi. Psychiatry;
 - b. A physician assistant practicing:
 - i. Adult medicine,
 - ii. Family medicine,
 - iii. Pediatrics,
 - iv. Geriatrics,
 - v. Women's health, or
 - vi. Behavioral health;
 - c. A registered nurse practitioner practicing:
 - i. Adult medicine,
 - ii. Family medicine,
 - iii. Pediatrics,
 - iv. Geriatrics,
 - v. Women's health, or
 - vi. Behavioral health;
 - d. A certified nurse midwife, a registered nurse practitioner approved by the Arizona State Board of Nursing to provide primary care services during pregnancy, childbirth, and the postpartum period;
 - e. A dentist practicing:
 - i. General dentistry,
 - ii. Geriatric dentistry, or
 - iii. Pediatric dentistry;
 - f. A pharmacist; or
 - g. A behavioral health care provider.
 46. "Primary care services" means medical services, dental services, pharmaceutical services, or behavioral health services provided on an outpatient basis by a primary care provider.
 47. "Private practice" means an individual or entity in which:
 - a. One or more primary care providers provide primary care services; and
 - b. Each primary care provider is an owner who can be held personally responsible for the primary care services provided by any of the primary care providers.
 48. "Qualifying educational loan" means an advance of money:
 - a. Used for the actual costs paid for educational expenses and living expenses that occurred during the undergraduate or graduate education of an applicant, and
 - b. Obtained before the submission of an initial application.
 49. "Qualifying health plan" means health insurance coverage provided to a consumer through the Arizona State Health Insurance Marketplace established by 42 U.S.C.A. § 18001 (2010).
 50. "Registered nurse practitioner" has the same meaning as in A.R.S. § 32-1601.
 51. "Service site" means a health care institution that provides primary care services or behavioral health services, as applicable, at a specific location.
 52. "Sliding-fee schedule" has the same meaning as in A.A.C. R9-1-501.

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53. "State prison" means a secure facility, managed and run by or on behalf of the Arizona Department of Corrections, in which an individual convicted of a crime is confined.
54. "Substantive review time-frame" has the same meaning as in A.R.S. § 41-1072.
55. "Suspend" means to temporarily interrupt a loan repayment contract for a specified period of time, based on a request submitted by the awardee.
56. "Telemedicine" has the same meaning as:
 - a. "Telehealth" as defined in A.R.S. § 36-3601,
 - b. "Teledentistry" as defined in A.R.S. § 36-3611, or
 - c. "Telepractice" as defined in A.R.S. § 32-2061.
57. "Working day" means a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a federal and state holiday or a statewide furlough day.
- iii. A primary care provider's service site is not complying with the requirements in A.R.S. Title 36, Chapter 21 or this Chapter; or
- iv. A primary care provider fails to meet the terms of the primary care provider's loan repayment contract with the Department.
8. "Certified nurse midwife" means a registered nurse practitioner approved by the Arizona State Board of Nursing to provide primary care services during pregnancy, childbirth, and the postpartum period.
9. "Clinical social worker" means an individual licensed under A.R.S. § 32-3293.
10. "Critical access hospital" means a facility certified by the Centers for Medicare & Medicaid Services under Section 1820 of the Social Security Act.
11. "Denial" means the Department's determination that a primary care provider is not approved to:
 - a. Participate in the LRP,
 - b. Renew a loan repayment contract,
 - c. Suspend or cancel a loan repayment contract, or
 - d. Waive liquidated damages owed by the primary care provider for failure to comply with A.R.S. Title 36, Chapter 21 and this Chapter.
12. "Dental services" means the same as "dentistry" in A.R.S. § 32-1201.
13. "Dentist" means an individual licensed under A.R.S. Title 32, Chapter 11, Article 2.
14. "Direct patient care" means medical services, dental services, pharmaceutical services, or behavioral health services provided to a specific individual by a primary care provider and for services provided by the primary care provider to or for the specific individual including:
 - a. Documenting the services in the specific individual's medical records,
 - b. Consulting with other health care professionals about the specific individual's need for services, and
 - c. Researching information specific to the individual's need for services.
15. "Educational expenses" has the same meaning as in 42 C.F.R. § 62.22.
16. "Encounter" means a face-to-face visit, which may include a visit using telemedicine, between a patient and a primary care provider during which primary care services are provided.
17. "Family unit" means a group of individuals residing together who are related by birth, marriage, or adoption or an individual who does not reside with another individual to whom the individual is related by birth, marriage, or adoption.
18. "Federal prison" means a secure facility managed and run by the Federal Bureau of Prisons that confines an individual convicted of a crime.
19. "Full-time" means working at least 40 hours per week for at least 45 weeks per service year.
20. "Free-clinic" means a facility that provides primary care services, on an outpatient basis, to individuals at no charge.
21. "Government student loan" means an advance of money made by a federal, state, county, or city agency that is authorized by law to make the advance of money.
22. "Half-time" means working at least 20 hours per week, but not more than 39 hours per week, for at least 45 weeks per service year.

Historical Note

Section amended by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Section amended and emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-101. Definitions

In addition to the definitions in A.R.S. §§ 36-401 and 36-2171, the following definitions apply in this Chapter unless otherwise stated:

1. "Administrative completeness review time-frame" has the same meaning as in A.R.S. § 41-1072.
2. "Application" means the information and documents submitted to the Department by a primary care provider requesting to participate in the Loan Repayment Program.
3. "Arizona Health Care Cost Containment System" or "AHCCCS" means the Arizona state agency established by A.R.S. Title 36, Chapter 29 to administer 42 U.S.C. 1396-1, Title XIX health care programs.
4. "Arizona medically underserved area" or "AzMUA" means a primary care area where access to primary care service is limited as designated according to A.R.S. § 36-2352.
5. "Calendar day" means each day, not excluding the day of the act, event, or default from which a designated period of time begins to run and including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
6. "Calendar year" means the period of 365 days starting from the first day of January.
7. "Cancellation" means the discharge of a primary care provider's loan repayment contract based on one of the following:
 - a. A primary care provider requests a discharge of the primary care provider's loan repayment contract as allowed by this Chapter; or
 - b. The Department determines:
 - i. There are no loan repayment funds available;
 - ii. A primary care provider is not complying with the requirements in A.R.S. Title 36, Chapter 21 or this Chapter;

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23. "Health professional school" has the same meaning as "school" in 42 C.F.R. § 62.2.
24. "Health professional service obligation" means a legal commitment in which a primary care provider agrees to provide primary care services for a specified period of time in a designated area or through a designated service site.
25. "Health professional shortage area" or "HPSA" means a geographic region, population group, or public or non-profit private medical facility or other public facility determined by the U.S. Department of Health and Human Services to have an inadequate number of primary care providers under 42 U.S.C. § 254e.
26. "Health service experience to a medically underserved population" means at least 500 clock hours of medical services, dental services, pharmaceutical services, or behavioral health services provided by a primary care provider, including clock hours completed during the primary care provider's residency or graduate education:
 - a. Under the direction of a governmental agency, an accredited educational institution, or a non-profit organization; and
 - b. At a service site located in:
 - i. A medically underserved area designated by a federal or state agency, or
 - ii. A HPSA designated by a federal agency.
27. "Health service priority" means the number assigned by the Department to an initial application or renewal application and used to determine whether loan repayment funds are allocated to a primary care provider requesting approval to participate in the LRP.
28. "Immediate family" means an individual in any of the following relationships to a primary care provider:
 - a. Spouse;
 - b. Natural, adopted, foster, or stepchild;
 - c. Natural, adoptive, or stepparent;
 - d. Brother or sister;
 - e. Stepbrother or stepsister;
 - f. Grandparent or spouse of grandparent;
 - g. Grandchild or spouse of grandchild;
 - h. Father-in-law or mother-in-law;
 - i. Brother-in-law or sister-in-law; or
 - j. Son-in-law or daughter-in-law.
29. "Licensee" means:
 - a. An owner approved by the Department to operate a health care institution, or
 - b. An individual licensed under A.R.S. Title 32.
30. "Living expenses" has the same meaning as in 42 C.F.R. § 62.22.
31. "Loan repayment funds" means:
 - a. State loan repayment funds,
 - b. State-appropriated funds, or
 - c. Monies donated to the Department and designated for use by the LRP.
32. "Loan Repayment Program" or "LRP" means the unit in the Department that implements the Primary Care Provider Loan Repayment Program, established according to A.R.S. § 36-2172, and the Rural Private Primary Care Provider Loan Repayment Program, established according to A.R.S. § 36-2174.
33. "Marriage and family therapist" means an individual licensed under A.R.S. § 32-3311.
34. "Newly employed" means when a primary care provider's first-time employee start date with a service site or employer identified in an initial application occurred within 12 months before the primary care provider's initial application submission date.
35. "Non-government student loan" means an advance of money made by a bank, credit union, savings and loan association, insurance company, school, or other financial or credit institution that is subject to examination and supervision in its capacity as a lender by an agency of the federal government or of the state in which the lender has its principle place of business.
36. "Overall time-frame" has the same meaning as in A.R.S. § 41-1072.
37. "Pharmaceutical services" means the same as "practice of pharmacy" in A.R.S. § 32-1901.
38. "Pharmacist" has the same meaning as in A.R.S. § 32-1901.
39. "Physician" has the same meaning as in A.R.S. § 36-2351.
40. "Physician assistant" has the same meaning as in A.R.S. § 32-2501.
41. "Population" means the total number of permanent residents according to the most recent decennial census published by the U.S. Census Bureau or according to the most recent Population Estimates for Arizona's Counties and Incorporated Places published by the Arizona Department of Economic Security.
42. "Poverty level" means a measure of income, issued annually by the U.S. Department of Health and Human Services and published in the Federal Register.
43. "Primary care area" has the same meaning as in A.A.C. R9-24-201.
44. "Primary care loan" means a long-term, low-interest-rate financial contract between the U.S. Department of Health and Human Services, Health Resources and Services Administration and a full-time student pursuing a degree in allopathic or osteopathic medicine.
45. "Primary care provider" means one of the following providing direct patient care:
 - a. A physician practicing:
 - i. Family medicine,
 - ii. Internal medicine,
 - iii. Pediatrics,
 - iv. Geriatrics,
 - v. Obstetrics-gynecology, or
 - vi. Psychiatry;
 - b. A physician assistant practicing:
 - i. Adult medicine,
 - ii. Family medicine,
 - iii. Pediatrics,
 - iv. Geriatrics,
 - v. Women's health, or
 - vi. Behavioral health;
 - c. A registered nurse practitioner practicing:
 - i. Adult medicine,
 - ii. Family medicine,
 - iii. Pediatrics,
 - iv. Geriatrics,
 - v. Women's health, or
 - vi. Behavioral health;
 - d. A certified nurse midwife;
 - e. A dentist practicing:
 - i. General dentistry,
 - ii. Geriatric dentistry, or
 - iii. Pediatric dentistry;

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- f. A pharmacist; or
- g. A behavioral health provider practicing as:
 - i. A psychologist,
 - ii. A clinical social worker,
 - iii. A marriage and family therapist, or
 - iv. A professional counselor.
- 46. "Primary care service" means medical services, dental services, pharmaceutical services, or behavioral health services provided on an outpatient basis by a primary care provider.
- 47. "Private practice" means an individual or entity in which:
 - a. One or more primary care providers provide primary care services; and
 - b. Each primary care provider is an owner who can be held personally responsible for the primary care services provided by any of the primary care providers.
- 48. "Professional counselor" means an individual licensed under A.R.S. § 32-3301.
- 49. "Psychiatrist" means a physician who is board certified or board eligible to provide behavioral health services.
- 50. "Psychologist" has the same meaning as in A.R.S. § 32-2061.
- 51. "Public" means any:
 - a. State or local government; or
 - b. Department, agency, special purpose district, or other unit of a state or local government, including the legislature.
- 52. "Qualifying educational loan" means a government or a non-government student loan:
 - a. Used for the actual costs paid for educational expenses and living expenses that occurred during the undergraduate or graduate education of a primary care provider, and
 - b. Obtained before the submission of an initial application.
- 53. "Qualifying health plan" means health insurance coverage provided to a consumer through the Arizona State Health Insurance Marketplace established by 42 U.S.C.A. § 18001 (2010).
- 54. "Registered nurse practitioner" has the same meaning as in A.R.S. § 32-1601.
- 55. "Service site" means a health care institution that provides primary care services at a specific location.
- 56. "Service verification form" means a document confirming a primary care provider's full-time or half-time continuous employment at the primary care provider's approved service site.
- 57. "Sliding-fee schedule" has the same meaning as in A.A.C. R9-1-501.
- 58. "State-appropriated funds" means monies provided to the Department for the Primary Care Provider Loan Repayment Program, established according to A.R.S. § 36-2172, and the Rural Private Primary Care Provider Loan Repayment Program, established according to A.R.S. § 36-2174.
- 59. "State loan repayment funds" means monies provided to the Department from the U.S. Department of Health and Human Services, Health Resources and Services Administration.
- 60. "State prison" means a secure facility managed and run by a state in which an individual convicted of a crime is confined.
- 61. "Student" means an individual pursuing a course of study at a health professional school.
- 62. "Substantive review time-frame" has the same meaning as in A.R.S. § 41-1072.
- 63. "Suspend" means to temporarily interrupt a primary care provider's loan repayment contract for a specified period of time, based on a request submitted by the primary care provider.
- 64. "Telemedicine" has the same meaning as:
 - a. "Telemedicine" as defined in A.R.S. § 36-3601,
 - b. "Teledentistry" as defined in A.R.S. § 36-3611, or
 - c. "Telepractice" as defined in A.R.S. § 32-3251.
- 65. "Working day" means a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a federal and state holiday or a statewide furlough day.

Historical Note

Adopted effective November 16, 1983 (Supp. 83-6).
 Repealed effective February 7, 1995 (Supp. 95-1). New
 Section made by final rulemaking at 7 A.A.R. 2823,
 effective August 9, 2001 (Supp. 01-2). Section amended
 by final exempt rulemaking under Laws 2015, Ch. 3, § 8,
 at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

EMERGENCY RULEMAKING**R9-15-102. Qualifying Educational Loans and Restrictions**

- A. The Department shall use loan repayment funds to pay for principal, interest, and related expenses of:
 - 1. A qualifying educational loan taken out by an awardee while obtaining a degree leading to eligibility for a health professional license; or
 - 2. A qualifying educational loan resulting from the refinancing or consolidation of loans described in subsection (A)(1).
- B. Obligations or debts incurred under the following are ineligible for loan repayment funds:
 - 1. A loan for which an awardee incurred a health professional service obligation that will not be completed before the start of the awardee's program contract;
 - 2. A primary care loan, intended as a long-term, low-interest-rate financial contract between the U.S. Department of Health and Human Services, Health Resources and Services Administration, and a full-time student pursuing a degree in allopathic or osteopathic medicine;
 - 3. A loan subject to cancellation; or
 - 4. A residency loan, intended to cover expenses not included in the cost of attendance at a health professional school, such as board examination fees, travel, and moving expenses for a residency program.
- C. The following apply to an awardee's lenders and loans:
 - 1. The Department shall accept assignment of loan repayment funds to a maximum of three lenders.
 - 2. If more than one loan is eligible for loan repayment funds, an awardee shall advise the Department of the percentage of the loan repayment funds that each lender identified by the applicant is to receive.
 - 3. An awardee is responsible for the timely repayment of a loan.
 - 4. An awardee shall arrange with each lender to make necessary changes in the payment schedule for a loan so that quarterly loan repayment funds will not result in default.
 - 5. An awardee is responsible for paying taxes that may result from receiving loan repayment funds to reduce a qualifying educational loan amount owed to a lender.

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Historical Note

New Section made by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Section amended and emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-102. Repealed**Historical Note**

Adopted effective November 16, 1983 (Supp. 83-6). Section R9-15-102 repealed by emergency, new Section R9-15-102 adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Emergency expired. Repealed effective December 22, 1989 (Supp. 89-4). Repealed again under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61 effective October 1, 1992, filed October 14, 1992 (Supp. 92-4).

EMERGENCY RULEMAKING**R9-15-103. Verification of Loan Repayment Application Information**

An applicant shall execute any document necessary for the Department to access records and acquire information necessary to verify information provided by the applicant.

Historical Note

New Section made by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-103. Repealed**Historical Note**

Adopted effective November 16, 1983. Repealed as an emergency effective November 17, 1983 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Emergency expired, original text placed back into effect (Supp. 89-1). Subsections (A) and (B) amended as an emergency effective March 23, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Subsections (A) and (B) readopted and subsections (E) and (F) amended as an emergency effective June 26, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Repealed effective December 22, 1989 (Supp. 89-4). Repealed again under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61 effective October 1, 1992, filed October 14, 1992 (Supp. 92-4).

EMERGENCY RULEMAKING**R9-15-104. Donations to a Loan Repayment Program**

- A. A person may donate monies to the Department to be used in funding a loan repayment program.
- B. A person donating monies to a loan repayment program shall designate whether the donation:
 1. May be used by the Department for either loan repayment allocations or for administrative costs associated with a loan repayment program; or

2. Is to be used for loan repayment allocations for one or more of the following:
 - a. The Primary Care Provider Loan Repayment Program, established according to A.R.S. § 36-2172;
 - b. The Rural Private Primary Care Provider Loan Repayment Program, established according to A.R.S. § 36-2174;
 - c. The Behavioral Health Care Provider Loan Repayment Program, established according to A.R.S. § 36-2175;
 - d. A specific type or types of primary care provider, behavioral health care provider, or other eligible individuals; or
 - e. A specific county in Arizona.

C. The Department shall:

1. Use donated monies to supplement other loan repayment funds received by the Department according to A.R.S. Title 36, Chapter 21, based on the health service priority assigned to an applicant during an allocation process according to R9-15-208 or R9-15-307, as applicable, and, if applicable, any designation made for the donation according to subsection (B); and
2. Not allocate donated monies during an allocation process if the applicant with the next highest health service priority does not meet the criteria established for the donated monies according to subsection (B)(2).

Historical Note

New Section made by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-104. Repealed**Historical Note**

Adopted effective November 16, 1983. Repealed as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Emergency expired. Subsections (A) and (B) amended as an emergency effective March 23, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. See emergency adoption below (Supp. 89-2). Subsections (A) and (B) amended as an emergency effective March 23, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Subsections (A) and (B) readopted and subsections (E) and (G) amended as an emergency effective June 26, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Repealed effective December 22, 1989 (Supp. 89-4). Repealed again under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61 effective October 1, 1992, filed October 14, 1992 (Supp. 92-4).

EMERGENCY RULEMAKING**R9-15-105. Verification of Services and Disbursement of Loan Repayment Funds**

- A. An awardee shall submit, within 10 business days after the last day of a completed calendar quarter, verification and documentation of service hours worked and, if applicable, encounters provided during the calendar quarter at the provider's approved service site, in a Department-provided format, containing:

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1. The awardee's name;
 2. The beginning and ending dates during which the services were provided;
 3. Whether the awardee is providing services full-time or, if applicable, half-time;
 4. If applicable, the number of total encounters the awardee provided during the time reported in subsection (A)(2);
 5. If services are provided by means of telemedicine, the number of telemedicine hours worked;
 6. The awardee's notarized signature and date of signature; and
 7. The notarized signature and date of signature of the designee of the awardee's approved service site's governing authority.
- B.** Upon receipt of the verification and documentation in subsection (A), the Department shall disburse loan payment funds to the awardee's lender or lenders.
- C.** Services performed before the effective date of a loan repayment contract do not satisfy the contracted health professional service obligation and are not eligible for loan repayment funds.
- D.** The Department shall disburse loan repayment funds for services provided during a loan repayment contract period according to the allocations in R9-15-208 or R9-15-307, as applicable.
- E.** The Department may delay disbursing loan repayment funds to an awardee's lender or lenders if the awardee fails to submit service verification and documentation forms as specified in subsection (A).
- F.** The Department shall not disburse loan repayment funds to an awardee's lender or lenders if the awardee fails to submit complete and accurate information required in subsection (A).
1. At least 10 working days before the effective date of a change to a qualifying educational loan or lender, and
 2. If applicable, at least 30 calendar days before the effective date of a change to add or transfer to another service site or employer or to change service hours worked.
- C.** To request a change in subsection (B), an awardee shall submit the following information to the Department, in a Department-provided format:
1. The awardee's name, home address, telephone number, and email address;
 2. Whether the request is to:
 - a. Add or change a qualifying educational loan or lender,
 - b. Add or transfer to another service site or employer, or
 - c. Change service hours from full-time to half-time or from half-time to full-time;
 3. Whether the awardee agrees to allow the Department to submit supplemental requests for additional information or documentation in R9-15-205 or R9-15-305, as applicable;
 4. An attestation that:
 - a. The awardee authorizes the Department to verify all the information provided, and
 - b. The information submitted is true and accurate; and
 5. The awardee's signature and date of signature.
- D.** In addition to the information required in subsection (C), an awardee shall submit to the Department:
1. If adding or changing a qualifying educational loan or lender, the following documentation about the new qualifying educational loan or lender:
 - a. The following in a Department-provided format:
 - i. An attestation signed and dated by an individual from the lending institution, certifying that the loan meets the requirements in R9-15-102 for a qualifying educational loan, and
 - ii. The percentage of the loan repayment funds that the awardee is requesting that the lender receive;
 - b. Documentation from the lender or the National Student Loan Data System, established by the U.S. Department of Education, verifying that the loan is a qualifying educational loan; and
 - c. For the qualifying educational loan, a copy of the most recent billing statement from the lender;
 2. If adding or transferring to a new service site or beginning employment with a new employer, for each new service site or employer:
 - a. The following in a Department-provided format;
 - i. The information required in R9-15-202(B)(1)(c) or R9-15-302(B)(1)(b), as applicable, for the new service site;
 - ii. The attestation required in R9-15-202(B)(16) or R9-15-302(B)(1)(g), as applicable; and
 - iii. If applicable, the information required in R9-15-202(B)(20).
 - b. If applicable, a copy of the new service site's:
 - i. Sliding-fee schedule in R9-15-201(A)(2)(d)(i);
 - ii. Sliding-fee schedule policy in R9-15-201(A)(2)(d)(ii); and
 - iii. Sliding-fee schedule signage in R9-15-201(A)(2)(d)(iii) that is posted on the premises; and

Historical Note

New Section made by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Section amended and emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-105. Repealed**Historical Note**

Adopted effective November 16, 1983 (Supp. 83-6). Repealed under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61 effective October 1, 1992, filed October 14, 1992 (Supp. 92-4).

EMERGENCY RULEMAKING**R9-15-106. Request for Change**

- A.** If an awardee's personal information changes, the awardee shall submit:
1. A written notice stating the information being changed and indicating the new information; and
 2. If the change is in the awardee's legal name, a copy of one of the following with the awardee's new name:
 - a. Marriage certificate,
 - b. Divorce decree,
 - c. Professional license, or
 - d. Other legal document establishing the awardee's legal name.
- B.** An awardee shall submit to the Department a request for a change:

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- c. If applicable, documentation that the new service site is in a HPSA or an AzMUA; and
- 3. The following information if changing service hours worked:
 - a. In a Department-provided format:
 - i. The name, title, email address, and telephone number of a contact individual for each service site or employer; and
 - ii. The percentage of loan repayment funds each lender may receive if different from the initial application; and
 - b. A copy of an agreement or a letter verifying approval to change service hours, signed by the designee of the governing authority from the service site where the awardee provides service, including:
 - i. The name of each service site where the services are provided;
 - ii. The date the awardee is expected to begin revised services hours;
 - iii. The number of service hours per week the awardee is expected to work; and
 - iv. If an awardee will provide telemedicine, the number of telemedicine hours the awardee is expected to provide per week.
- E. An awardee shall obtain the Department's approval for the following changes:
 - 1. Except as provided in R9-15-301(C), before the awardee provides services at another service site; or
 - 2. If awarded under Article 2 of this Chapter, before the awardee changes from full-time or half-time hours worked.
- F. If applicable, if a change in service site, employer, or service hours worked affects an awardee's service site points or health service priority, the Department shall determine whether the awardee's loan repayment amount will increase or decrease, and:
 - 1. If a loan repayment amount will increase, the awardee's loan repayment amount will not change until the awardee obtains approval to renew participation; and
 - 2. If a loan repayment amount will decrease, the awardee's loan repayment amount will decrease according to amounts in R9-15-208 or R9-15-307, as applicable, effective on the date the Department approves the awardee's request to change service site or service hours.
- G. If a change in service hours worked is from full-time to half-time, the awardee's amount of loan repayment funds allocated will decrease by half of the existing contracted loan repayment amount, effective on the date the Department approves the awardee's request to change the service hours worked.
- H. If a change in service hours worked is from half-time to full-time:
 - 1. The awardee's allocated loan repayment funds will not change until the awardee's renewal application is approved to continue participation; and
 - 2. For an awardee who was initially allocated loan repayment funds based on providing services full-time but is currently providing services half-time, the awardee's loan repayment funds will revert to the loan repayment funds initially allocated after the Department approves the awardee's request to change back to full-time service hours.
- I. For a request submitted according to subsection (C), the Department shall notify an awardee of the Department's decision according to R9-15-205 or R9-15-305, as applicable.

Historical Note

New Section made by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Section amended and emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-106. Repealed**Historical Note**

Adopted effective November 16, 1983 (Supp. 83-6). Repealed under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61 effective October 1, 1992, filed October 14, 1992 (Supp. 92-4).

EMERGENCY RULEMAKING**R9-15-107. Loan Repayment Contract Suspension**

- A. The Department may suspend a loan repayment contract based on unavailability of monies for the applicable loan repayment program.
- B. An awardee may request an initial loan repayment contract suspension for up to six months:
 - 1. For a condition involving the awardee or a member of the awardee's immediate family that restricts the awardee's ability to complete the terms of the loan repayment contract; or
 - 2. To transfer to another service site or employer.
- C. To request a loan repayment contract suspension, an awardee shall submit to the Department a written request, at least 30 calendar days before the proposed start date of the loan repayment contract suspension, that includes:
 - 1. The awardee's name, home address, telephone number, and email address;
 - 2. The service site's name and street address;
 - 3. The name, email address, and telephone number of the individual authorized to act on behalf of the service site;
 - 4. The reason for the awardee's request to suspend the loan repayment contract;
 - 5. The beginning and ending dates of the requested loan repayment contract suspension;
 - 6. Whether the awardee agrees to allow the Department to submit supplemental requests for additional information or documentation in R9-15-205 or R9-15-305, as applicable;
 - 7. A statement that the information included in the request for loan repayment contract suspension is true and accurate; and
 - 8. The awardee's signature and date of signature.
- D. Upon receiving a request for a loan repayment contract suspension, the Department may contact the individual in subsection (C)(3):
 - 1. To verify the information in the request for the loan repayment contract suspension, and
 - 2. To obtain additional information regarding the circumstances that caused the request for loan repayment contract suspension.
- E. If the awardee is unable to resume providing services by the end of the initial six-month loan repayment contract suspension period, the awardee may request an additional six-months loan repayment contract suspension for a total maximum allowable loan repayment contract suspension of 12 months.
- F. An awardee requesting an additional six-month loan repayment contract suspension shall submit a written request to the

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Department at least 30 calendar days before the expiration of the initial loan repayment contract suspension period that complies with the requirements in subsection (C).

- G. During an awardee's loan repayment contract suspension period, an awardee who plans to continue to participate in a loan repayment program under this Chapter shall submit a renewal application according to R9-15-203 or R9-15-303, as applicable.
- H. During an awardee's loan repayment contract suspension period, the Department shall not disburse loan repayment funds to an awardee's lender.
- I. An awardee is responsible for making loan payments during the loan repayment contract suspension period.
- J. If the Department approves an awardee's request for a loan repayment contract suspension due to transfer to another service site, the awardee shall report progress made in identifying another service site to the Department at least once every 30 calendar days.
- K. If the awardee does not obtain employment at another service site or resume providing services by the end of the loan repayment contract suspension period, the Department shall consider that the awardee has failed to complete the terms of the loan repayment contract or does not intend to complete the terms of the loan repayment contract.
- L. For a request submitted according to subsection (C) or (F), the Department shall notify an awardee of the Department's decision according to R9-15-205 or R9-15-305, as applicable.

Historical Note

New Section made by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2). Section amended and emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-107. Repealed**Historical Note**

Adopted effective November 16, 1983 (Supp. 83-6).
Repealed under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61 effective October 1, 1992, filed October 14, 1992 (Supp. 92-4).

EMERGENCY RULEMAKING**R9-15-108. Loan Repayment Contract Cancellation**

- A. The Department may cancel an awardee's loan repayment contract, if the Department determines that:
 - 1. There are insufficient funds;
 - 2. The awardee:
 - a. Except as allowed in subsection (C), has failed to complete the terms of the loan repayment contract; or
 - b. Is not complying with A.R.S. Title 36, Chapter 21 and this Chapter; or
 - 3. An awardee's service site is not complying with the requirements in A.R.S. Title 36, Chapter 21 or this Chapter.
- B. If the Department cancels an awardee's loan repayment contract according to subsection (A), the Department shall:
 - 1. Provide written notice that includes the specific reason for the cancellation;

- 2. For a cancellation according to subsection (A)(2) or (3), notify the awardee of the Department's decision according to R9-15-205 or R9-15-305, as applicable; and
 - 3. Specify whether the Department plans to impose liquidated damages according to R9-15-109.
- C. An awardee may submit a written request to the Department requesting cancellation of a loan repayment contract within 60 calendar days after the start date of the loan repayment contract if:
 - 1. No loan repayment funds have been disbursed to the awardee's lender;
 - 2. The awardee is unable or does not intend to complete the terms of the loan repayment contract; and
 - 3. The written request includes:
 - a. The awardee's name, home address, telephone number, and email address;
 - b. The service site's name, street address, email address, and telephone number; and the name of the individual authorized to act on behalf of the service site;
 - c. Whether the awardee agrees to allow the Department to submit supplemental requests for additional information or documentation in R9-15-205 or R9-15-305, as applicable; and
 - d. The awardee's signature and date of signature.
 - D. For a request submitted according to subsection (C), the Department shall notify an awardee of the Department's decision according to R9-15-205 or R9-15-305, as applicable.

Historical Note

New Section made by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-108. Repealed**Historical Note**

Adopted effective November 16, 1983 (Supp. 83-6).
Repealed under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61 effective October 1, 1992, filed October 14, 1992 (Supp. 92-4).

EMERGENCY RULEMAKING**R9-15-109. Liquidated Damages for Failure to Complete a Loan Repayment Contract**

- A. An awardee who fails to complete the terms of the loan repayment contract shall pay to the Department the liquidated damages owed under A.R.S. §§ 36-2172(J) or 36-2175(I), as applicable, unless the awardee receives a waiver of the liquidated damages under R9-15-110.
- B. Upon receiving notification or upon the Department's determination that an awardee is unable or does not intend to complete the terms of the awardee's loan repayment contract, the Department shall:
 - 1. Withhold loan repayment funds,
 - 2. Determine liquidated damages owed, and
 - 3. Notify the awardee of the amount of liquidated damages owed.
- C. An awardee shall pay the liquidated damages to the Department within one year after the termination date of the awardee's loan repayment contract or within one year after the end of a loan repayment contract suspension approved according to R9-15-107, whichever is later.

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Historical Note

New Section made by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-109. Repealed**Historical Note**

Adopted effective November 16, 1983 (Supp. 83-6).
Repealed under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61 effective October 1, 1992, filed October 14, 1992 (Supp. 92-4).

EMERGENCY RULEMAKING**R9-15-110. Waiver of Liquidated Damages**

- A. The Department shall waive liquidated damages owed under A.R.S. Title 36, Chapter 21 or this Chapter if the awardee is unable to complete the terms of the loan repayment contract due to the awardee's death.
- B. The Department may waive liquidated damages owed under A.R.S. Title 36, Chapter 21 or this Chapter if the awardee is unable to complete the terms of the loan repayment contract because:
 1. The awardee suffers from a physical or behavioral health condition, resulting in the awardee's temporary or permanent inability to perform the services required by the loan repayment contract; or
 2. An individual in the awardee's immediate family has a chronic or terminal illness.
- C. To request a waiver of liquidated damages, an awardee shall submit a written request to the Department containing:
 1. The following information in a Department-provided format:
 - a. The awardee's name, home address, telephone number, and email address;
 - b. For each service site where the awardee provided services:
 - i. Name and street address for the service site; and
 - ii. The name, title, email address, and telephone number of a contact individual authorized to act on behalf of the service site;
 - c. A statement describing why the awardee cannot complete the loan repayment contract, including, if applicable, a description of the awardee's physical or behavioral health condition or the chronic or terminal illness of the awardee's immediate family member;
 - d. Whether the awardee agrees to allow the Department to submit supplemental requests for additional information or documentation in R9-15-205 or R9-15-305, as applicable;
 - e. A statement that the information and documentation included in the request for waiver is true and accurate; and
 - f. The awardee's signature and date of signature; and
 2. Documentation verifying the awardee's physical or behavioral health condition or the chronic or terminal illness of the awardee's immediate family member.
- D. Upon receiving a request for waiver, the Department may contact the individual specified according to subsection (C)(1)(b)(ii) to verify the information in the request for waiver

and to obtain any additional information regarding the request for waiver.

- E. In determining whether to waive liquidated damages, the Department shall consider:
 1. The physical or behavioral health condition of the awardee or the chronic or terminal illness of the awardee's immediate family member; and
 2. Whether the documentation demonstrates that the awardee is permanently unable or temporarily unable to provide services during or beyond the expiration date of the loan repayment contract.
- F. For a request submitted according to subsection (C), the Department shall notify an awardee of the Department's approval or disapproval according to R9-15-205 or R9-15-305, as applicable.

Historical Note

New Section made by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Section amended and emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-110. Repealed**Historical Note**

Adopted effective November 16, 1983 (Supp. 83-6).
Repealed under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61 effective October 1, 1992, filed October 14, 1992 (Supp. 92-4).

R9-15-111. Repealed**Historical Note**

Former Section R9-15-111 repealed, new Section R9-15-111 adopted effective November 16, 1983 (Supp. 83-6).
Repealed under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61 effective October 1, 1992, filed October 14, 1992 (Supp. 92-4).

R9-15-112. Repealed**Historical Note**

Former Section R9-15-112 repealed, new Section R9-15-112 adopted effective November 16, 1983 (Supp. 83-6).
Repealed under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61 effective October 1, 1992, filed October 14, 1992 (Supp. 92-4).

R9-15-113. Repealed**Historical Note**

Former Section R9-15-113 repealed, new Section R9-15-113 adopted effective November 16, 1983 (Supp. 83-6).
Repealed under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61 effective October 1, 1992, filed October 14, 1992 (Supp. 92-4).

R9-15-114. Repealed**Historical Note**

Former Section R9-15-114 repealed, new Section R9-15-114 adopted effective November 16, 1983 (Supp. 83-6).
Repealed under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61 effective October 1, 1992, filed October 14, 1992 (Supp. 92-4).

R9-15-115. Repealed

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Historical Note

Repealed effective November 16, 1983 (Supp. 83-6).
Repealed again under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61 effective October 1, 1992, filed October 14, 1992 (Supp. 92-4).

R9-15-116. Repealed**Historical Note**

Repealed effective November 16, 1983 (Supp. 83-6).
Repealed again under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61 effective October 1, 1992, filed October 14, 1992 (Supp. 92-4).

R9-15-117. Repealed**Historical Note**

Repealed effective November 16, 1983 (Supp. 83-6).
Repealed again under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61 effective October 1, 1992, filed October 14, 1992 (Supp. 92-4).

Appendix A. Repealed**Historical Note**

Adopted effective November 16, 1983 (Supp. 83-6).
Repealed again under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61 effective October 1, 1992, filed October 14, 1992 (Supp. 92-4).

Appendix B. Repealed**Historical Note**

Adopted effective November 16, 1983 (Supp. 83-6).
Repealed again under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61 effective October 1, 1992, filed October 14, 1992 (Supp. 92-4).

Appendix C. Repealed**Historical Note**

Adopted effective November 16, 1983 (Supp. 83-6).
Repealed again under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61 effective October 1, 1992, filed October 14, 1992 (Supp. 92-4).

Appendix D. Repealed**Historical Note**

Adopted effective November 16, 1983 (Supp. 83-6).
Repealed again under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61 effective October 1, 1992, filed October 14, 1992 (Supp. 92-4).

Appendix E. Repealed**Historical Note**

Adopted effective November 16, 1983 (Supp. 83-6).
Repealed again under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61 effective October 1, 1992, filed October 14, 1992 (Supp. 92-4).

Appendix F. Repealed**Historical Note**

Adopted effective November 16, 1983 (Supp. 83-6).
Repealed again under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61 effective October 1, 1992, filed October 14, 1992 (Supp. 92-4).

Appendix G. Repealed**Historical Note**

Adopted effective November 16, 1983 (Supp. 83-6).
Repealed again under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61 effective October 1, 1992, filed October 14, 1992 (Supp. 92-4).

Appendix H. Repealed**Historical Note**

Adopted effective November 16, 1983 (Supp. 83-6).
Repealed again under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61 effective October 1, 1992, filed October 14, 1992 (Supp. 92-4).

Appendix I. Repealed**Historical Note**

Adopted effective November 16, 1983 (Supp. 83-6).
Repealed again under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61 effective October 1, 1992, filed October 14, 1992 (Supp. 92-4).

Appendix J. Repealed**Historical Note**

Adopted effective November 16, 1983 (Supp. 83-6).
Repealed again under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61 effective October 1, 1992, filed October 14, 1992 (Supp. 92-4).

ARTICLE 2. PRIMARY CARE PROVIDER LOAN REPAYMENT PROGRAM**EMERGENCY RULEMAKING****R9-15-201. Primary Care Provider and Service Site Requirements**

- A.** A primary care provider may request to participate in the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program:
1. If the primary care provider:
 - a. Meets the requirements in A.R.S. § 41-1080 or is a U.S. National according to U.S.C. Title 8, Chapter 12;
 - b. Has completed the final year of a course of study or program approved by an accrediting agency recognized by the U.S. Department of Education or the Council for Higher Education Accreditation for higher education in a health profession licensed under A.R.S. Title 32;
 - c. Holds a current Arizona license or certificate in a health profession licensed under A.R.S. Title 32;
 - d. If a physician, has completed a professional residency program and is board certified or board eligible in:
 - i. Family medicine,
 - ii. Internal medicine,
 - iii. Pediatrics,
 - iv. Geriatrics,
 - v. Obstetrics-gynecology, or
 - vi. Psychiatry;
 - e. Except for a pharmacist or a behavioral health care provider providing primary care services at a free-clinic, Indian Health Service or tribal facility, or a federal prison or state prison, agrees to comply with the requirements for a sliding-fee schedule according to 9 A.A.C. 1, Article 5;
 - f. Except for a primary care provider providing primary care services at a free-clinic, Indian Health

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Service or tribal facility, or a federal prison or state prison, agrees to charge for primary care services at the usual and customary fees prevailing in the primary care area, except that:

- i. A patient unable to pay the usual and customary fees is not charged or is charged a reduced fee, according to the service site's or employer's sliding-fee schedule required in subsection (A)(2)(d), or a fee less than the sliding-fee schedule; and
 - ii. A medically uninsured individual from a family unit with an annual income at or below 200% of the poverty level is charged according to a sliding-fee schedule required in subsection (A)(2)(d) or not charged;
 - g. Provides services at a critical access hospital with a separate qualifying service site, agrees to provide:
 - i. At least 16 hours of service per week at the critical access hospital, and
 - ii. At least 24 hours of primary care services per week at the qualifying service site;
 - h. Agrees not to discriminate on the basis of a patient's ability to pay or a payment source, including Medicare, AHCCCS, or a qualifying health plan;
 - i. Agrees to accept assignment for payment under:
 - i. Medicare, if providing primary care services to adults;
 - ii. Children's Health Insurance Program (KIDSCare), established under A.R.S. § 36-2982, if providing primary care services to children;
 - iii. AHCCCS; and
 - iv. A qualifying health plan; and
 - j. Has satisfied any other health professional service obligation owed under a contract with a federal, state, or local government before beginning a period of service under the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program, as applicable; and
2. If the primary care provider's service site:
- a. Is either a:
 - i. Service site that meets the requirements in A.R.S. § 36-2172(B)(2), or
 - ii. Private practice service site as allowed in A.R.S. § 36-2174;
 - b. Except for a free-clinic or Indian Health Service or tribal facility, accepts assignment for payment under:
 - i. Medicare, if providing primary care services to adults;
 - ii. Children's Health Insurance Program (KIDSCare), established under A.R.S. § 36-2982, if providing primary care services to children;
 - iii. AHCCCS; and
 - iv. A qualifying health plan;
 - c. Except for a free-clinic or Indian Health Service or tribal facility, is an AHCCCS provider;
 - d. Except for a free-clinic, Indian Health Service or tribal facility, or a federal prison or state prison:
 - i. Submits a sliding-fee schedule according to 9 A.A.C. 1, Article 5 to the Department for approval;
 - ii. Develops and implements a policy for the service site's sliding-fee schedule; and
 - iii. Ensures that signage, informing individuals that the service site has a sliding-fee schedule, is conspicuously posted in the service site's reception area;
 - e. Except for a free-clinic, Indian Health Service or tribal facility, or a federal prison or state prison, charges for primary care services at the usual and customary fees prevailing in the primary care area, and has a policy providing that:
 - i. A patient who is unable to pay the usual and customary fee is:
 - (1) Charged a reduced fee according to the service site's sliding-fee schedule in subsection (A)(2)(d),
 - (2) Charged a fee less than the sliding-fee schedule, or
 - (3) Not charged; and
 - ii. A medically uninsured individual from a family unit with an annual income at or below 200% of the poverty level is charged according to the service site's sliding-fee schedule in subsection (A)(2)(d) or not charged;
 - f. Is a free-clinic, develops and implements a policy that the free-clinic provides primary care services to individuals at no charge;
 - g. Does not discriminate on the basis of a patient's ability to pay or a payment source, including Medicare, AHCCCS, or a qualifying health plan; and
 - h. Agrees to notify the Department when the employment status of the primary care provider changes.
- B.** A primary care provider may not participate in the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program, as applicable, if the primary care provider:
1. Has a judgment lien against the primary care provider's property for a debt owed to a federal agency;
 2. Is applying to participate in the Primary Care Provider Loan Repayment Program and:
 - a. Has defaulted on:
 - i. A Federal income tax liability,
 - ii. Any federally-guaranteed or insured student loan or home mortgage loan,
 - iii. A Federal Health Education Assistance Loan,
 - iv. A Federal Nursing Student Loan, or
 - v. A Federal Housing Authority Loan; or
 - b. Is delinquent on payment for:
 - i. Court-ordered child support, or
 - ii. State taxes; or
 3. Is applying to participate in the Rural Private Primary Care Provider Loan Repayment Program and is delinquent on payment for:
 - a. State taxes, or
 - b. Court-ordered child support.

Historical Note

Section R9-15-201 repealed; new Section R9-15-201 renumbered from R9-15-202 and amended by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Section amended and emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-201. Qualifying Educational Loans and Restrictions

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- A.** The Department shall use loan repayment funds to pay for principal, interest, and related expenses of:
1. A qualifying educational loan taken out by a primary care provider while obtaining a degree leading to eligibility for a health professional license; or
 2. A qualifying educational loan resulting from the refinancing or consolidation of loans described in subsection (A)(1).
- B.** Obligations or debts incurred under the following are ineligible for loan repayment funds:
1. A loan for which a primary care provider incurred a health professional service obligation that will not be completed before the start of the primary care provider's loan repayment program contract,
 2. A loan for which the associated documentation does not identify that the loan was solely applicable to the undergraduate or graduate education of a primary care provider,
 3. A primary care loan,
 4. A loan subject to cancellation, or
 5. A residency loan.
- C.** The following apply to a primary care provider's lenders and loans:
1. The Department shall accept loan repayment assignment to a maximum of three lenders.
 2. If more than one loan is eligible for loan repayment funds, the primary care provider shall advise the Department of the percentage of the loan repayment funds that each lender identified by the primary care provider is to receive.
 3. A primary care provider is responsible for the timely loan repayment of a loan.
 4. A primary care provider shall arrange with each lender to make necessary changes in the payment schedule for a loan so that quarterly loan repayments will not result in default.
 5. A primary care provider is responsible for paying taxes that may result from receiving loan repayment funds to reduce a qualifying educational loan amount owed to a primary care provider's lender.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed;
 new Section made by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

EMERGENCY RULEMAKING**R9-15-202. Initial Application**

- A.** Except as provided in R9-15-203(A), to apply to participate in the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program, a primary care provider who has not previously participated in the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program shall submit an initial application to the Department by June 1 of each year.
- B.** A primary care provider applying to participate in the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program shall submit to the Department an initial application containing:
1. The following information in a Department-provided format:
 - a. The primary care provider's:
 - i. Name, home address, telephone number, and email address;
 - ii. Social Security number; and
 - iii. Date of birth;
 - b. The name, street address, email address, and telephone number of the prospective employer or employer where the primary care provider provides or will provide primary care services while participating in the Primary Care Provider Loan Repayment Program or Rural Private Primary Care Provider Loan Repayment Program, including the dates that the primary care provider is expected to start and end providing primary care services;
 - c. The name, street address, and telephone number for each place of employment with a health professional or a health care institution, including a name, title, email address, and telephone number of a contact individual for the place of employment;
 - d. Type of license and, if applicable, certification held by the primary care provider;
 - e. Type of medical, dental, or behavioral health specialty or subspecialty, if applicable;
 - f. If an advanced practice provider, a behavioral health care provider, or a pharmacist, whether the primary care provider holds national certification;
 - g. Whether the primary care provider will provide primary care services full-time or half-time;
 - h. Whether the primary care provider is an Arizona resident;
 - i. Whether the primary care provider has any health professional service obligation;
 - j. Whether the primary care provider has defaulted in a health professional service obligation and, if so, a description of the circumstances of the default;
 - k. Whether the primary care provider is subject to a judgment lien for a debt to a federal agency and, if so, a description of the circumstances of the default;
 - l. If applying to participate in the Primary Care Provider Loan Repayment Program, whether the primary care provider:
 - i. Has defaulted on:
 - (1) A Federal income tax liability,
 - (2) Any federally-guaranteed or insured student loan or home mortgage loan,
 - (3) A Federal Health Education Assistance Loan,
 - (4) A Federal Nursing Student Loan, or
 - (5) A Federal Housing Authority Loan; or
 - ii. Is delinquent on:
 - (1) A payment for court-ordered child support, or
 - (2) A payment for state taxes; or
 - m. If applying to participate in the Rural Private Primary Care Provider Loan Repayment Program, whether the primary care provider is delinquent on payment for:
 - i. State taxes, or
 - ii. Court-ordered child support;
 - n. Whether the primary care provider has experience providing primary care services to a medically underserved population;
 - o. Whether the primary care provider is providing services at a critical access hospital and primary care

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- services at a service site according to R9-15-201(A)(1)(g);
- p. Whether the primary care provider agrees to allow the Department to submit supplemental requests for additional information or documentation in R9-15-205;
 - q. An attestation that:
 - i. The Department is authorized to verify all information provided in the initial application;
 - ii. The primary care provider is applying to participate in the Primary Care Provider Loan Repayment Program or Rural Private Primary Care Provider Loan Repayment Program, as applicable, for two years with the State of Arizona for loan repayment of all or part of qualifying educational loans identified in the initial application;
 - iii. The qualifying educational loans identified in the initial application were for the costs of health professional education, including reasonable educational expenses and reasonable living expenses, and do not reflect a loan for other purposes;
 - iv. The primary care provider will charge fees for primary care services according to the sliding-fee schedule in R9-15-201(A)(1)(f); and
 - v. The information and documentation submitted as part of the initial application is true and accurate; and
 - r. The primary care provider's signature and date of signature.
2. Documentation that meets the requirements in A.R.S. § 41-1080;
 3. A copy of the primary care provider's Social Security card;
 4. A copy of the primary care provider's current driver's license;
 5. Documentation showing Arizona residency according to A.R.S. § 15-1802;
 6. Documentation showing completion of graduate studies issued by an accredited educational agency;
 7. A copy of the primary care provider's current Arizona licenses or, if applicable, certificates in a health profession licensed under A.R.S. Title 32;
 8. If a physician, documentation showing the physician:
 - a. Has completed:
 - i. A professional residency program in family medicine, pediatrics, obstetrics-gynecology, internal medicine, or psychiatry; or
 - ii. A fellowship, residency, or certification program in geriatrics; and
 - b. Is either board certified or board eligible in:
 - i. Family medicine,
 - ii. Internal medicine,
 - iii. Pediatrics,
 - iv. Geriatrics,
 - v. Obstetrics-gynecology, or
 - vi. Psychiatry;
 9. If the primary care provider is a physician assistant practicing as a behavioral health care provider, a copy of the primary care provider's national certificate issued by the National Commission on Certification of Physician Assistants in Psychiatry;
 10. For a primary care provider who has completed health service experience to a medically underserved population, a written statement for each service site where the primary care provider provided primary care services that includes:
 - a. The service site's name, street address, email address, and telephone number;
 - b. The number of clock hours completed;
 - c. A description of the primary care services provided;
 - d. The primary care service start and end dates;
 - e. The service site's federal or state designation as medically underserved or as a HPSA; and
 - f. The name and signature of an individual authorized by the government agency, the accredited educational institution, or the non-profit organization and the date signed;
 11. If applicable, documentation showing that the primary care provider's health professional service obligation owed under contract with a federal, state, or local government or another entity will be completed before beginning a period of primary care services under the Primary Care Provider Loan Repayment Program or Rural Private Primary Care Provider Loan Repayment Program, as applicable;
 12. For each qualifying educational loan:
 - a. The following information provided in a Department-provided format:
 - i. The lender's name, street address, email address, and telephone number;
 - ii. The street address where the loan repayment funds are sent;
 - iii. The loan identification number;
 - iv. The original date of the loan;
 - v. The primary care provider's name as it appears on the loan contract;
 - vi. The original loan amount;
 - vii. The current balance of the loan, including the date provided;
 - viii. The interest rate on the loan;
 - ix. The purpose for the loan;
 - x. The month and year of the start and the end of the academic period covered by the loan; and
 - xi. The percentage of the loan repayment funds the primary care provider establishes for a lender if more than one lender is receiving loan repayment funds;
 - b. A copy of the most recent billing statement from the lender; and
 - c. Documentation from the lender or the National Student Loan Data System established by the U.S. Department of Education verifying that the loan is a qualifying educational loan;
 13. For each service site where a primary care provider will provide primary care services, a copy of a contract, a letter verifying employment, or a letter of intent to hire signed by the primary care provider and the designee of the governing authority from the service site where the primary care provider will provide primary care services including:
 - a. The name, street address, email address, and telephone number of the service site;
 - b. The name of a contact individual for the service site;
 - c. Whether the primary care provider is providing primary care services full-time or half-time; and

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- d. If currently employed, the employment start date;
14. If more than one service site governing authority is identified in subsection (B)(1)(b), the signature and date of signature of the designee of the governing authority of each service site;
15. For each service site where the primary care provider will provide primary care services, documentation, in a Department-provided format, that includes:
 - a. Name, street address, telephone number, email address, and fax number of the service site;
 - b. Whether the primary care provider is providing primary care services full-time or half-time;
 - c. The number of primary care service hours per week the primary care provider is expected to provide;
 - d. The dates that the primary care provider is expected to start and end providing primary care services;
 - e. If a primary care provider will provide telemedicine, the number of telemedicine hours the primary care provider is expected to provide;
 - f. Service site practice type;
 - g. Whether the service site:
 - i. Complies with the requirements in A.R.S. § 36-2172(B)(2), or
 - ii. Is a private practice service site according to A.R.S. § 36-2174;
 - h. Except for a free-clinic or Indian Health Service or tribal facility, whether the service site accepts Medicare, AHCCCS, and a qualifying health plan;
 - i. Except for a free-clinic or Indian Health Service or tribal facility, if the service site accepts:
 - i. Medicare, the service site's Medicare identification number;
 - ii. AHCCCS, the service site's AHCCCS provider number; and
 - iii. Qualifying health plan, the service site's qualifying health plan provider number;
 - j. Distance from the nearest sliding-fee schedule clinic having the same practice type;
 - k. Documentation of a service site's HPSA designation and HPSA score, dated within 30 calendar days before the initial application submission date;
 - l. Documentation of the primary care services provided by the service site during the past 24 months including the:
 - i. Number of encounters,
 - ii. Number of AHCCCS encounters,
 - iii. Number of Medicare encounters,
 - iv. Number of self-pay encounters on sliding-fee schedule, and
 - v. Number of encounters free-of-charge; and
 - m. The name, title, email address, and telephone number of a contact individual for the service site;
16. An attestation, including the signature of the designee of the governing authority of the service site and date of signature, that the service site shall comply with the requirements in R9-15-201, including agreeing to notify the Department when the employment status of the primary care provider changes;
17. If the primary care provider will provide services at a critical access hospital according to R9-15-201(A)(1)(g), documentation in a Department-provided format that includes the:
 - a. Name, street address, telephone number, email address, and fax number of the critical access hospital;
 - b. Number of service hours per week that the primary care provider is expected to provide at the critical access hospital;
 - c. Name, title, email address, and telephone number of a contact individual for the critical access hospital;
18. Except for a free-clinic, Indian Health Service or tribal facility, or federal prison or state prison, a copy of the service site's:
 - a. Sliding-fee schedule in R9-15-201(A)(2)(d)(i),
 - b. Sliding-fee schedule policy in R9-15-201(A)(2)(d)(ii),
 - c. Sliding-fee schedule signage in R9-15-201(A)(2)(d)(iii) posted on the premises;
19. If the service site is a free-clinic, a copy of the policy in R9-15-201(A)(2)(f) that the free-clinic provides primary care services to individuals at no charge; and
20. If the primary care provider's employer is not the governing authority of the service site identified in subsection (B)(13), documentation in a Department-provided format that includes:
 - a. An attestation that the employer will comply with the requirements required in R9-15-201(A)(2), including agreeing to notify the Department when the employment status of the primary care provider changes;
 - b. The name, title, email address, and telephone number of a contact individual for the employer;
 - c. Whether the employer:
 - i. Complies with the requirements in A.R.S. § 36-2172(B)(2), or
 - ii. Is a private practice service site in A.R.S. § 36-2174;
 - d. Whether the primary care provider is or will be providing primary care services full-time or half-time;
 - e. The dates that the primary care provider is expected to start and end providing primary care services; and
 - f. The employer's signature and date of signature;
21. If more than one service site governing authority is identified in subsection (B)(20), the signature and date of signature of the designee of the governing authority of each service site.
- C. If the primary care provider provided documentation of an existing health professional service obligation under subsection (B)(10), the applicant shall submit to the Department documentation demonstrating the completion of the health professional service obligation before the start of the primary care provider's loan repayment contract with the Department.
- D. The Department shall accept an initial application no more than 45 calendar days before the initial application submission date required in subsection (A).
- E. If the Department receives an initial application from a primary care provider at a time other than the time stated in subsection (A), the Department shall return the initial application to the primary care provider.
- F. The Department shall not approve a primary care provider's initial application during a June allocation process if:
 1. The primary care provider's service site employs two other primary care providers approved to participate in the Primary Care Provider Loan Repayment Program or Rural Private Primary Care Provider Loan Repayment

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Program, as applicable, during the June allocation process, or

2. The primary care provider's employer employs four other primary care providers approved to participate in the Primary Care Provider Loan Repayment Program or Rural Private Primary Care Provider Loan Repayment Program, as applicable, during the June allocation process.

- G. The Department shall review a primary care provider's initial application according to R9-15-205.

Historical Note

Section R9-15-202 renumbered to R9-15-201; new Section R9-15-202 renumbered from R9-15-203 and amended by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Section amended and emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-202. Primary Care Provider and Service Site Requirements

- A. A primary care provider may request to participate in the LRP:

1. If the primary care provider:
 - a. Is a U.S. citizen or U.S. National according to U.S.C. Title 8, Chapter 12;
 - b. Has completed the final year of a course of study or program approved by an accrediting agency recognized by the U.S. Department of Education or the Council for Higher Education Accreditation for higher education in a health profession licensed under A.R.S. Title 32;
 - c. Holds a current Arizona license or certificate in a health profession licensed under A.R.S. Title 32;
 - d. If a physician, has completed a professional residency program and is board certified or board eligible in:
 - i. Family medicine,
 - ii. Internal medicine,
 - iii. Pediatrics,
 - iv. Geriatrics,
 - v. Obstetrics-gynecology, or
 - vi. Psychiatry;
 - e. Except for a pharmacist or a behavioral health provider providing primary care services at a free-clinic or a federal or state prison, agrees to comply with the requirements for a sliding-fee schedule according to 9 A.A.C. 1, Article 5;
 - f. Except for a primary care provider providing primary care services at a free-clinic or a federal or state prison, agrees to charge for primary care services at the usual and customary fees prevailing in the primary care area, except that:
 - i. A patient unable to pay the usual and customary fees is charged a reduced fee according to the service site's or employer's sliding-fee schedule required in subsection (A)(2)(d), or a fee less than the sliding-fee schedule, or not charged; and
 - ii. A medically uninsured individual from a family unit with an annual income at or below 200% of the poverty level is charged according to a sliding-fee schedule required in subsection (A)(2)(d) or not charged;

- g. Provides services at a critical access hospital with a separate qualifying service site, agrees to provide:
 - i. At least 16 hours of service per week at the critical access hospital, and
 - ii. At least 24 hours of primary care services per week at the qualifying service site;
- h. Agrees not to discriminate on the basis of a patient's ability to pay or a payment source, including Medicare, AHCCCS, or a qualifying health plan;
- i. Agrees to accept assignment for payment under Medicare if providing primary care services to adults, AHCCCS, and a qualifying health plan; and
- j. Has satisfied any other health professional service obligation owed under a contract with a federal, state, or local government before beginning a period of service under the LRP; and

2. If the primary care provider's service site:

- a. Provides primary care services in a:
 - i. Public or non-profit service site as allowed in A.R.S. § 36-2172, or
 - ii. Private practice service site as allowed in A.R.S. § 36-2174;
- b. Except for a free-clinic, accepts assignment for payment under Medicare if providing primary care services to adults, AHCCCS, and a qualifying health plan;
- c. Except for a free-clinic, is an AHCCCS provider;
- d. Except for a free-clinic or a federal or state prison:
 - i. Submits a sliding-fee schedule according to 9 A.A.C. 1, Article 5 to the Department for approval;
 - ii. Develops and implements a policy for the service site's sliding-fee schedule; and
 - iii. Ensures that signage, informing individuals that the service site has a sliding-fee schedule, is conspicuously posted in the service site's reception area;
- e. Except for a free-clinic or a federal or state prison, charges for primary care services at the usual and customary fees prevailing in the primary care area, shall have a policy providing that:
 - i. A patient who is unable to pay the usual and customary fee is:
 - (1) Charged a reduced fee according to the service site's sliding-fee schedule in subsection (A)(2)(d),
 - (2) Charged a fee less than the sliding-fee schedule, or
 - (3) Not charged; and
 - ii. A medically uninsured individual from a family unit with an annual income at or below 200% of the poverty level is charged according to the service site's sliding-fee schedule in subsection (A)(2)(d) or not charged;
- f. Is a free-clinic, develop and implement a policy that the free-clinic provides primary care services to individuals at no charge;
- g. Does not discriminate on the basis of a patient's ability to pay or a payment source, including Medicare, AHCCCS, or a qualifying health plan; and
- h. Agrees to notify the Department when the employment status of the primary care provider changes.

- B. A primary care provider may not participate in the LRP if the primary care provider:

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1. Has a judgment lien against the primary care provider's property for a debt owed to a federal agency;
2. Is applying to participate in the Primary Care Provider LRP and:
 - a. Has defaulted on:
 - i. A Federal income tax liability,
 - ii. Any federally-guaranteed or insured student loan or home mortgage loan,
 - iii. A Federal Health Education Assistance Loan,
 - iv. A Federal Nursing Student Loan, or
 - v. A Federal Housing Authority Loan; or
 - b. Is delinquent on payment for:
 - i. Court-ordered child support, or
 - ii. State taxes; or
3. Is applying to participate in the Rural Private Primary Care Provider LRP and is delinquent on payment for:
 - a. State taxes, or
 - b. Court-ordered child support.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed; new Section made by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

EMERGENCY RULEMAKING**R9-15-203. Renewal Application**

- A. A primary care provider who is expected to complete the initial two years of participation in the Primary Care Provider Loan Repayment Program or Rural Private Primary Care Provider Loan Repayment Program in the 12 months after April 1, and whose service site has a HPSA score of 14 or more may request to continue participation by submitting a renewal application to the Department by April 1 of each year.
- B. To continue or resume participation in the Primary Care Provider Loan Repayment Program or Rural Private Primary Care Provider Loan Repayment Program, the following primary care providers may submit to the Department by October 1 of each year:
 1. A renewal application:
 - a. A primary care provider who has a HPSA score of less than 14 and has completed the initial two years of participation in the Primary Care Provider Loan Repayment Program or Rural Private Primary Care Provider Loan Repayment Program before the end of the calendar year; or
 - b. A primary care provider who participated in the Primary Care Provider Loan Repayment Program or Rural Private Primary Care Provider Loan Repayment Program during the current calendar year and who has completed three or more years of participation in the Primary Care Provider Loan Repayment Program or Rural Private Primary Care Provider Loan Repayment Program before the end of the calendar year; or
 2. The initial application in R9-15-202(C):
 - a. A primary care provider who previously participated in the Primary Care Provider Loan Repayment Program or Rural Private Primary Care Provider Loan Repayment Program, completed the first two years of participation in the loan repayment program, and is applying to resume participation; or
 - b. A primary care provider who was previously denied approval to renew participation in the Primary Care

Provider Loan Repayment Program or Rural Private Primary Care Provider Loan Repayment Program because loan repayment funds were not available.

- C. A primary care provider applying to continue participation in the Primary Care Provider Loan Repayment Program or Rural Private Primary Care Provider Loan Repayment Program, as applicable, for an additional year shall submit a renewal application in a Department-provided format to the Department containing:
 1. The primary care provider's:
 - a. Name, home address, telephone number, and email address; and
 - b. Existing loan repayment contract number;
 2. The name of each service site where the primary care provider provides primary care services, including street address, telephone number, email address, and fax number;
 3. Except for a request for change according to R9-15-106, list any changes that may affect the primary care provider's health service priority in R9-15-206 or R9-15-207, as applicable;
 4. For each lender receiving loan repayment funds according to the initial application or R9-15-106, the:
 - a. Lender's name, street address, email address, and telephone number;
 - b. Street address where the loan repayment funds are sent;
 - c. Loan identification number;
 - d. If different from the initial application, the percentage of the loan repayment funds that the primary care provider wants a lender to receive;
 - e. Current loan balance, including date provided; and
 - f. Whether the primary care provider requests to continue loan repayment to the lender;
 5. If the primary care provider wants to add a qualifying educational loan:
 - a. The lender's name, street address, email address, and telephone number;
 - b. The street address where the loan repayment funds are sent;
 - c. The loan identification number;
 - d. The original date of the loan;
 - e. The primary care provider's name as it appears on the loan contract;
 - f. The original loan amount;
 - g. The current balance of the loan, including the date provided;
 - h. The interest rate on the loan;
 - i. The purpose for the loan;
 - j. The month and year of the start and the end of the academic period covered by the loan; and
 - k. If more than one lender is receiving loan repayment funds, the primary care provider shall advise the Department of the percentage of the loan repayment funds that each lender is identified by the primary care provider to receive;
 6. For each qualifying educational loan, a copy of the most recent billing statement from the lender;
 7. For any qualifying educational loan identified in subsection (C)(5), documentation from the lender or the National Student Loan Data System established by the U.S. Department of Education verifying that the loan is a qualifying educational loan;

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8. Whether the primary care provider is subject to a judgment lien for a debt to a federal agency;
 9. If applying to participate in the Primary Care Provider Loan Repayment Program, whether the primary care provider:
 - a. Has defaulted on:
 - i. A Federal income tax liability,
 - ii. Any federally-guaranteed or insured student or home mortgage loan,
 - iii. A Federal Health Education Assistance Loan,
 - iv. A Federal Nursing Student Loan, or
 - v. A Federal Housing Authority Loan; or
 - b. Is delinquent on:
 - i. A payment for court-ordered child support, or
 - ii. A payment for state taxes; or
 10. If applying to participate in the Rural Private Primary Care Provider Loan Repayment Program, whether the primary care provider is delinquent on payment for state taxes or court-ordered child support;
 11. Whether the primary care provider is providing services at a critical access hospital and primary care services at a service site according to R9-15-201(A)(1)(g);
 12. Whether the primary care provider agrees to allow the Department to submit supplemental requests for additional information or documentation in R9-15-205;
 13. An attestation that:
 - a. Except for the circumstances listed in subsection (C)(3), the information in the initial application, other than loan balances and requested repayment amounts, is still current;
 - b. The Department is authorized to verify all information provided in the renewal application;
 - c. The primary care provider is applying to participate in the Primary Care Provider Loan Repayment Program or Rural Private Primary Care Provider Loan Repayment Program, as applicable, for an additional year for loan repayment of all or part of the qualifying educational loans identified in the renewal application;
 - d. The primary care provider will charge fees for primary care services established in the sliding-fee schedule according to R9-15-201; and
 - e. The information and documentation submitted as part of the renewal application is true and accurate;
 14. The primary care provider's signature and date of signature;
 15. For each service site where a primary care provider provides primary care services, documentation, in a Department-provided format, that includes:
 - a. A statement signed by the designee of the governing authority of the service site where the primary care provider provides primary care services that the primary care provider's employment is extended at least for an additional year;
 - b. The date the primary care provider is expected to end providing primary care services;
 - c. Whether the primary care provider is providing primary care services full-time or half-time;
 - d. The number of primary care service hours per week the primary care provider is expected to provide;
 - e. Documentation of primary care services provided during the past 12 months including the:
 - i. Number of encounters,
 - ii. Number of AHCCCS encounters,
 - iii. Number of Medicare encounters,
 - iv. Number of self-pay encounters on sliding-fee schedule, and
 - v. Number of encounters free-of-charge;
 - f. If the primary care provider will provide telemedicine, the number of telemedicine hours the primary care provider is expected to provide;
 - g. An attestation that the service site will comply with the requirements in R9-15-201, including agreeing to notify the Department when the employment status of the primary care provider changes;
 - h. The name, title, email address, and telephone number of a contact individual for the service site; and
 - i. The signature of the designee of the governing authority of the service site and date of signature;
 16. If a primary care provider provides services at a critical access hospital according to R9-15-201(A)(1)(g), documentation in a Department-provided format that includes the:
 - a. Name, street address, telephone number, email address, and fax number of the critical access hospital;
 - b. Number of service hours per week that the primary care provider is expected to provide at the critical access hospital; and
 - c. Name, title, email address, and telephone number of a contact individual for the critical access hospital;
 17. If the primary care provider's employer is not the governing authority of the service site identified in subsection (C)(15), documentation in a Department-provided format, that includes:
 - a. A statement that the employer will extend the primary care provider's employment for at least an additional year;
 - b. The date the primary care provider is expected to end providing primary care services at the service site;
 - c. Whether the primary care provider is providing primary care services full-time or half-time;
 - d. The number of primary care service hours per week the primary care provider is expected to provide;
 - e. If the primary care provider will provide telemedicine, the number of telemedicine hours the primary care provider is expected to provide;
 - f. An attestation that the employer will comply with the requirements in R9-15-201, including agreeing to notify the Department when the employment status of the primary care provider changes;
 - g. The name, title, email address, and telephone number of a contact individual for the employer; and
 - h. The employer's signature and date of signature; and
 18. If more than one service site governing authority is identified in subsection (C)(15) or (16), the signature and date of signature of the designee of the governing authority of each service site.
- D.** In addition to the information required in subsection (C), a primary care provider submitting a renewal application shall include the following documentation:
1. Except for a free-clinic, Indian Health Service or tribal facility, or federal prison or state prison, for each service site where the primary care provider provides or will provide primary care services:
 - a. A copy of the sliding-fee schedule in R9-15-201(A)(2)(d)(i),

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- b. A copy of the sliding-fee schedule policy in R9-15-201(A)(2)(d)(ii), and
 - c. A copy of the service site's sliding-fee schedule signage in R9-15-201(A)(2)(d)(iii), posted on the premises;
- 2. If a free-clinic, a copy of the policy in R9-15-201(A)(2)(f) that the free-clinic provides primary care services to individuals at no charge; and
- 3. Documentation of a service site's HPSA designation and HPSA score, dated within 30 calendar days before the renewal application submission date.
- E. A primary care provider shall execute any document necessary for the Department to access records and acquire information necessary to verify information provided by the primary care provider.
- F. The Department shall accept a renewal application no more than 30 calendar days before the renewal application submission date required in subsection (A) or (B).
- G. If the Department receives a renewal application at a time other than the time stated in subsection (A) or (B), the Department shall return the renewal application to the primary care provider that submitted the renewal application.
- H. The Department shall review a primary care provider's renewal application according to R9-15-205.

Historical Note

Section R9-15-203 renumbered to R9-15-202; new Section R9-15-203 renumbered from R9-15-204 and amended by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4).
 Section R9-15-203 renumbered to R9-15-204; new Section R9-15-203 renumbered from R9-15-204 and amended by renewal of emergency rulemaking at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-203. Initial Application

- A. To apply to participate in the LRP, a primary care provider who has not previously participated in the LRP shall submit an initial application to the Department by June 1 of each year.
- B. A primary care provider, who submitted an initial application to the Department according to subsection (A) but was not approved to participate in the LRP during the June allocation process according to subsection (H) or because loan repayment funds were not available, may reapply during the October allocation process of the same calendar year by submitting a supplemental initial application by October 1.
- C. A primary care provider applying to participate in the LRP shall submit to the Department an initial application containing:
 - 1. The following information in a Department-provided format:
 - a. The primary care provider's:
 - i. Name, home address, telephone number, and email address;
 - ii. Social Security number; and
 - iii. Date of birth;
 - b. The name, street address, email address, and telephone number of the prospective employer or employer where the primary care provider provides or will provide primary care services while participating in the LRP, including the dates that the pri-

- mary care provider is expected to start and end providing primary care services;
- c. The name, street address, and telephone number for each place of employment with a health professional or a health care institution, including a name, title, email address and telephone number of a contact individual for the place of employment;
- d. Type of license and, if applicable, certification held by the primary care provider;
- e. Type of medical, dental or behavioral health specialty or subspecialty, if applicable;
- f. If an advanced practice provider, a behavioral health provider, or a pharmacist, whether the primary care provider holds national certification;
- g. Whether the primary care provider will provide primary care services full-time or half-time;
- h. Whether the primary care provider is an Arizona resident;
- i. Whether the primary care provider has any health professional service obligation;
- j. Whether the primary care provider has defaulted in a health professional service obligation and, if so, a description of the circumstances of the default;
- k. Whether the primary care provider is subject to a judgment lien for a debt to a federal agency and, if so, a description of the circumstances of the default;
- l. If applying to participate in the Primary Care Provider LRP, whether the primary care provider:
 - i. Has defaulted on:
 - (1) A Federal income tax liability,
 - (2) Any federally-guaranteed or insured student loan or home mortgage loan,
 - (3) A Federal Health Education Assistance Loan,
 - (4) A Federal Nursing Student Loan, or
 - (5) A Federal Housing Authority Loan; or
 - ii. Is delinquent on:
 - (1) A payment for court-ordered child support, or
 - (2) A payment for state taxes; or
- m. If applying to participate in the Rural Private Primary Care Provider LRP, whether the primary care provider is delinquent on payment for:
 - i. State taxes, or
 - ii. Court-ordered child support;
- n. Whether the primary care provider has experience providing primary care services to a medically underserved population;
- o. Whether the primary care provider is providing services at a critical access hospital and primary care services at a service site according to R9-15-202(A)(1)(g);
- p. Whether the primary care provider agrees to allow the Department to submit supplemental requests for additional information or documentation in R9-15-206;
- q. An attestation that:
 - i. The Department is authorized to verify all information provided in the initial application;
 - ii. The primary care provider is applying to participate in the LRP for two years with the State of Arizona for loan repayment of all or part of qualifying educational loans identified in the initial application;

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- iii. The qualifying educational loans identified in the initial application were for the costs of health professional education, including reasonable educational expenses and reasonable living expenses, and do not reflect a loan for other purposes;
 - iv. The primary care provider will charge fees for primary care services according to the sliding-fee schedule in R9-15-202(A)(1)(f); and
 - v. The information submitted as part of the initial application is true and accurate; and
- r. The primary care provider's signature and date of signature.
- 2. One of the following as proof of U.S. citizenship:
 - a. U.S. passport, current or expired;
 - b. Birth certificate;
 - c. Naturalization documents; or
 - d. Documentation as a U.S. National;
- 3. A copy of the primary care provider's Social Security card;
- 4. A copy of the primary care provider's current driver's license;
- 5. Documentation showing Arizona residency according to A.R.S. § 15-1802;
- 6. Documentation showing completion of graduate studies issued by an accredited educational agency;
- 7. A copy of the primary care provider's current Arizona licenses or if applicable certificates in a health profession licensed under A.R.S. Title 32;
- 8. If a physician, documentation showing the physician:
 - a. Has completed:
 - i. A professional residency program in family medicine, pediatrics, obstetrics-gynecology, internal medicine, or psychiatry; or
 - ii. A fellowship, residency, or certification program in geriatrics; and
 - b. Is either board certified or board eligible in:
 - i. Family medicine,
 - ii. Internal medicine,
 - iii. Pediatrics,
 - iv. Geriatrics,
 - v. Obstetrics-gynecology, or
 - vi. Psychiatry;
- 9. If the primary care provider is a physician assistant practicing as a behavioral health provider, a copy of the primary care provider's national certificate issued by the National Commission on Certification of Physician Assistants in Psychiatry;
- 10. For a primary care provider who has completed health service experience to a medically underserved population, a written statement for each service site where the primary care provider provided primary care services that includes:
 - a. The service site's name, street address, email address, and telephone number;
 - b. The number of clock hours completed;
 - c. A description of the primary care services provided;
 - d. The primary care service start and end dates;
 - e. The service site's federal or state designation as medically underserved or as a HPSA designated by a federal agency; and
 - f. The name and signature of an individual authorized by the government agency, the accredited educational institution, or the non-profit organization and the date signed;
- 11. If applicable, documentation showing that the primary care provider's health professional service obligation owed under contract with a federal, state, or local government or another entity will be completed before beginning a period of primary care services under the LRP;
- 12. For each qualifying educational loan:
 - a. The following information provided in a Department-provided format:
 - i. The lender's name, street address, email address, and telephone number;
 - ii. The street address where the loan repayment funds are sent;
 - iii. The loan identification number;
 - iv. The original date of the loan;
 - v. The primary care provider's name as it appears on the loan contract;
 - vi. The original loan amount;
 - vii. The current balance of the loan, including the date provided;
 - viii. The interest rate on the loan;
 - ix. The purpose for the loan;
 - x. The month and year of the start and the end of the academic period covered by the loan; and
 - xi. The percentage of the loan repayment funds the primary care provider establishes for a lender if more than one lender is receiving loan repayment funds;
 - b. A copy of the most recent billing statement from the lender; and
 - c. Documentation from the lender or the National Student Loan Data System established by the U.S. Department of Education verifying that the loan is a qualifying educational loan;
- 13. For each service site where a primary care provider will provide primary care services, a copy of a contract, a letter verifying employment, or a letter of intent to hire signed by the primary care provider and the licensee, licensee's designee, or a tribal authority from the service site where the primary care provider will provide primary care services including:
 - a. The name, street address, email address, and telephone number of the service site;
 - b. The name of a contact individual for the service site;
 - c. Whether the primary care provider is providing primary care services full-time or half-time; and
 - d. If currently employed, the employment start date;
- 14. If more than one service site licensee or tribal authority is identified in subsection (C)(13), the signature and date of signature of each service site licensee, licensee's designee, or tribal authority;
- 15. For each service site where the primary care provider will provide primary care services, documentation, in a Department-provided format, that includes:
 - a. Name, street address, telephone number, email address, and fax number of the service site;
 - b. Whether the primary care provider is providing primary care services full-time or half-time;
 - c. The number of primary care service hours per week the primary care provider is expected to provide;
 - d. The dates that the primary care provider is expected to start and end providing primary care services;

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- e. If a primary care provider will provide telemedicine, the number of telemedicine hours the primary care provider is expected to provide;
 - f. Service site practice type;
 - g. Whether the service site is:
 - i. Public or non-profit service site according to A.R.S. § 36-2172, or
 - ii. Private practice service site according to A.R.S. § 36-2174;
 - h. Except for a free-clinic, whether the service site accepts Medicare, AHCCCS, and a qualifying health plan;
 - i. Except for a free-clinic, if the service site accepts:
 - i. Medicare, the service site's Medicare identification number;
 - ii. AHCCCS, the service site's AHCCCS provider number; and
 - iii. Qualifying health plan, the service site's qualifying health plan provider number;
 - j. Distance from the nearest sliding-fee schedule clinic having the same practice type;
 - k. Documentation of a service site's HPSA designation and HPSA score, dated within 30 calendar days before the initial application submission date;
 - l. Documentation of the primary care services provided by the service site during the past 24 months including the:
 - i. Number of encounters,
 - ii. Number of AHCCCS encounters,
 - iii. Number of Medicare encounters,
 - iv. Number of self-pay encounters on sliding-fee schedule, and
 - v. Number of encounters free-of-charge; and
 - m. The name, title, email address, and telephone number of a contact individual for the service site;
16. An attestation, including the service site licensee, licensee's designee, or tribal authority's signature and date of signature, that the service site shall comply with the requirements in R9-15-202, including agreeing to notify the Department when the employment status of the primary care provider changes;
17. If the primary care provider will provide services at a critical access hospital according to R9-15-202(A)(1)(g), documentation in a Department-provided format that includes the:
- a. Name, street address, telephone number, email address, and fax number of the critical access hospital;
 - b. Number of service hours per week that the primary care provider is expected to provide at the critical access hospital;
 - c. Name, title, email address, and telephone number of a contact individual for the critical access hospital;
18. Except for a free-clinic or federal or state prison, a copy of the service site's:
- a. Sliding-fee schedule in R9-15-202(A)(2)(d)(i),
 - b. Sliding-fee schedule policy in R9-15-202(A)(2)(d)(ii),
 - c. Sliding-fee schedule signage in R9-15-202(A)(2)(d)(iii) posted on the premises;
19. If the service site is a free-clinic, a copy of the policy in R9-15-202(A)(2)(f) that the free-clinic provides primary care services to individuals at no charge; and
20. If the primary care provider's employer is not the licensee or tribal authority of the service site identified in subsection (C)(13), documentation in a Department-provided format that includes:
- a. An attestation that the employer will comply with the requirements required in R9-15-202, including agreeing to notify the Department when the employment status of the primary care provider changes;
 - b. The name, title, email address, and telephone number of a contact individual for the employer;
 - c. Whether the employer is a:
 - i. Public or non-profit service site in A.R.S. § 36-2172, or
 - ii. Private practice service site in A.R.S. § 36-2174;
 - d. Whether the primary care provider is or will be providing primary care services full-time or half-time;
 - e. The dates that the primary care provider is expected to start and end providing primary care services; and
 - f. The employer's signature and date of signature;
21. If more than one service site licensee, tribal authority, or employer is identified in subsection (C)(20), the signature and date of signature of each service site licensee, tribal authority, or employer.
- D.** If documentation of an existing health professional service obligation owed under contract, required in subsection (C)(11) was included in the initial application, after completing the obligation, a primary care provider shall submit before the start of the primary care provider's loan repayment contract with the Department documentation demonstrating that the obligation was completed.
- E.** A primary care provider shall execute any document necessary for the Department to access records and acquire information necessary to verify information provided by the primary care provider.
- F.** The Department shall accept an initial application no more than 45 calendar days before initial application submission date required in subsection (A) and (B).
- G.** If the Department receives an initial application from a primary care provider at a time other than the time stated in subsection (A) and (B), the Department shall return the initial application to the primary care provider.
- H.** The Department shall not approve a primary care provider's initial application during a June allocation process if:
- 1. The primary care provider's service site employs two other primary care providers approved to participate in the LRP during the June allocation process, or
 - 2. The primary care provider's employer employs four other primary care providers approved to participate in the LRP during the June allocation process.
- I.** The Department shall review a primary care provider's initial application according to R9-15-206.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed; new Section made by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

EMERGENCY RULEMAKING**R9-15-204. Supplemental Initial Application**

- A.** If a primary care provider submits an initial application to the Department according to R9-15-202 and is not approved to participate in the Primary Care Provider Loan Repayment Pro-

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gram or Rural Private Primary Care Provider Loan Repayment Program, as applicable, during the initial application allocation process, the primary care provider may reapply during the October allocation process by submitting a supplemental initial application according to subsection (B) by October 1 of the same calendar year.

B. A primary care provider reapplying for an October allocation process according to R9-15-202(A) shall submit a supplemental initial application in a Department-provided format to the Department that contains:

1. The primary care provider's name, home address, telephone number, and email address;
2. The primary care provider's attestation that:
 - a. The Department is authorized to verify all information provided in the supplemental initial application;
 - b. The primary care provider is applying to participate in either the Primary Care Provider Loan Repayment Program or Rural Private Primary Care Provider Loan Repayment Program for two years for loan repayment of all or part of qualifying educational loans identified in the initial application;
 - c. The initial application submitted prior to the October allocation process of the same calendar year is still accurate, except for loan or lender information;
 - d. The primary care provider will charge fees for primary care services according to R9-15-201;
 - e. Whether the primary care provider agrees to allow the Department to submit supplemental requests for additional information or documentation in R9-15-205;
 - f. The information and documentation submitted as part of the supplemental initial application is true and accurate; and
 - g. The primary care provider's signature and date of signature;
3. For each primary care provider lender, the following:
 - a. The lender's name, street address, email address, and telephone number;
 - b. The loan identification number; and
 - c. The loan balance including principal and interest;
4. An attestation from the designee of the governing authority of the service site that includes:
 - a. Name, street address, telephone number, email address, and fax number of the service site;
 - b. Whether the service site:
 - i. Meets the requirements in A.R.S. § 36-2172(B)(2), or
 - ii. Is a private practice service site in A.R.S. § 36-2174;
 - c. The service site provider agrees to comply with the requirements in R9-15-201, including agreeing to notify the Department when the employment status of the primary care provider changes;
 - d. Whether the primary care provider is providing primary care services full-time or half-time;
 - e. The dates that the primary care provider is expected to start and end providing primary care services;
 - f. The name, title, email address, and telephone number of a contact individual for the service site;
 - g. The information submitted as part of the supplemental initial application is true and accurate; and
 - h. The signature of the designee of the governing authority of the service site and date of signature;

5. If the primary care provider's employer is not the governing authority of the service site identified in subsection (B)(4), an attestation from the employer that includes:
 - a. The name, title, email address, and telephone number of a contact individual for the employer;
 - b. Whether the employer:
 - i. Meets the requirements in A.R.S. § 36-2172(B)(2), or
 - ii. Is a private practice service site according to A.R.S. § 36-2174;
 - c. Whether the primary care provider is providing primary care services full-time or half-time;
 - d. The dates that the primary care provider is expected to start and end providing primary care services;
 - e. An attestation that the employer will comply with the requirements in R9-15-201, including agreeing to notify the Department when the employment status of the primary care provider changes;
 - f. The information submitted as part of the supplemental initial application is true and accurate; and
 - g. The employer's signature and date of signature;
 6. A copy of the most recent billing statement for the loans listed on the initial application; and
 7. Documentation of a service site's HPSA designation and HPSA score dated within 30 calendar days before the supplemental initial application submission date.
- C.** If more than one service site governing authority is identified in subsection (B)(4) or (5), the signature and date of signature of the designee of the governing authority of each service site.
- D.** The Department shall accept a supplemental initial application no more than 30 calendar days before the supplemental initial application submission date required in subsection (A) or (B).
- E.** The Department shall review a primary care provider's supplemental initial application according to R9-15-205.

Historical Note

Section R9-15-204 renumbered to R9-15-203; new Section R9-15-204 renumbered from R9-15-205 and amended by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4).
 Section R9-15-204 renumbered to R9-15-203; new Section R9-15-204 renumbered from R9-15-203 and amended by renewal of emergency rulemaking at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-204. Supplemental Initial Application

- A.** If a primary care provider submits an initial application to the Department according to R9-15-203 and is not approved to participate in the LRP during the initial application allocation process, the primary care provider may reapply for participation during the October allocation process of the same calendar year by submitting a supplemental initial application by October 1.
- B.** A primary care provider reapplying for an October allocation process according to R9-15-203(B) shall submit a supplemental initial application in a Department-provided format to the Department that contains:
1. The primary care provider's name, home address, telephone number, and email address;
 2. The primary care provider's attestation that:
 - a. The Department is authorized to verify all information provided in the supplemental initial application;

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- b. The primary care provider is applying to participate in the LRP for two years for loan repayment of all or part of qualifying educational loans identified in the initial application;
 - c. The initial application submitted prior to the October allocation process of the same calendar year is still accurate, except for loan or lender information;
 - d. The primary care provider will charge fees for primary care services according to R9-15-202;
 - e. Whether the primary care provider agrees to allow the Department to submit supplemental requests for additional information or documentation in R9-15-206;
 - f. The information submitted as part of the supplemental initial application is true and accurate; and
 - g. The primary care provider's signature and date of signature;
3. For each primary care provider lender, the following:
- a. The lender's name, street address, email address, and telephone number;
 - b. The loan identification number; and
 - c. The loan balance including principal and interest;
4. An attestation from the service site's licensee, licensee's designee, or tribal authority that includes:
- a. Name, street address, telephone number, email address, and fax number of the service site;
 - b. Whether the service site is:
 - i. Public or non-profit service site in A.R.S. § 36-2172, or
 - ii. Private practice service site in A.R.S. § 36-2174;
 - c. The service site provider agrees to comply with the requirements in R9-15-202, including agreeing to notify the Department when the employment status of the primary care provider changes;
 - d. Whether the primary care provider is providing primary care services full-time or half-time;
 - e. The dates that the primary care provider is expected to start and end providing primary care services;
 - f. The name, title, email address, and telephone number of a contact individual for the service site;
 - g. The information submitted as part of the supplemental initial application is true and accurate; and
 - h. The service site's licensee, licensee's designee, or tribal authority signature and date of signature; and
5. If the primary care provider's employer is not the licensee or tribal authority of the service site identified in subsection (B)(4), an attestation from the employer that includes:
- a. The name, title, email address, and telephone number of a contact individual for the employer;
 - b. Whether the employer is:
 - i. Public or non-profit service site according to A.R.S. § 36-2172, or
 - ii. Private practice service site according to A.R.S. § 36-2174;
 - c. Whether the primary care provider is providing primary care services full-time or half-time;
 - d. The dates that the primary care provider is expected to start and end providing primary care services;
 - e. An attestation that the employer will comply with the requirements in R9-15-202, including agreeing to notify the Department when the employment status of the primary care provider changes;
 - f. The information submitted as part of the supplemental initial application is true and accurate; and
 - g. The employer's signature and date of signature.
6. A copy of the most recent billing statement for the loans listed on the initial application;
7. Documentation of a service site's HPSA designation and HPSA score dated within 30 calendar days before the supplemental initial application submission date.
- C. If more than one service site licensee, tribal authority, or employer is identified in subsection (B)(4) or (5), the signature and date of signature of each service site licensee, tribal authority, or employer.
- D. The Department shall accept a supplemental initial application no more than 30 calendar days before the renewal application submission date required in subsection (A) or (B).
- E. The Department shall review a primary care provider's supplemental initial application according to R9-15-206.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed; new Section made by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

EMERGENCY RULEMAKING**R9-15-205. Time-frames**

- A. The overall time-frame begins, for:
- 1. An initial application, on the date established as the deadline for submission of an initial application in R9-15-202;
 - 2. A renewal application, on the date established as the deadline for submission of a renewal application in R9-15-203(A);
 - 3. A supplemental initial application, on the date established as the deadline for submission of a supplemental initial application in R9-15-204(A); or
 - 4. A request to add or transfer to another service site or employer, add or change a lender, add or change a qualifying educational loan, change hours worked, suspend or cancel a loan repayment contract, or waive liquidated damages, on the date the request is received by the Department.
- B. Within the administrative completeness review time-frame for each type of approval in Table 2.1, the Department shall:
- 1. Provide a notice of administrative completeness to a primary care provider; or
 - 2. Provide a notice of deficiencies to a primary care provider, including a list of the missing information or documents.
- C. If the Department provides a notice of deficiencies to a primary care provider:
- 1. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice of deficiencies until the date the Department receives the missing information or documents from the primary care provider;
 - 2. If the primary care provider submits the missing information or documents to the Department within the time-frame in Table 2.1, the substantive review time-frame begins on the date the Department receives the missing information or documents; and
 - 3. If the primary care provider does not submit the missing information or documents to the Department within the time-frame in Table 2.1, the Department shall consider the application withdrawn.

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- D.** Within the substantive review time-frame for each type of approval in Table 2.1, the Department:
1. Shall approve or deny a primary care provider's request;
 2. May make a written comprehensive request for additional information or documentation; and
 3. May make supplemental requests, if the primary care provider agrees to allow the Department to submit supplemental requests for additional information and documentation.
- E.** If the Department provides a written comprehensive request for additional information or documentation to the primary care provider:
1. The substantive review time-frame and the overall time-frame are suspended from the date of the written comprehensive request until the date the Department receives the information and documents requested; and
 2. The primary care provider shall submit to the Department the information and documents listed in the written comprehensive request within 10 working days after the date of the written comprehensive request.
- F.** During the substantive review time-frame the Department shall, for each initial, supplemental initial, or renewal application that the Department determines is complete and demonstrates that the primary care provider and service site comply with the requirements in A.R.S. Title 36, Chapter 21 and this Article, by 60 calendar days after the application submission date established in this Article, determine a:
1. Health service priority according to R9-15-206 or R9-15-207, as applicable, and
 2. Highest HPSA score according to R9-15-206(B)(2) or R9-15-207(B)(1) or (B)(2), as applicable.
- G.** The Department shall issue:
1. An approval for a primary care provider to participate in the:
 - a. Primary Care Provider Loan Repayment Program in A.R.S. § 36-2172 when:
 - i. The primary care provider and the primary care provider's service site complies with the requirements in A.R.S. Title 36, Chapter 21 and this Article; and
 - ii. The primary care provider has a health care priority according to R9-15-206 that makes the primary care provider eligible for available loan repayment funds according to R9-15-201; or
 - b. Rural Private Primary Care Provider Loan Repayment Program in A.R.S. § 36-2174 when:
 - i. The primary care provider and the primary care provider's service site complies with the requirements in A.R.S. Title 36, Chapter 21 and this Article; and
 - ii. The primary care provider has a health care priority according to R9-15-207 that makes the primary care provider eligible for loan repayment funds according to R9-15-201; or
 2. A denial to a primary care provider, including the reason for the denial and the appeal process in A.R.S. Title 41, Chapter 6, Article 10, if:
 - a. The primary care provider does not submit all of the information and documentation listed in a written comprehensive request for additional information and documentation;
 - b. The Department determines that the primary care provider or the primary care provider's service site does not comply with the requirements in A.R.S. Title 36, Chapter 21 and this Article; or
 - c. The Department determines that the primary care provider and the primary care provider's service site comply with the requirements in A.R.S. Title 36, Chapter 21 and this Article, but:
 - i. There are no loan repayment funds available for the primary care provider;
 - ii. For an initial application, the primary care provider's employer employs four other primary care providers approved to participate in the Primary Care Provider Loan Repayment Program or Rural Private Primary Care Provider Loan Repayment Program, as applicable; or
 - iii. For an initial application, the primary care provider's service site employs two other primary care providers approved to participate in the Primary Care Provider Loan Repayment Program or Rural Private Primary Care Provider Loan Repayment Program, as applicable.
- H.** If the Department issues a denial based on the determination in subsection (G)(2)(c), the Department shall include in the denial, a notice that, depending on the availability of loan repayment funds, the primary care provider may submit a supplemental initial application for approval to participate in the Primary Care Provider Loan Repayment Program or Rural Private Primary Care Provider Loan Repayment Program during the October allocation process of the same calendar year, as specified in R9-15-204(A).
- I.** If the Department approves a primary care provider's initial application according to subsection (G)(1) for participation in the Primary Care Provider Loan Repayment Program or Rural Private Primary Care Provider Loan Repayment Program, the primary care provider is approved to participate for two years.
- J.** The Department shall determine the effective date of a loan repayment contract after receiving acceptance from a primary care provider following the Department's notice of approval in subsection (G)(1).

Historical Note

Section R9-15-205 renumbered to R9-15-204; new Section R9-15-205 renumbered from R9-15-206 and amended by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Section amended and emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

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EMERGENCY RULEMAKING

Table 2.1. Time-frames (in calendar days)

Type of approval	Authority (A.R.S. § or A.A.C.)	Overall Time-frame (in working days)	Time-frame for the applicant to complete application (in working days)	Administrative Completeness Time-frame (in working days)	Substantive Review Time-frame (in working days)
Initial application	R9-15-202	45	20	15	30
Renewal application	R9-15-203	45	10	15	30
Supplemental initial application	R9-15-204	45	10	15	30
Request for Change	R9-15-106	15		5	10
Request to suspend a loan repayment contract	R9-15-107	15		5	10
Request to waive liquidated damages	R9-15-110	15		5	10
Request to cancel a loan repayment contract	R9-15-108	15		5	10

Historical Note

Table 2.1 Time-Frames made after R9-15-206 renumbered to new Table 2.1 Time-Frames following R9-15-205 and amended by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Table 2.1 amended and emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-205. Renewal Application

- A. A primary care provider who is expected to complete the initial two years of participation in the LRP in the 12 months after April 1, and whose service site has a HPSA score of 14 or more may request to continue participation by submitting a renewal application to the Department by April 1 of each year.
- B. To continue or resume participation in the LRP, the following primary care providers may submit to the Department by October 1 of each year:
 1. A renewal application:
 - a. A primary care provider who has a HPSA score of less than 14 and has completed the initial two years of participation in the LRP before the end of the calendar year; or
 - b. A primary care provider who participated in the LRP during the current calendar year and who has completed three or more years of participation in the LRP before the end of the calendar year; or
 2. The initial application in R9-15-203(C):
 - a. A primary care provider who previously participated in the LRP, completed the first two years of participation in the LRP, and is applying to resume participation; or
 - b. A primary care provider who was previously denied approval to renew participation in the LRP because loan repayment funds were not available.
- C. A primary care provider applying to continue participation in the LRP for an additional year shall submit a renewal application in a Department-provided format to the Department containing:
 1. The primary care provider's:
 - a. Name, home address, telephone number, and email address; and
 - b. Existing loan repayment contract number;
 2. The name of each service site where the primary care provider provides primary care services, including street address, telephone number, email address, and fax number;
 3. Except for a request for change according to R9-15-211, list any changes that may affect the primary care provider's health service priority in R9-15-207 or R9-15-208;
 4. For each lender receiving loan repayment funds according to the initial application or R9-15-211, the:
 - a. Lender's name, street address, email address, and telephone number;
 - b. Street address where the loan repayment funds are sent;
 - c. Loan identification number;
 - d. If different from the initial application, the percentage of the loan repayment funds that the primary care provider wants a lender to receive;
 - e. Current loan balance, including date provided; and
 - f. Whether the primary care provider requests to continue loan repayment to the lender;
 5. If the primary care provider wants to add a qualifying educational loan:
 - a. The lender's name, street address, email address, and telephone number;
 - b. The street address where the loan repayment funds are sent;
 - c. The loan identification number;
 - d. The original date of the loan;
 - e. The primary care provider's name as it appears on the loan contract;
 - f. The original loan amount;
 - g. The current balance of the loan, including the date provided;
 - h. The interest rate on the loan;
 - i. The purpose for the loan;
 - j. The month and year of the start and the end of the academic period covered by the loan; and

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- k. If more than one lender is receiving loan repayment funds, the primary care provider shall advise the Department of the percentage of the loan repayment funds that each lender is identified by the primary care provider to receive;
- 6. For each qualifying educational loan, a copy of the most recent billing statement from the lender;
- 7. For any qualifying educational loan identified in subsection (C)(5), documentation from the lender or the National Student Loan Data System established by the U.S. Department of Education verifying that the loan is a qualifying educational loan;
- 8. Whether the primary care provider is subject to a judgment lien for a debt to a federal agency;
- 9. If applying to participate in the Primary Care Provider LRP, whether the primary care provider:
 - a. Has defaulted on:
 - i. A Federal income tax liability,
 - ii. Any federally-guaranteed or insured student or home mortgage loan,
 - iii. A Federal Health Education Assistance Loan,
 - iv. A Federal Nursing Student Loan, or
 - v. A Federal Housing Authority Loan; or
 - b. Is delinquent on:
 - i. A payment for court-ordered child support, or
 - ii. A payment for state taxes; or
- 10. If applying to participate in the Rural Private Primary Care Provider LRP, whether the primary care provider is delinquent on payment for state taxes or court-ordered child support;
- 11. Whether the primary care provider is providing services at a critical access hospital and primary care services at a service site according to R9-15-202(A)(1)(g);
- 12. Whether the primary care provider agrees to allow the Department to submit supplemental requests for additional information or documentation in R9-15-206;
- 13. An attestation that:
 - a. Except for the circumstances listed in subsection (C)(3), the information in the initial application, other than loan balances and requested repayment amounts, is still current;
 - b. The Department is authorized to verify all information provided in the renewal application;
 - c. The primary care provider is applying to participate in the LRP for an additional year for loan repayment of all or part of the qualifying educational loans identified in the renewal application;
 - d. The primary care provider will charge fees for primary care services established in the sliding-fee schedule according to R9-15-202; and
 - e. The information submitted as part of the renewal application is true and accurate;
- 14. The primary care provider's signature and date of signature;
- 15. For each service site where a primary care provider provides primary care services, documentation, in a Department-provided format, that includes:
 - a. A statement signed by the licensee, licensee's designee, or tribal authority from the service site where the primary care provider provides primary care services that the primary care provider's employment is extended at least for an additional year;
 - b. The date the primary care provider is expected to end providing primary care services;
- c. Whether the primary care provider is providing primary care services full-time or half-time;
- d. The number of primary care service hours per week the primary care provider is expected to provide;
- e. Documentation of primary care services provided during the past 12 months including the:
 - i. Number of encounters,
 - ii. Number of AHCCCS encounters,
 - iii. Number of Medicare encounters,
 - iv. Number of self-pay encounters on sliding-fee schedule, and
 - iv. Number of encounters free-of-charge;
- f. If the primary care provider will provide telemedicine, the number of telemedicine hours the primary care provider is expected to provide;
- g. An attestation that the service site will comply with the requirements in R9-15-202, including agreeing to notify the Department when the employment status of the primary care provider changes;
- h. The name, title, email address, and telephone number of a contact individual for the service site; and
- i. The service site licensee's, licensee's designee, or tribal authority's signature and date of signature;
- 16. If a primary care provider provides services at a critical access hospital according to R9-15-202(A)(1)(g), documentation in a Department-provided format that includes the:
 - a. Name, street address, telephone number, email address, and fax number of the critical access hospital;
 - b. Number of service hours per week that the primary care provider is expected to provide at the critical access hospital; and
 - c. Name, title, email address, and telephone number of a contact individual for the critical access hospital;
- 17. If the primary care provider's employer is not the licensee or tribal authority of the service site identified in subsection (C)(15), documentation in a Department-provided format, that includes:
 - a. A statement that the employer will extend the primary care provider's employment for at least an additional year;
 - b. The date the primary care provider is expected to end providing primary care services at the service site;
 - c. Whether the primary care provider is providing primary care services full-time or half-time;
 - d. The number of primary care service hours per week the primary care provider is expected to provide;
 - e. If the primary care provider will provide telemedicine, the number of telemedicine hours the primary care provider is expected to provide;
 - f. An attestation that the employer will comply with the requirements in R9-15-202, including agreeing to notify the Department when the employment status of the primary care provider changes;
 - g. The name, title, email address, and telephone number of a contact individual for the employer; and
 - h. The employer's signature and date of signature; and
- 18. If more than one service site licensee, tribal authority, or employer is identified in subsection (C)(15) and (16), the signature and date of signature of each service site licensee, tribal authority, or employer.

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- D.** In addition to the information required in subsection (C), the following documentation:
- Except for a free-clinic or federal or state prison, for each service site where the primary care provider provides or will provide primary care services:
 - A copy of the sliding-fee schedule in R9-15-202(A)(2)(d)(i),
 - A copy of the sliding-fee schedule policy in R9-15-202(A)(2)(d)(ii), and
 - A copy of the service site's sliding-fee schedule signage in R9-15-202(A)(2)(d)(iii), posted on the premises;
 - If a free-clinic, a copy of the policy in R9-15-202(A)(2)(f) that the free-clinic provides primary care services to individuals at no charge;
 - Documentation of a service site's HPSA designation and HPSA score, dated within 30 calendar days before the renewal application submission date; and
 - For each lender receiving loan repayment funds, a copy of the most recent billing statement.
- E.** A primary care provider shall execute any document necessary for the Department to access records and acquire information necessary to verify information provided by the primary care provider.
- F.** The Department shall accept a renewal application no more than 30 calendar days before the renewal application submission date required in subsection (A) or (B).
- G.** If the Department receives a renewal application at a time other than the time stated in subsection (A) or (B), the Department shall return the renewal application to the primary care provider that submitted the renewal application.
- H.** The Department shall review a primary care provider's renewal application according to R9-15-206.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed; new Section made by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

R9-15-205.01. Expired**Historical Note**

New Section made by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1). Section expired under A.R.S. § 41-1056(J) at 27 A.A.R. 1010, effective June 2, 2021 (Supp. 21-2).

EMERGENCY RULEMAKING**R9-15-206. Primary Care Provider Health Service Priority**

- A.** For a primary care provider providing primary care services at multiple service sites, the Department shall determine the health service priority points in subsection (B)(1) through (6) for each service site and:
- If the number of primary care service hours worked at one service site is more than 50 percent of the primary care provider's total number of primary care service hours worked, the Department shall use that service site's points to determine an initial application or a renewal application health service priority; or
 - If the number of primary care service hours worked at one service site is not more than 50 percent of the primary care provider's total number of primary care service hours worked, the Department shall use the average of all

service sites' points to determine an initial application or a renewal application health service priority.

- B.** The Department shall review an initial application or a renewal application and assign points based on the following factors to determine the initial application or renewal application health service priority:
- The service site is located in a rural area:
 - Yes = 10 points, or
 - No = 0 points;
 - The service site's highest geographic, facility, or population HPSA score, consistent with subsection (A), assigned by the U.S. Secretary of Health and Human Services for the area in which the service site is located according to the documentation provided by the primary care provider;
 - The service site's percentage of the total encounters reported according to R9-15-202(B)(15)(l) or R9-15-203(C)(15)(e) that are AHCCCS, Medicare, approved sliding-fee schedule, and free-of-charge encounters:

Percentage	Points
Greater than 50%	10,
35-50%	8,
26-34%	6,
11-25%	4, or
Less than 10%	2;
 - Except for a service site at a federal prison or state prison, if:
 - A medical primary care provider, including a pharmacist, and the distance from the primary care provider's service site to the next service site that provides medical services and offers reduced primary care services fees according to an approved sliding-fee schedule is:

Miles	Points
Greater than 25	4, or
Less than 25	0;
 - A dental primary care provider and the distance from the primary care provider's service site to the next service site that provides dental services and offers reduced primary care services fees according to an approved sliding-fee schedule is:

Miles	Points
Greater than 25	4, or
Less than 25	0; and
 - A behavioral health primary care provider and the distance from the primary care provider's service site to the next service site that provides behavioral health services and offers reduced primary care services fees according to an approved sliding-fee schedule is:

Miles	Points
Greater than 25	4, or
Less than 25	0;
 - For an initial application only, the primary care provider is newly employed at the service site or by the employer:
 - Yes = 2 points, or
 - No = 0 points;
 - The primary care provider only provides primary care services when the primary care provider and the patient are physically present at the same location:
 - Yes = 4 points, or
 - No = 0 points;
 - The primary care provider is a resident of Arizona according to A.R.S. § 15-1802:

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- a. Yes = 4 points, or
 - b. No = 0 point;
8. The primary care provider is a graduate of an Arizona graduate educational institution:
 - a. Yes = 4 points, or
 - b. No = 0 point;
9. For an initial application only, the primary care provider has experience providing primary care services to a medically underserved population:
 - a. Yes = 4 points, or
 - b. No = 0 point; and
10. The primary care provider is providing or agrees to provide primary care services full-time:
 - a. Yes = 3 points, or
 - b. No = 0 points.
- C. To determine a service site's highest HPSA score, the Department shall apply the following HPSA designations:
 1. A Primary Medical Care HPSA score if a primary care provider provides medical or pharmaceutical primary care services,
 2. A Dental HPSA score if a primary care provider provides dental primary care services, and
 3. A Mental Health HPSA score if a primary care provider provides behavioral health primary care services.
- D. For the purpose of determining a health service priority and allocating loan repayment funds, the Department shall consider a primary care provider who provides services at a critical access hospital, in addition to primary care services at a service site according to R9-15-201(A)(1)(g), to be providing services full-time.
- E. The Department shall determine a primary care provider's initial or renewal application health service priority by calculating the sum of the assigned points for the factors described in subsection (B).
- F. The Department shall apply the factors in subsection (G) if the Department determines there are:
 1. More than one initial application or renewal application that have the same health service priority and there are funds available for only one initial or renewal application; or
 2. Two or more initial applications that have the same health service priority for:
 - a. A service site and there is one health care provider with a higher health service priority approved to participate in the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program during the same June allocation process, or
 - b. An employer and there are three primary care providers with a higher health service priority approved to participate in the Primary Care Provider Loan Repayment Program or Rural Private Primary Care Provider Loan Repayment Program during the same June allocation process.
- G. To determine participation in the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program for a primary care provider in subsection (F), the Department shall apply the following to each primary care provider's application:
 1. If only one application is for a primary care provider who is a resident of Arizona, the Department shall approve the primary care provider for participation;
 2. If more than one application is for a primary care provider who is a resident of Arizona, the Department shall apply each of the following factors in descending order until no two applications are the same and all available loan repayment funds have been allocated:
 - a. Whether a primary care provider will provide primary care services full-time;
 - b. Whether the primary care provider's service site is located in a rural area;
 - c. The service site's highest HPSA score reported in subsection (B)(2);
 - d. Whether the primary care provider provides primary care services when the primary care provider and a patient are at the same location;
 - e. Whether the primary care provider has experience providing primary care services to a medically underserved population;
 - f. The number of total hours the primary care provider has experience providing primary care services in a medically underserved population if reported in subsection (G)(2)(e); and
 - g. Whether the primary care provider's practice or specialty is identified as the greatest unmet healthcare discipline or specialty area in Arizona, as determined by the U. S. Department of Health & Human Services, Health Resources and Services Administration.
- H. If more than one initial application or renewal application for a primary care provider in subsection (F) remains after the Department's determinations in subsection (G) and there are limited loan repayment funds available, the Department shall randomly select one primary care provider's initial application or renewal application and approve the primary care provider for participation in the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program.
- I. When the Department holds a random selection to determine one initial application or renewal application identified in subsection (H), the Department shall:
 1. Assign an Assistant Director from a different division within the Department other than the division responsible for the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program for the random selection, and
 2. Invite all the primary care providers whose initial applications or renewal applications are identified to participate in the random selection.
- J. The Department shall notify a primary care provider of the Department's decision according to R9-15-205.

Historical Note

Section R9-15-206 renumbered to R9-15-205; new Section R9-15-206 renumbered from R9-15-207 and amended by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Section amended and emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-206. Time-frames

- A. The overall time-frame begins, for:
 1. An initial application, on the date established as the deadline for submission of an initial application in R9-15-203;
 2. A supplemental initial application, on the date established as the deadline for submission of a supplemental initial application in R9-15-204;

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3. A renewal application, on the date established as the deadline for submission of a renewal application in R9-15-205; or
4. A request to add or transfer to another service site or employer, add or change a lender, add or change a qualifying educational loan, change hours worked, suspend or cancel a loan repayment contract, or waive liquidated damages, on the date the request is received by the Department.
- B.** Within the administrative completeness review time-frame for each type of approval in Table 2.1, the Department shall:
 1. Provide a notice of administrative completeness to a primary care provider; or
 2. Provide a notice of deficiencies to a primary care provider, including a list of the missing information or documents.
- C.** If the Department provides a notice of deficiencies to a primary care provider:
 1. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice of deficiencies until the date the Department receives the missing information or documents from the primary care provider;
 2. If the primary care provider submits the missing information or documents to the Department within the time-frame in Table 2.1, the substantive review time-frame begins on the date the Department receives the missing information or documents; and
 3. If the primary care provider does not submit the missing information or documents to the Department within the time-frame in Table 2.1, the Department shall consider the application withdrawn.
- D.** Within the substantive review time-frame for each type of approval in Table 2.1, the Department:
 1. Shall approve or deny a primary care provider's request;
 2. May make a written comprehensive request for additional information or documentation; and
 3. May make supplemental requests, if the primary care provider agrees to allow the Department to submit supplemental requests for additional information and documentation.
- E.** If the Department provides a written comprehensive request for additional information or documentation to the primary care provider:
 1. The substantive review time-frame and the overall time-frame are suspended from the date of the written comprehensive request until the date the Department receives the information and documents requested; and
 2. The primary care provider shall submit to the Department the information and documents listed in the written comprehensive request within 10 working days after the date of the written comprehensive request.
- F.** During the substantive review time-frame the Department shall, for each initial, supplemental initial, or renewal application that the Department determines is complete and demonstrates that the primary care provider and service site comply with the requirements in A.R.S. Title 36, Chapter 21 and this Article, by 60 calendar days after the application submission date established in this Article, determine a:
 1. Health service priority according to R9-15-207 or R9-15-208, and
 2. Highest HPSA score according to R9-15-207(B)(2) or R9-15-208(B)(1) or (B)(2).
- G.** The Department shall issue:
 1. An approval for a primary care provider to participate in the:
 - a. Primary Care Provider Loan Repayment Program in A.R.S. § 36-2172 when:
 - i. The primary care provider and the primary care provider's service site complies with the requirements in A.R.S. Title 36, Chapter 21 and this Article; and
 - ii. The primary care provider has a health care priority according to R9-15-207 that makes the primary care provider eligible for available loan repayment funds according to R9-15-202; or
 - b. Rural Private Primary Care Provider Loan Repayment Program in A.R.S. § 36-2174 when:
 - i. The primary care provider and the primary care provider's service site complies with the requirements in A.R.S. Title 36, Chapter 21 and this Article; and
 - ii. The primary care provider has a health care priority according to R9-15-208 that makes the primary care provider eligible for loan repayment funds according to R9-15-202; or
 2. A denial to a primary care provider, including the reason for the denial and the appeal process in A.R.S. Title 41, Chapter 6, Article 10, if:
 - a. The primary care provider does not submit all of the information and documentation listed in a written comprehensive request for additional information and documentation;
 - b. The Department determines that the primary care provider or the primary care provider's service site does not comply with the requirements in A.R.S. Title 36, Chapter 21 and this Article; or
 - c. The Department determines that the primary care provider and the primary care provider's service site comply with the requirements in A.R.S. Title 36, Chapter 21 and this Article, but:
 - i. There are no loan repayment funds available for the primary care provider;
 - ii. For an initial application, the primary care provider's employer employs four other primary care providers approved to participate in the LRP; or
 - iii. For an initial application, the primary care provider's service site employs two other primary care providers approved to participate in the LRP.
- H.** If the Department issues a denial based on the determination in subsection (G)(2)(c), the Department shall include in the denial, a notice that, depending on the availability of loan repayment funds, the primary care provider may submit a supplemental initial application for approval to participate in the LRP during the October allocation process of the same calendar year.
- I.** If the Department approves a primary care provider's initial application according to subsection (G)(1) for participation in the LRP, the primary care provider is approved to participate for two years.
- J.** The Department shall determine the effective date of a loan repayment contract after receiving acceptance from a primary care provider following the Department's notice of approval in subsection (G)(1).

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Historical Note

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed;

new Section made by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

Table 2.1. Time-frames (in calendar days)

Type of approval	Authority (A.R.S. § or A.A.C.)	Overall Time-frame (in working days)	Time-frame for applicant to complete application (in working days)	Administrative Completeness Time-frame (in working days)	Substantive Review Time-frame (in working days)
Initial application	R9-15-203	45	20	15	30
Supplemental initial application	R9-15-204	45	10	15	30
Renewal application	R9-15-205	45	10	15	30
Request for Change	R9-15-211	15		5	10
Request to suspend a loan repayment contract	R9-15-212	15		5	10
Request to waive liquidated damages	R9-15-214	15		5	10
Request to cancel a loan repayment contract	R9-15-215	15		5	10

Historical Note

New Table 2.1 Time-Frames made by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

EMERGENCY RULEMAKING**R9-15-207. Rural Private Primary Care Provider Health Service Priority**

A. For a primary care provider providing primary care services at multiple service sites, the Department shall determine the health service priority points in subsection (B)(1) through (6) for each service site and:

1. If the number of primary care service hours worked at one service site is more than 50 percent of the primary care provider's total number of primary care service hours worked, the Department shall use that service site's points to determine an initial application or a renewal application health service priority; or
2. If the number of primary care service hours worked at one service site is not more than 50 percent of the primary care provider's total number of primary care service hours worked, the Department shall use the average of all service sites' points to determine an initial application or a renewal application health service priority.

B. The Department shall review an initial application or a renewal application and assign points based on the following factors to determine the initial application or renewal application health service priority:

1. If the service site is a designated HPSA, the service site's highest geographic, facility, or population HPSA score, consistent with subsection (A), assigned by the U.S. Secretary of Health and Human Services for the area in which the service site is located according to documentation provided by the primary care provider;
2. If the service site is not a designated HPSA, the service site's AzMUA score, assigned by the Department, converted to an equivalent HPSA score as calculated by dividing the AzMUA score by 4.65 then rounding the quotient to the higher number;
3. The service site's percentage of the total encounters reported according to R9-15-202(B)(15)(l) or R9-15-203(C)(15)(e) that are AHCCCS, Medicare, approved sliding-fee schedule, and free-of-charge encounters:

Percentage	Points
------------	--------

Greater than 50%	10,
35-50%	8,
26-34%	6,
11-25%	4, or
Less than 10%	2;

4. Except for a service site at a federal prison or state prison, if:

a. A medical primary care provider, including a pharmacist, the distance from the primary care provider's service site to the next service site that provides medical services and offers reduced primary care services fees according to an approved sliding-fee schedule:

Miles	Points
Greater than 25	4, or
Less than 25	0;

b. A dental primary care provider, the distance from the primary care provider's service site to the next service site that provides dental services and offers reduced primary care services fees according to an approved sliding-fee schedule:

Miles	Points
Greater than 25	4, or
Less than 25	0; and

c. A behavioral health primary care provider, the distance from the primary care provider's service site to the next service site that provides behavioral health services and offers reduced primary care services fees according to an approved sliding-fee schedule:

Miles	Points
Greater than 25	4, or
Less than 25	0;

5. For an initial application only, the primary care provider is newly employed at the service site or by the employer:

- a. Yes = 2 points, or
- b. No = 0 points;

6. The primary care provider only provides primary care services when the primary care provider and the patient are physically present at the same location:

- a. Yes = 4 points, or

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- b. No = 0 points;
 - 7. The primary care provider is a resident of Arizona according to A.R.S. § 15-1802:
 - a. Yes = 4 points, or
 - b. No = 0 point;
 - 8. The primary care provider is a graduate of an Arizona graduate educational institution:
 - a. Yes = 4 points, or
 - b. No = 0 point;
 - 9. For an initial application only, the primary care provider has experience providing primary care services to a medically underserved population:
 - a. Yes = 4 points, or
 - b. No = 0 point; and
 - 10. The primary care provider is providing or agrees to provide primary care services full-time:
 - a. Yes = 3 points, or
 - b. No = 0 points.
- C. To determine a service site's highest HPSA score, the Department shall apply the following HPSA designations:
 - 1. A Primary Medical Care HPSA score. if a primary care provider provides medical or pharmaceutical primary care services,
 - 2. A Dental HPSA score if a primary care provider provides dental primary care services, and
 - 3. A Mental Health HPSA score if a primary care provider provides behavioral health primary care services.
- D. For the purpose of determining a health service priority and allocating loan repayment funds, the Department shall consider a primary care provider who provides services at a critical access hospital, in addition to primary care services at a service site according to R9-15-201(A)(1)(g), to be providing services full-time.
- E. The Department shall determine a primary care provider's initial or renewal application health service priority by calculating the sum of the assigned points for the factors described in subsection (B).
- F. The Department shall apply the factors in subsection (G) if the Department determines there are:
 - 1. More than one initial application or renewal application that have the same health service priority and there are funds available for only one initial or renewal application; or
 - 2. Two or more initial applications that have the same health service priority for:
 - a. A service site and there is one primary care provider with a higher health service priority approved to participate in the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program during the same June allocation process; or
 - b. An employer and there are three primary care providers with a higher health service priority approved to participate in the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program during the same June allocation process.
- G. To determine participation in the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program for a primary care provider in subsection (F), the Department shall apply the following to each primary care provider's application:
 - 1. If only one application is for a primary care provider who is a resident of Arizona, the Department shall approve the primary care provider for participation;
 - 2. If more than one application is for a primary care provider who is a resident of Arizona, the Department shall apply each of the following factors in descending order until no two applications are the same and all available loan repayment funds have been allocated:
 - a. Whether a primary care provider will provide primary care services full-time;
 - b. Whether the primary care provider's service site is a non-profit;
 - c. The highest service site highest HPSA score or converted AzMUA score in subsection (B)(1) or (2);
 - d. Whether the primary care provider provides primary care services when the primary care provider and a patient are at the same location;
 - e. Whether the primary care provider has experience providing primary care services to a medically underserved population;
 - f. The number of clock hours the primary care provider has experience providing primary care services in a medically underserved population if reported in subsection (G)(2)(e); and
 - g. Whether the primary care provider's practice or specialty is identified as the greatest unmet healthcare discipline or specialty area in Arizona determined by the U.S. Department of Health & Human Services, Health Resources and Services Administration.
- H. If more than one initial application or renewal application for a primary care provider in subsection (F) remains after the Department's determinations in subsection (G) and there are limited loan repayment funds available, the Department shall randomly select one primary care provider's initial application or renewal application and approve the primary care provider for participation in the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program.
- I. When the Department holds a random selection to determine one primary care provider from the primary care providers identified in subsection (H), the Department shall:
 - 1. Assign an Assistant Director from a different division within in the Department other than the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program division to be responsible for the random selection, and
 - 2. Invite all the primary care providers whose initial applications or renewal applications are identified to participate in the random selection.
- J. The Department shall notify a primary care provider of the Department's decision according to R9-15-205.

Historical Note

Section R9-15-207 renumbered to R9-15-206; new Section R9-15-207 renumbered from R9-15-208 and amended by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Section amended and emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-207. Primary Care Provider Health Service Priority

- A. For a primary care provider providing primary care services at multiple service sites, the Department shall determine the

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health service priority points in subsection (B)(1) through (6) for each service site and:

1. If the number of primary care service hours worked at one service site is more than 50 percent of the primary care provider's total number of primary care service hours worked, the Department shall use that service site's points to determine an initial application or a renewal application health service priority; or
 2. If the number of primary care service hours worked at one service site is not more than 50 percent of the primary care provider's total number of primary care service hours worked, the Department shall use the average of all service sites' points to determine an initial application or a renewal application health service priority.
- B.** The Department shall review an initial application or a renewal application and assign points based on the following factors to determine the initial application or renewal application health service priority:
1. The service site is located in a rural area:
 - a. Yes = 10 points, or
 - b. No = 0 points;
 2. The service site's highest geographic, facility, or population HPSA score, consistent with subsection (A), assigned by the U.S. Secretary of Health and Human Services for the area in which the service site is located according to documentation provided by the primary care provider;
 3. The service site's percentage of the total encounters reported according to R9-15-203(C)(15)(l) or R9-15-205(C)(15)(e) that are AHCCCS, Medicare, approved sliding-fee schedule, and free-of-charge encounters:

Percentage	Points
Greater than 50%	10,
35-50%	8,
26-34%	6,
11-25%	4, or
Less than 10%	2;
 4. Except for a service site at a federal or state prison, if:
 - a. A medical primary care provider, including a pharmacist, and the distance from the primary care provider's service site to the next service site that provides medical services and offers reduced primary care services fees according to an approved sliding-fee schedule is:

Miles	Points
Greater than 25	4, or
Less than 25	0;
 - b. A dental primary care provider and the distance from the primary care provider's service site to the next service site that provides dental services and offers reduced primary care services fees according to an approved sliding-fee schedule is:

Miles	Points
Greater than 25	4, or
Less than 25	0; and
 - c. A behavioral health primary care provider and the distance from the primary care provider's service site to the next service site that provides behavioral health services and offers reduced primary care services fees according to an approved sliding-fee schedule is:

Miles	Points
Greater than 25	4, or
Less than 25	0;
 5. For an initial application only, the primary care provider is newly employed at the service site or by the employer:
 - a. Yes = 2 points, or
 - b. No = 0 points;
 6. The primary care provider only provides primary care services when the primary care provider and the patient are physically present at the same location:
 - a. Yes = 4 points, or
 - b. No = 0 points;
 7. The primary care provider is a resident of Arizona according to A.R.S. § 15-1802:
 - a. Yes = 4 points, or
 - b. No = 0 point;
 8. The primary care provider is a graduate of an Arizona graduate educational institution:
 - a. Yes = 4 points, or
 - b. No = 0 point;
 9. For an initial application only, the primary care provider has experience providing primary care services to a medically underserved population:
 - a. Yes = 4 points, or
 - b. No = 0 point; and
 10. The primary care provider is providing or agrees to provide primary care services full-time:
 - a. Yes = 3 points, or
 - b. No = 0 points.
- C.** To determine a service site's highest HPSA score, the Department shall apply the following HPSA designations:
1. A Primary Medical Care HPSA score if a primary care provider provides medical or pharmaceutical primary care services,
 2. A Dental HPSA score if a primary care provider provides dental primary care services, and
 3. A Mental Health HPSA score if a primary care provider provides behavioral health primary care services.
- D.** For the purpose of determining a health service priority and allocating loan repayment funds, the Department shall consider a primary care provider who provides services at a critical access hospital, in addition to primary care services at a service site according to R9-15-202(A)(1)(g), to be providing services full-time.
- E.** The Department shall determine a primary care provider's initial or renewal application health service priority by calculating the sum of the assigned points for the factors described in subsection (B).
- F.** The Department shall apply the factors in subsection (G) if the Department determines there are:
1. More than one initial application or renewal application that have the same health service priority and there are funds available for only one initial or renewal application; or
 2. Two or more initial applications that have the same health service priority for:
 - a. A service site and there is one health care provider with a higher health service priority approved to participate in the LRP during the same June allocation process, or
 - b. An employer and there are three primary care providers with a higher health service priority approved to participate in the LRP during the same June allocation process.
- G.** To determine participation in the LRP for a primary care provider in subsection (F), the Department shall apply the following to each primary care provider's application:

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1. If only one application is for a primary care provider who is a resident of Arizona, the Department shall approve the primary care provider for participation;
 2. If more than one application is for a primary care provider who is a resident of Arizona, the Department shall apply each of the following factors in descending order until no two applications are the same and all available loan repayment funds have been allocated:
 - a. Whether a primary care provider will provide primary care services full-time;
 - b. Whether the primary care provider's service site is located in a rural area;
 - c. The service site highest HPSA score reported in subsection (B)(2);
 - d. Whether the primary care provider provides primary care services when the primary care provider and a patient are at the same location;
 - e. Whether the primary care provider has experience providing primary care services to a medically underserved population;
 - f. The number of total hours the primary care provider has experience providing primary care services in a medically underserved population if reported in subsection (G)(2)(e); and
 - g. Whether the primary care provider's practice or specialty is identified as the greatest unmet healthcare discipline or specialty area in Arizona, as determined by the U.S. Department of Health & Human Services, Health Resources and Services Administration.
 - H. If more than one initial application or renewal application for a primary care provider in subsection (F) remains after the Department's determinations in subsection (G) and there are limited loan repayment funds available, the Department shall randomly select one primary care provider's initial application or renewal application and approve the primary care provider for participation in the LRP.
 - I. When the Department holds a random selection to determine one initial application or renewal application identified in subsection (H), the Department shall:
 1. Assign an Assistant Director from a different division within the Department than the LRP division to be responsible for the random selection, and
 2. Invite all the primary care providers whose initial applications or renewal applications are identified to participate in the random selection.
 - J. The Department shall notify a primary care provider of the Department's decision according to R9-15-206.
- Historical Note**
- New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed; new Section made by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).
- EMERGENCY RULEMAKING**
- R9-15-208. Allocation of Primary Care Provider Loan Repayment Rural Private Primary Care Provider Loan Repayment Funds**
- A. Each fiscal year, for an initial application or renewal application that demonstrates a primary care provider's and the primary care provider's service site's compliance with A.R.S. Title 36, Chapter 21 and this Article, the Department shall allocate loan repayment funds according to this Section and in the following order to the primary care provider with the highest health service priority:
 1. During the April allocation process, primary care providers with a HPSA score of 14 or more who are approved to participate for a third year in the:
 - a. Primary Care Provider Loan Repayment Program, or
 - b. Rural Private Primary Care Provider Loan Repayment Program;
 2. During the June allocation process, if there are additional loan repayment funds available after the allocation process in subsection (A)(1), primary care providers who are approved for initial participation for two years in the:
 - a. Primary Care Provider Loan Repayment Program, or
 - b. Rural Private Primary Care Provider Loan Repayment Program; and
 3. During the October allocation process, if there are additional loan repayment funds available after the allocation process in subsection (A)(2), primary care providers delineated in subsection (B) in the:
 - a. Primary Care Provider Loan Repayment Program; or
 - b. Rural Private Primary Care Loan Repayment Program.
 - B. A primary care provider is allowed to apply for participation in the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program according to the requirements in this Chapter and be allocated loan repayment funds according to subsection (A)(3), if the primary care provider has:
 1. Completed the first two years of participation in the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program but was denied approval to continue participation because no loan repayment funds were available during the allocation process;
 2. Previously participated in the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program, completed at least the first two years of participation, and is applying to resume participation in the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program;
 3. Completed the first two years of participation in the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program and is currently providing primary care services at a service site with a HPSA score below 14, and is applying to continue participation in the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program during the same calendar year as the completion of the first two years;
 4. Completed the first three years of participation in the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program and is applying to continue participation in the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program during the same calendar year as the completion of the first three years of participation; or
 5. Submitted an initial application during the same calendar year that demonstrated the primary care provider's and the primary care provider's service site's compliance with

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A.R.S. Title 36, Chapter 21 and this Article but was denied approval to participate because:

- a. There were no loan repayment funds available;
- b. For an initial application, the primary care provider's employer employs four other primary care providers approved to participate in the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program; or
- c. For an initial application, the primary care provider's service site employs two other primary care providers approved to participate in the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program.

C. The Department shall determine the amount of loan repayment funds allocated to a primary care provider based on the primary care provider's service site's highest HPSA score as determined in R9-15-206(B)(2) or R9-15-207(B)(1) or (2), as follows:

1. If a service site's highest HPSA score is 18 to 26 points, 100 percent of the maximum annual amount;
2. If a service site's highest HPSA score is 14 to 17 points, 90 percent of the maximum annual amount; and
3. If a service site's highest HPSA score is 0 to 13 points, 80 percent of the maximum annual amount.

D. The Department shall allocate loan repayment funds to physicians and dentists according to the following:

Contract Year of Service	Maximum Annual Amount for Full-Time		
	HPSA Score of 18-26	HPSA Score of 14-17	HPSA Score of 0-13
Initial two years	\$65,000	\$58,500	\$52,000
Third year	\$35,000	\$31,500	\$28,000
Fourth year	\$25,000	\$22,500	\$20,000
Fifth year and continuing	\$15,000	\$13,500	\$12,000

Contract Year of Service	Maximum Annual Amount for Half-Time		
	HPSA Score of 18-26	HPSA Score of 14-17	HPSA Score of 0-13
Initial two years	\$32,500	\$29,250	\$26,000
Third year	\$17,500	\$15,750	\$14,000
Fourth year	\$12,500	\$11,250	\$10,000
Fifth year and continuing	\$7,500	\$6,750	\$6,000

E. The Department shall allocate loan repayment funds to pharmacists, advance practice providers, and behavioral health care providers according to the following:

Contract Year of Service	Maximum Annual Amount for Full-Time		
	HPSA Score of 18-26	HPSA Score of 14-17	HPSA Score of 0-13
Initial two years	\$50,000	\$45,000	\$40,000
Third year	\$25,000	\$22,500	\$20,000
Fourth year	\$20,000	\$18,000	\$16,000
Fifth year and continuing	\$10,000	\$9,000	\$8,000

Contract Year of Service	Maximum Annual Amount for Half-Time		
	HPSA Score of 18-26	HPSA Score of 14-17	HPSA Score of 0-13
Initial two years	\$25,000	\$22,500	\$20,000
Third year	\$12,500	\$11,250	\$10,000
Fourth year	\$10,000	\$9,000	\$8,000
Fifth year and continuing	\$5,000	\$4,500	\$4,000

F. When calculating the allocation of loan repayment funds for a primary care provider who resumes participation in the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program, the Department shall consider the loan repayment contract year of service to be the succeeding year following the actual loan repayment contract years of service completed during the primary care provider's previous participation in the Primary Care Provider Loan Repayment Program or Rural Health Care Provider Loan Repayment Program.

- G. If the Department has inadequate funds to provide the maximum annual amount allowable and a primary care provider agrees to accept the lesser amount, the Department shall allocate the lesser amount agreed to by the primary care provider.
- H. If the Department determines no loan repayment funds are available during a fiscal year for allocations based on an initial application or a renewal application, the Department shall provide a notice at least 30 calendar days before the initial or

renewal application submission date that the Department is not accepting initial or renewal applications.

Historical Note

Section R9-15-208 renumbered to R9-15-207; new Section R9-15-208 renumbered from R9-15-209 and amended by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Section amended and emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-208. Rural Private Primary Care Provider Health Service Priority

- A. For a primary care provider providing primary care services at multiple service sites, the Department shall determine the

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health service priority points in subsection (B)(1) through (6) for each service site and:

1. If the number of primary care service hours worked at one service site is more than 50 percent of the primary care provider's total number of primary care service hours worked, the Department shall use that service site's points to determine an initial application or a renewal application health service priority; or
 2. If the number of primary care service hours worked at one service site is not more than 50 percent of the primary care provider's total number of primary care service hours worked, the Department shall use the average of all service sites' points to determine an initial application or a renewal application health service priority.
- B.** The Department shall review an initial application or a renewal application and assign points based on the following factors to determine the initial application or renewal application health service priority:
1. If the service site is a designated HPSA, the service site's highest geographic, facility, or population HPSA score, consistent with subsection (A), assigned by the U.S. Secretary of Health and Human Services for the area in which the service site is located according to documentation provided by the primary care provider;
 2. If the service site is not a designated HPSA, the service site's AzMUA score, assigned by the Department, converted to an equivalent HPSA score as calculated by dividing the AzMUA score by 4.65 then rounding the quotient to the higher number;
 3. The service site's percentage of the total encounters reported according to R9-15-203(C)(15)(l) or R9-15-205(C)(15)(e) that are AHCCCS, Medicare, approved sliding-fee schedule, and free-of-charge encounters:

Percentage	Points
Greater than 50%	10,
35-50%	8,
26-34%	6,
11-25%	4, or
Less than 10%	2;
 4. Except for a service site at a federal or state prison, if:
 - a. A medical primary care provider, including a pharmacist, the distance from the primary care provider's service site to the next service site that provides medical services and offers reduced primary care services fees according to an approved sliding-fee schedule:

Miles	Points
Greater than 25	4, or
Less than 25	0;
 - b. A dental primary care provider, the distance from the primary care provider's service site to the next service site that provides dental services and offers reduced primary care services fees according to an approved sliding-fee schedule:

Miles	Points
Greater than 25	4, or
Less than 25	0; and
 - c. A behavioral health primary care provider, the distance from the primary care provider's service site to the next service site that provides behavioral health services and offers reduced primary care services fees according to an approved sliding-fee schedule:

Miles	Points
Greater than 25	4, or
 5. For an initial application only, the primary care provider is newly employed at the service site or by the employer:
 - a. Yes = 2 points, or
 - b. No = 0 points;
 6. The primary care provider only provides primary care services when the primary care provider and the patient are physically present at the same location:
 - a. Yes = 4 points, or
 - b. No = 0 points;
 7. The primary care provider is a resident of Arizona according to A.R.S. § 15-1802:
 - a. Yes = 4 points, or
 - b. No = 0 point;
 8. The primary care provider is a graduate of an Arizona graduate educational institution:
 - a. Yes = 4 points, or
 - b. No = 0 point;
 9. For an initial application only, the primary care provider has experience providing primary care services to a medically underserved population:
 - a. Yes = 4 points, or
 - b. No = 0 point; and
 10. The primary care provider is providing or agrees to provide primary care services full-time:
 - a. Yes = 3 points, or
 - b. No = 0 points.
- C.** To determine a service site's highest HPSA score, the Department shall apply the following HPSA designations:
1. A Primary Medical Care HPSA score, if a primary care provider provides medical or pharmaceutical primary care services,
 2. A Dental HPSA score if a primary care provider provides dental primary care services, and
 3. A Mental Health HPSA score if a primary care provider provides behavioral health primary care services.
- D.** For the purpose of determining a health service priority and allocating loan repayment funds, the Department shall consider a primary care provider who provides services at a critical access hospital, in addition to primary care services at a service site according to R9-15-202(A)(1)(g), to be providing services full-time.
- E.** The Department shall determine a primary care provider's initial or renewal application health service priority by calculating the sum of the assigned points for the factors described in subsection (B).
- F.** The Department shall apply the factors in subsection (G) if the Department determines there are:
1. More than one initial application or renewal application that have the same health service priority and there are funds available for only one initial or renewal application; or
 2. Two or more initial applications that have the same health service priority for:
 - a. A service site and there is one primary care provider with a higher health service priority approved to participate in the LRP during the same June allocation process; or
 - b. An employer and there are three primary care providers with a higher health service priority approved to participate in the LRP during the same June allocation process.

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G. To determine participation in the LRP for a primary care provider in subsection (F), the Department shall apply the following to each primary care provider's application:

1. If only one application is for a primary care provider who is a resident of Arizona, the Department shall approve the primary care provider for participation;
2. If more than one application is for a primary care provider who is a resident of Arizona, the Department shall apply each of the following factors in descending order until no two applications are the same and all available loan repayment funds have been allocated:
 - a. Whether a primary care provider will provide primary care services full-time;
 - b. Whether the primary care provider's service site is a non-profit;
 - c. The highest service site highest HPSA score or converted AzMUA score in subsection (B)(1) or (2);
 - d. Whether the primary care provider provides primary care services when the primary care provider and a patient are at the same location;
 - e. Whether the primary care provider has experience providing primary care services to a medically underserved population;
 - f. The number of clock hours the primary care provider has experience providing primary care services in a medically underserved population if reported in subsection (G)(2)(e); and
 - g. Whether the primary care provider's practice or specialty is identified as the greatest unmet healthcare discipline or specialty area in Arizona determined by the U.S. Department of Health & Human Services, Health Resources and Services Administration.

H. If more than one initial application or renewal application for a primary care provider in subsection (F) remains after the Department's determinations in subsection (G) and there are limited loan repayment funds available, the Department shall randomly select one primary care provider's initial application or renewal application and approve the primary care provider for participation in the LRP.

I. When the Department holds a random selection to determine one primary care provider from the primary care providers identified in subsection (H), the Department shall:

1. Assign an Assistant Director from a different division within in the Department than the LRP division to be responsible for the random selection, and
2. Invite all the primary care providers whose initial applications or renewal applications are identified to participate in the random selection.

J. The Department shall notify a primary care provider of the Department's decision according to R9-15-206.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed; new Section made by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

EMERGENCY RULEMAKING**R9-15-209. Supplemental Verification Requirements of Primary Care Services**

In addition to the requirements in R9-15-105, if primary care services are provided:

1. By means of telemedicine, a primary care provider shall attest that the originating site where the telemedicine

patient is located and the distant site where the primary care provider is located are both in a HPSA or, if applicable, both in an AzMUA; and

2. At a critical access hospital with a separate qualifying service site, the primary care provider shall report the:
 - a. Total number of hours the primary care provider provided primary care services at the qualifying service site separate from the critical access hospital, and
 - b. Total number of hours worked at the critical access hospital.

Historical Note

Section R9-15-209 renumbered to R9-15-208; new Section R9-15-209 renumbered from R9-15-210 and amended by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Section amended and emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-209. Allocation of Loan Repayment Funds

A. Each fiscal year, for an initial application or renewal application that demonstrates a primary care provider's and the primary care provider's service site's compliance with A.R.S. Title 36, Chapter 21 and this Article, the Department shall allocate loan repayment funds according to this Section and in the following order to the primary care provider with the highest health service priority:

1. During the April allocation process, primary care providers with a HPSA score of 14 or more who are approved to participate for a third year in the:
 - a. Primary Care Provider LRP, or
 - b. Rural Private Primary Care Provider LRP;
2. During the June allocation process, if there are additional loan repayment funds available after the allocation process in subsection (A)(1), primary care providers who are approved for initial participation for two years in the:
 - a. Primary Care Provider LRP, or
 - b. Rural Private Primary Care Provider LRP; and
3. During the October allocation process, if there are additional loan repayment funds available after the allocation process in subsection (A)(2), primary care providers delineated in subsection (B) in the:
 - a. Primary Care Provider LRP; or
 - b. Rural Private Primary Care Provider LRP.

B. A primary care provider is allowed to apply for participation in the LRP according to the requirements in this Chapter and be allocated loan repayment funds according to subsection (A)(3), if the primary care provider has:

1. Completed the first two years of participation in the LRP but was denied approval to continue participation because no loan repayment funds were available during the allocation process;
2. Previously participated in the LRP, completed at least the first two years of participation, and is applying to resume participation in the LRP;
3. Completed the first two years of participation in the LRP and is currently providing primary care services at a service site with a HPSA score below 14, and is applying to continue participation in the LRP during the same calendar year as the completion of the first two years;
4. Completed the first three years of participation in the LRP and is applying to continue participation in the LRP

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- during the same calendar year as the completion of the first three years of participation; or
5. Submitted an initial application during the same calendar year that demonstrated the primary care provider's and the primary care provider's service site's compliance with A.R.S. Title 36, Chapter 21 and this Article but was denied approval to participate because:
 - a. There were no loan repayment funds available;
 - b. For an initial application, the primary care provider's employer employs four other primary care providers approved to participate in the LRP; or
 - c. For an initial application, the primary care provider's service site employs two other primary care providers approved to participate in the LRP.
 - C. The Department shall use monies donated to the LRP to supplement allocations made according to A.R.S. Title 36, Chapter 21 and this Article based on a primary care provider's health service priority and, if applicable, any designation made for the donation according to subsection (D).
 - D. A person donating monies to the LRP shall designate whether the donation is for:
 1. The LRP to use at the discretion of the Department for loan repayment allocations or for LRP administrative costs; or
 2. One of the following:
 - a. The Primary Care Provider Loan Repayment Program established according to A.R.S. § 36-2172;
 - b. The Rural Private Primary Care Provider Loan Repayment Program established according to A.R.S. § 36-2174;
 - c. A specific type or types of primary care provider; or
 - d. A specific county in Arizona;
 - E. If state loan repayment funds and state-appropriated funds are depleted, but there are donated funds available and the primary care provider with the next highest health service priority is not designated to receive the donated funds according to (D)(2) the donated monies are not allocated during the current allocation process.
 - F. The Department shall determine the amount of loan repayment funds allocated to a primary care provider based on the primary care provider's service site's highest HPSA score as determined in R9-15-207(B)(2) or R9-15-208(B)(1) or (2), as follows:
 1. If a service site's highest HPSA score is 18 to 26 points, 100 percent of the maximum annual amount;
 2. If a service site's highest HPSA score is 14 to 17 points, 90 percent of the maximum annual amount; and
 3. If a service site's highest HPSA score is 0 to 13 points, 80 percent of the maximum annual amount.

- G. The Department shall allocate loan repayment funds to physicians and dentists according to the following:

Contract Year of Service	Maximum Annual Amount for Full-Time		
	HPSA Score of 18-26	HPSA Score of 14-17	HPSA Score of 0-13
Initial two years	\$65,000	\$58,500	\$52,000
Third year	\$35,000	\$31,500	\$28,000
Fourth year	\$25,000	\$22,500	\$20,000
Fifth year and continuing	\$15,000	\$13,500	\$12,000

Contract Year of Service	Maximum Annual Amount for Half-Time		
	HPSA Score of 18-26	HPSA Score of 14-17	HPSA Score of 0-13
Initial two years	\$32,500	\$29,250	\$26,000
Third year	\$17,500	\$15,750	\$14,000
Fourth year	\$12,500	\$11,250	\$10,000
Fifth year and continuing	\$7,500	\$6,750	\$6,000

- H. The Department shall allocate loan repayment funds to pharmacists, advance practice providers, and behavioral health providers according to the following:

Contract Year of Service	Maximum Annual Amount for Full-Time		
	HPSA Score of 18-26	HPSA Score of 14-17	HPSA Score of 0-13
Initial two years	\$50,000	\$45,000	\$40,000
Third year	\$25,000	\$22,500	\$20,000
Fourth year	\$20,000	\$18,000	\$16,000
Fifth year and continuing	\$10,000	\$9,000	\$8,000

Contract Year of Service	Maximum Annual Amount for Half-Time		
	HPSA Score of 18-26	HPSA Score of 14-17	HPSA Score of 0-13
Initial two years	\$25,000	\$22,500	\$20,000
Third year	\$12,500	\$11,250	\$10,000
Fourth year	\$10,000	\$9,000	\$8,000
Fifth year and continuing	\$5,000	\$4,500	\$4,000

- I. When calculating the allocation of loan repayment funds for a primary care provider who resumes participation in the LRP, the Department shall consider the loan repayment contract year of service to be the succeeding year following the actual loan repayment contract years of service completed during the primary care provider's previous participation in the LRP.

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- J.** If the Department has inadequate funds to provide the maximum annual amount allowable and a primary care provider agrees to accept the lesser amount, the Department shall allocate the lesser amount agreed to by the primary care provider.
- K.** If the Department determines no loan repayment funds are available during a fiscal year for allocations based on an initial application or a renewal application, the Department shall provide a notice at least 30 calendar days before the initial or renewal application submission date that the Department is not accepting initial or renewal applications.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed; new Section made by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1). In subsection (H) the word “allocate” was corrected to “allocate” (Supp. 21-2).

EMERGENCY RULEMAKING**R9-15-210. Renumbered****Historical Note**

Section R9-15-210 renumbered to R9-15-209 by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-210. Verification of Primary Care Services and Disbursement of Loan Repayment Funds

- A.** If primary care services are provided by means of telemedicine, a primary care provider shall:
1. Report the number of telemedicine hours worked, and
 2. Attest that the originating site where the telemedicine patient is located and the distant site where the primary care provider is located are both in a HPSA or, if applicable, both in an AzMUA.
- B.** If a primary care provider provides primary care services at a critical access hospital with a separate qualifying service site, the primary care provider shall report the:
1. Total number of hours the primary care provider provided primary care services at the qualifying service site separate from the critical access hospital, and
 2. Total number of hours worked at the critical access hospital.
- C.** A primary care provider shall submit verification of primary care service hours worked at the primary care provider's approved service site on a Department-provided format containing:
1. The primary care provider's name;
 2. The beginning and ending dates during which the primary care services were provided;
 3. Whether the primary care provider is providing primary care services full-time or half-time;
 4. The primary care provider's notarized signature and date of signature; and
 5. The primary care provider's approved service site's licensee, tribal authority, or employer's notarized signature and date of signature.
- D.** A primary care provider shall submit documentation of primary care service encounters provided at the primary care provider's approved service site in a Department-provided form containing:

1. The primary care provider's name;
 2. The beginning and ending dates during which the primary care services were provided;
 3. The number of total encounters the primary care provider provided during the time reported in subsection (D)(2);
 4. The number of total encounters used the sliding-fee scale the primary care provider provided during the time reported in subsection (D)(2);
 5. The primary care provider's notarized signature and date of signature; and
 6. The primary care provider's approved service site's licensee, tribal authority, or employer's notarized signature and date of signature.
- E.** Upon receipt of the verification in subsection (C) and the documentation in subsection (D), the Department shall disburse loan payment funds to the primary care provider's lender or lenders.
- F.** Primary care services performed before the effective date of a loan repayment contract do not satisfy the contracted primary care health professional service obligation and are not eligible for loan repayment funds.
- G.** The Department shall disburse loan repayment funds for primary care services provided during a loan repayment contract period according to the allocations in R9-15-209.
- H.** The Department may delay disbursing loan repayment funds to a primary care provider's lender or lenders if the primary care provider fails to submit complete or timely service verification and encounter report forms.
- I.** The Department shall not disburse loan repayment funds to a primary care provider's lender or lenders if the primary care provider fails to submit complete and accurate information required in the service verification and the encounter report forms.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed; new Section made by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

EMERGENCY RULEMAKING**R9-15-211. Repealed****Historical Note**

Section R9-15-211 repealed by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-211. Request for Change

- A.** To request a change, a primary care provider shall submit the following information to the Department, in a Department-provided format:
1. The primary care providers name, home address, telephone number, and email address;
 2. Whether the request is to:
 - a. Add or transfer to another service site or employer,
 - b. Add or change a qualifying educational loan or lender, or
 - c. Change primary care service hours from full-time to half-time or from half-time to full-time;

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3. Whether the primary care provider agrees to allow the Department to submit supplemental requests for additional information or documentation in R9-15-206;
 4. An attestation that:
 - a. The Department is authorized to verify all the information provided, and
 - b. The information submitted is true and accurate; and
 5. The primary care provider's signature and date of signature.
- B.** In addition to the information required in subsection (A), a primary care provider:
1. If adding or transferring to a new service site or new employer, shall submit the following information about the new service site or employer:
 - a. In a Department-provided format:
 - i. The information required in R9-15-203(C)(15) for the new service site and in R9-15-203(C)(17) for a new critical access hospital, if applicable;
 - ii. An attestation signed and date signed by a licensee, licensee's designee, or tribal authority from the new service site stating that the new service site will comply with the requirements in R9-15-202, including agreeing to notify the Department when the employment status of the primary care provider changes;
 - iii. If the primary care provider's new employer is not the licensee or tribal authority of the service site identified in subsection (B)(1)(a)(i):
 - (1) An attestation that the new employer will comply with the requirements in R9-15-202, including agreeing to notify the Department when the primary care provider's employment status changes;
 - (2) The name, title, email address, and telephone number of a contact individual for the new employer;
 - (3) Whether the primary care provider is providing primary care services full-time or half-time;
 - (4) The dates that the primary care provider is expected to start and end providing primary care services; and
 - (5) The new employer's signature and date of signature;
 - b. Except for a service site that is a free-clinic or a federal or state prison, a copy of the new service site's:
 - i. Sliding-fee schedule in R9-15-202(A)(2)(d)(i),
 - ii. Sliding-fee schedule policy in R9-15-202(A)(2)(d)(ii), and
 - iii. Sliding-fee schedule signage in R9-15-202(A)(2)(d)(iii), posted on the premises;
 - c. Documentation that the new service site is in a HPSCA or an AzMUA; and
 - d. If more than one service site licensee, tribal authority, or employer is identified in subsection (B)(1)(a), the signature and date of signature of each service site licensee, tribal authority, or employer.
 2. If adding or changing a qualifying educational loan or lender, shall submit the following information about the qualifying educational loan or lender:
 - a. In a Department-provided format:
 - i. An attestation signed and date signed by an individual from the lending institution, certifying that the loan meets the requirements in R9-15-201 for a qualifying educational loan, and
 - ii. The percentage of the loan repayment funds that the primary care provider is requesting that the lender receive;
 - b. Documentation from the lender or the National Student Loan Data System, established by the U.S. Department of Education, verifying that the loan is for a qualifying educational loan; and
 - c. For a qualifying educational loan, a copy of the most recent billing statement from the lender; and
 3. If changing primary care service hours worked, shall submit the following information about the change in primary care service hours:
 - a. In a Department-provided format:
 - i. The name, title, email address, and telephone number of a contact individual for each service site, tribal authority, or employer; and
 - ii. The percentage of loan repayment funds each lender may receive if different from the initial application; and
 - b. A copy of an agreement or a letter verifying approval to change primary care service hours signed by the licensee, tribal authority, or employer from the service site where the primary care provider provides primary care service, including:
 - i. The name of each service site where the primary care services are provided;
 - ii. The date the primary care provider is expected to begin revised primary care services hours;
 - iii. The number of primary care service hours per week the primary care provider is expected to work; and
 - iv. If a primary care provider will provide telemedicine, the number of telemedicine hours the primary care provider is expected to provide per week.
- C.** If a primary care provider's personal information changes, the primary care provider shall submit:
1. A written notice stating the information being changed and indicating the new information; and
 2. If the change is in the primary care provider's legal name, a copy of one of the following with the primary care provider's new name:
 - a. Marriage certificate,
 - b. Divorce decree,
 - c. Professional license, or
 - d. Other legal document establishing the primary care provider's legal name.
- D.** Before a primary care provider provides primary care service at another service site or employer, or changes primary care services from full-time or half-time hours worked, the primary care provider shall obtain the Department's approval for the change.
- E.** If a change in service site or a change in primary care service hours worked affects a primary care provider's service site points or health service priority, the Department shall determine whether the primary care provider's loan repayment amount will increase or decrease; and if:
1. A loan repayment amount will increase, the primary care provider's loan repayment amount will not change until the primary care provider obtains approval to renew participation; or

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2. A loan repayment amount will decrease, the primary care provider's loan repayment amount will decrease according to amounts in R9-15-209, effective on the date the Department approves the primary care provider's request to change service site or primary care service hours.
- F. If a change in primary care service hours worked is from full-time to half-time, the primary care provider's loan repayment funds allocated will decrease by half of the existing contracted loan repayment amount, effective on the date the Department approves the primary care provider's request to change the primary care service hours worked.
- G. If a change in primary care service hours worked is from half-time to full-time:
 1. The primary care provider's allocated loan repayment funds will not change until the primary care provider's renewal application is approved to continue participation; and
 2. For a primary care provider who was initially allocated loan repayment funds based on providing primary care services full-time but is currently providing primary care services half-time, the primary care provider's loan repayment funds will revert to the loan repayment funds initially allocated after the Department approves the primary care provider's request to change back to full-time primary care service hours.
- H. A primary care provider shall submit a request to change according to this Section to the Department:
 1. At least 10 working days before the effective date of a change to a qualifying educational loan or lender; and
 2. At least 30 calendar days before the effective date of a change to add or transfer to another service site or employer or to change primary care service hours worked.
- I. A primary care provider shall execute any document necessary for the Department to access records and acquire information necessary to verify information provided.
- J. For a request submitted according to subsection (A), the Department shall notify a primary care provider of the Department's decision according to R9-15-206.
- B. To request a loan repayment contract suspension, a primary care provider shall submit to the Department a written request for a loan repayment contract suspension, at least 30 calendar days before the proposed start date of the loan repayment contract suspension that includes:
 1. The primary care provider's name, home address, telephone number, and email address;
 2. The service site's name, street address, email address, and telephone number, and the name of the individual authorized to act on behalf of the service site;
 3. The reasons for the primary care provider's request to suspend the loan repayment contract;
 4. The beginning and ending dates of the requested loan repayment contract suspension;
 5. Whether the primary care provider agrees to allow the Department to submit supplemental requests for additional information or documentation in R9-15-206;
 6. A statement that the information included in the request for loan repayment contract suspension is true and accurate; and
 7. The primary care provider's signature and date of signature.
- C. Upon receiving a request for a loan repayment contract suspension, the Department may contact the individual in subsection (B)(2):
 1. To verify the information in the request for the loan repayment contract suspension, and
 2. To obtain information regarding the circumstances that caused the request for loan repayment contract suspension.
- D. A primary care provider may request an initial loan repayment contract suspension for up to six months. If the primary care provider is unable to resume providing primary care services by the end of the initial loan repayment contract suspension period, the primary care provider may request an additional six-month loan repayment contract suspension for a total maximum allowable loan repayment contract suspension of 12 months.
- E. A primary care provider requesting an additional six-month loan repayment contract suspension shall submit a written request to the Department at least 30 calendar days before the expiration of the initial loan repayment contract suspension period that includes the requirements in subsection (B).
- F. During a primary care provider's loan repayment contract suspension period, a primary care provider who plans to continue to participate in the LRP is required to shall submit a renewal application according to R9-15-205.
- G. During a primary care provider's loan repayment contract suspension period, the Department shall not disburse loan repayment funds to a primary care provider's lender.
- H. A primary care provider is responsible for making loan payments during the loan repayment contract suspension period.
- I. If the Department approves a primary care provider's request for a loan repayment contract suspension due to transfer to another service site or employer, the primary care provider shall written report progress made in identifying another service site or employer to the Department at least once every 30 calendar days.
- J. If the primary care provider does not obtain employment at another service site or employer or resume providing primary care services by the end of the loan repayment contract suspension period, the Department shall consider that the primary care provider has failed to complete the terms of the loan

Historical Note

Repealed effective February 7, 1995 (Supp. 95-1). New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed; new Section made by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

EMERGENCY RULEMAKING**R9-15-212. Repealed****Historical Note**

Section R9-15-212 repealed by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-212. Loan Repayment Contract Suspension

- A. A primary care provider may request a loan repayment contract suspension:
 1. For a condition involving the primary care provider or a member of the primary care provider's immediate family that restricts the primary care provider's ability to complete the terms of the loan repayment contract, or

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repayment contract or does not intend to complete the terms of the loan repayment contract.

- K.** For a request submitted according to subsection (B) or (E), the Department shall notify a primary care provider of the Department's decision according to R9-15-206.

Historical Note

Repealed effective February 7, 1995 (Supp. 95-1). New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed; new Section by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

EMERGENCY RULEMAKING**R9-15-213. Repealed****Historical Note**

Section R9-15-213 repealed by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-213. Liquidated Damages for Failure to Complete a Loan Repayment Contract

- A.** A primary care provider who fails to complete the terms of the loan repayment contract shall pay to the Department the liquidated damages owed under A.R.S. § 36-2172(I), unless the primary care provider receives a waiver of the liquidated damages under R9-15-214.
- B.** Upon receiving notification or upon the Department's determination that a primary care provider is unable or does not intend to complete the terms of the primary care provider's loan repayment contract, the Department shall:
1. Withhold loan repayment funds,
 2. Determine liquidated damages owed, and
 3. Notify the primary care provider of the amount of liquidated damages owed.
- C.** A primary care provider shall pay the liquidated damages to the Department within one year after the termination date of a primary care provider's primary care service specified in the loan repayment contract or within one year after the end of a loan repayment contract suspension approved according to R9-15-212, whichever is later.

Historical Note

Repealed effective February 7, 1995 (Supp. 95-1). New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed; new Section made by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

EMERGENCY RULEMAKING**R9-15-214. Repealed****Historical Note**

Section R9-15-214 repealed by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-214. Waiver of Liquidated Damages

- A.** The Department shall waive liquidated damages owed under A.R.S. Title 36, Chapter 21 or this Article if the primary care provider is unable to complete the terms of the loan repayment contract due to the primary care provider's death.
- B.** The Department may waive liquidated damages owed under A.R.S. Title 36, Chapter 21 or this Article if the primary care provider is unable to complete the terms of the loan repayment contract because:
1. The primary care provider suffers from a physical or behavioral health condition resulting in the primary care provider's temporary or permanent inability to perform the services required by the loan repayment contract; or
 2. An individual in the primary care provider's immediate family has a chronic or terminal illness.
- C.** To request a waiver of liquidated damages, a primary care provider shall submit to the Department:
1. A written request for a waiver of liquidated damages that includes:
 - a. The primary care provider's name, home address, telephone number, and email address;
 - b. For each service site where the primary care provider provided primary care services, the service site's:
 - i. Name, street address, email address, and telephone number; and
 - ii. The name of a contact individual for the service site;
 - c. A statement describing the primary care provider's physical or behavioral health condition or the chronic or terminal illness of the primary care provider's immediate family member;
 - d. A statement describing why the primary care provider cannot complete the contract;
 - e. Whether the primary care provider agrees to allow the Department to submit supplemental requests for additional information or documentation in R9-15-206;
 - f. A statement that the information included in the request for waiver is true and accurate; and
 - g. The primary care provider's signature and date of signature; and
 2. Documentation of the primary care provider's physical or behavioral health condition or the chronic or terminal illness of the primary care provider's immediate family member.
- D.** Upon receiving a request for waiver, the Department may contact the individual authorized to act on behalf of the service site to verify the information in the request for waiver and to obtain any additional information regarding the request for waiver.
- E.** In determining whether to waive liquidated damages, the Department shall consider:
1. The physical or behavioral health condition of the primary care provider or the chronic or terminal illness of the primary care provider's immediate family member; and
 2. Whether the documentation demonstrates that the primary care provider is permanently unable or temporarily unable to provide primary care services during or beyond the expiration date of the loan repayment contract.
- F.** For a request submitted according to subsection (C), the Department shall notify a primary care provider of the Department's approval or disapproval according to R9-15-206.

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Historical Note

Repealed effective February 7, 1995 (Supp. 95-1). New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed; new Section made by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1). In subsection (C) the word “liquated” was corrected to “liquidated” (Supp. 21-2).

EMERGENCY RULEMAKING**R9-15-215. Repealed****Historical Note**

Section R9-15-215 repealed by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-215. Loan Repayment Contract Cancellation

- A. A primary care provider may submit a written request to the Department requesting cancellation of a loan repayment contract within 60 calendar days after the start date of the loan repayment contract if:
 1. No loan repayment has been disbursed to the primary care provider's lender; and
 2. The primary care provider is unable or does not intend to complete the terms of the loan repayment contract, and
 3. A written request that includes:
 - a. The primary care provider's name, home address, telephone number, and email address;
 - b. The service site's name, street address, email address, and telephone number; and the name of the individual authorized to act on behalf of the service site;
 - c. Whether the primary care provider agrees to allow the Department to submit supplemental requests for additional information or documentation in R9-15-206; and
 - d. The primary care provider's signature and date of signature.
- B. For a request submitted according to subsection (A), the Department shall notify a primary care provider of the Department's decision according to R9-15-206.
- C. The Department may cancel a loan repayment contract and waive liquidated damages based upon a primary care provider's request to cancel the loan repayment contract in subsection (A).
- D. The Department may cancel a primary care provider's loan repayment contract if the Department determines that:
 1. The primary care provider:
 - a. Except as allowed in subsection (A), has failed to complete the terms of the loan repayment contract; or
 - b. Is not complying with A.R.S. Title 36, Chapter 21 and this Article; or
 2. A primary care provider's service site is not complying with the requirements in A.R.S. Title 36, Chapter 21 or this Chapter.
- E. If the Department cancels a primary care provider's loan repayment contract, the Department shall provide written notice that includes the specific reason for the cancellation and the appeal process in A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

Repealed effective February 7, 1995 (Supp. 95-1). New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed; new Section made by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

R9-15-216. Repealed**Historical Note**

Repealed effective February 7, 1995 (Supp. 95-1). New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

R9-15-217. Repealed**Historical Note**

Repealed effective February 7, 1995 (Supp. 95-1). New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

R9-15-218. Repealed**Historical Note**

Repealed effective February 7, 1995 (Supp. 95-1). New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

R9-15-219. Repealed**Historical Note**

Repealed effective February 7, 1995 (Supp. 95-1).

R9-15-220. Repealed**Historical Note**

Repealed effective February 7, 1995 (Supp. 95-1).

R9-15-221. Repealed**Historical Note**

Repealed effective February 7, 1995 (Supp. 95-1).

R9-15-222. Repealed**Historical Note**

Repealed effective February 7, 1995 (Supp. 95-1).

R9-15-223. Repealed**Historical Note**

Repealed effective February 7, 1995 (Supp. 95-1).

R9-15-224. Repealed**Historical Note**

Repealed effective February 7, 1995 (Supp. 95-1).

R9-15-225. Repealed**Historical Note**

Repealed effective February 7, 1995 (Supp. 95-1).

R9-15-226. Repealed

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Historical Note

Repealed effective February 7, 1995 (Supp. 95-1).

R9-15-227. Repealed**Historical Note**

Repealed effective February 7, 1995 (Supp. 95-1).

R9-15-228. Repealed**Historical Note**

Repealed effective February 7, 1995 (Supp. 95-1).

R9-15-229. Repealed**Historical Note**

Repealed effective February 7, 1995 (Supp. 95-1).

R9-15-230. Repealed**Historical Note**

Repealed effective February 7, 1995 (Supp. 95-1).

EMERGENCY RULEMAKING**ARTICLE 3. BEHAVIORAL HEALTH CARE PROVIDER LOAN REPAYMENT PROGRAM****ARTICLE 3. REPEALED****EMERGENCY RULEMAKING****R9-15-301. Behavioral Health Care Provider Loan Repayment Program and Service Site Requirements****A. An individual may request to participate in the Behavioral Health Care Provider Loan Repayment Program:**

1. If the individual:
 - a. Provides behavioral health services through direct patient care as a:
 - i. Behavioral health care provider;
 - ii. Behavioral health technician, as defined in A.A.C. R9-10-101;
 - iii. Registered nurse;
 - iv. Practical nurse; or
 - v. Physician;
 - b. Meets the requirements in A.R.S. § 41-1080;
 - c. Has completed the final year of a course of study or program approved by an accrediting agency recognized by the U.S. Department of Education or the Council for Higher Education Accreditation for higher education in a health profession licensed under A.R.S. Title 32 or holds a current Arizona license or certificate in a health profession licensed under A.R.S. Title 32;
 - d. Demonstrates current employment providing direct patient care with a service site that is:
 - i. The Arizona State Hospital;
 - ii. A public or nonprofit behavioral health hospital located in a mental health HPSA;
 - iii. A public or nonprofit behavioral health residential facility licensed under 9 A.A.C. 10, Article 7, located in a mental health HPSA; or
 - iv. A public or nonprofit secure behavioral health residential facility licensed under 9 A.A.C. 10, Article 7 or 13, located in a mental health HPSA;
 - e. Demonstrates that the current employer is contracted with Arizona Health Care Cost Containment System to provide services;
 - f. Is not participating in another loan repayment program established under this Chapter;

- g. If a physician, has completed a professional residency program or certification program in behavioral health; and
 - h. Has satisfied any other health professional service obligation owed under a contract with a federal, state, or local government before beginning a period of service under the Behavioral Health Care Provider Loan Repayment Program; and
2. The service site or employer agrees to notify the Department when the employment status of the applicant changes.
- B. An applicant may not participate in the Behavioral Health Care Provider Loan Repayment Program if the applicant:**
1. Is delinquent on payment for:
 - a. State taxes,
 - b. Court-ordered child support, or
 - c. A federal income tax liability; or
 2. Has defaulted on:
 - a. Any federally-guaranteed or insured student loan or home mortgage loan,
 - b. A Federal Health Education Assistance Loan,
 - c. A Federal Nursing Student Loan, or
 - d. A Federal Housing Authority Loan.
- C. An awardee providing services at the Arizona State Hospital or the secure behavioral health residential facility licensed under 9 A.A.C. 10, Article 13, as a behavioral health specialized transitional facility may provide services at either location without the service location being considered a change in service site.**

Historical Note

New Section R9-15-301 made by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Section amended and emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-301. Repealed**Historical Note**

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

EMERGENCY RULEMAKING**R9-15-302. Initial Application**

- A. To apply to participate in the Behavioral Health Care Provider Loan Repayment Program, an applicant who has not previously participated in the Behavioral Health Care Provider Loan Repayment Program shall submit an initial application in subsection (B) to the Department by August 1 of each year.**
- B. An applicant applying to participate in the Behavioral Health Care Provider Loan Repayment Program shall submit to the Department that contains:**
1. The following information in a Department-provided format:
 - a. The applicant's name, home address, telephone number, email address, Social Security number, and date of birth;
 - b. The name of each service site where the applicant provides behavioral health services and will continue to provide behavioral health services while

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- participating in the Behavioral Health Care Provider Loan Repayment Program;
- c. If applicable, the type of license or certification held by the applicant, including, if applicable, the applicant's National Provider Identifier (NPI) number;
 - d. The type of behavioral health specialty or subspecialty, if applicable;
 - e. Whether the applicant:
 - i. Provides behavioral health services full-time;
 - ii. Is an Arizona resident;
 - iii. Has any health professional service obligation;
 - iv. Has defaulted in a health professional service obligation and, if so, a description of the circumstances of the default;
 - v. Has experience providing behavioral health services to a medically underserved population; and
 - vi. Agrees to allow the Department to submit supplemental requests for additional information or documentation in R9-15-306;
 - f. For each qualifying educational loan:
 - i. The lender's name, street address, email address, and telephone number;
 - ii. The street address where the behavioral health loan repayment funds are sent;
 - iii. The loan identification number;
 - iv. The original date of the loan;
 - v. The applicant's name as it appears on the loan contract;
 - vi. The original loan amount;
 - vii. The current balance of the loan, including the date provided;
 - viii. The interest rate on the loan;
 - ix. The purpose for the loan;
 - x. The month and year of the start and the end of the academic period covered by the loan; and
 - xi. The percentage of the behavioral health loan repayment funds the applicant establishes for a lender if more than one lender is receiving behavioral health loan repayment funds;
 - g. An attestation that:
 - i. The Department is authorized to verify all information provided in the initial application;
 - ii. The applicant is applying to participate in the Behavioral Health Care Provider Loan Repayment Program for two years with the State of Arizona for loan repayment of all or part of qualifying educational loans identified according to subsection (B)(1)(f);
 - iii. The qualifying educational loans identified according to subsection (B)(1)(f) were for the costs of health professional education, including reasonable educational expenses and reasonable living expenses, and do not reflect a loan for other purposes; and
 - iv. The information and documentation submitted is true and accurate; and
 - h. Whether the applicant is delinquent on:
 - i. State taxes,
 - ii. Court-ordered child support, or
 - iii. A federal income tax liability, or
 - i. Whether the applicant has defaulted on:
 - i. Any federally-guaranteed or insured student loan or home mortgage loan,
 - ii. A Federal Health Education Assistance Loan,
 - iii. A Federal Nursing Student Loan, or
 - iv. A Federal Housing Authority Loan; and
 - j. The applicant's signature and date of signature;
2. Documentation that meets the requirements in A.R.S. § 41-1080;
 3. A copy of the applicant's Social Security card;
 4. A copy of the applicant's current driver's license;
 5. If applicable, documentation showing Arizona residency according to A.R.S. § 15-1802;
 6. If applicable, documentation showing graduation or the completion of the final year of a course of study from an accredited health professional school;
 7. If applicable, documentation showing completion of graduate studies issued by an accredited educational agency;
 8. If applicable, a copy of the applicant's current Arizona license under A.R.S. Title 32 in a health profession;
 9. If a physician, documentation showing that the physician has completed a professional residency program or certification program in behavioral health;
 10. For each qualifying educational loan identified according to subsection (B)(1)(f), a copy of the most recent billing statement from the lender;
 11. For each qualifying educational loan identified according to subsection (B)(1)(f), documentation from the lender or the National Student Loan Data System established by the U.S. Department of Education verifying that the loan is a qualifying educational loan;
 12. For an applicant, who has completed health service experience to a medically underserved population, a written statement for each applicable service site where the applicant provided services that includes:
 - a. The service site's name, street address, and telephone number;
 - b. The name, title, email address, and telephone number of a contact individual for the service site;
 - c. The number of clock hours completed;
 - d. A description of the services provided;
 - e. The service start date and end date;
 - f. The service site's federal or state designation as medically underserved:
 - i. Designation of HPSA or AzMUA by a federal agency; or
 - ii. Description of the service site providing health services to a medically underserved community; and
 - g. The name and signature of an individual authorized by the governing authority of the service site and the date signed;
 13. If applicable, documentation showing that the applicant's health professional service obligation owed under contract with a federal, state, or local government or another entity will be completed before beginning a period of providing behavioral health services under the Behavioral Health Care Provider Loan Repayment Program;
 14. A copy of a contract or a letter verifying employment for each service site where an applicant provides behavioral health services that includes:
 - a. The name, street address, email address, and telephone number of the service site;

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- b. The name, email address, and telephone number of a contact individual for the service site;
 - c. That the applicant is providing behavioral health services full-time;
 - d. The employment start date;
 - e. For a contract, the signature and date of signature of the applicant and a designee of the governing authority of the service site; and
 - f. For a letter verifying employment, the signature and date of signature of a designee of the governing authority of the service site;
15. Documentation from the service site that includes:
- a. The following information, in a Department-provided format:
 - i. The name, street address, telephone number, and fax number of the service site;
 - ii. The name, telephone number, and email address of the contact individual for the service site;
 - iii. A statement that the applicant is providing behavioral health services full-time;
 - iv. The number of behavioral health service hours per week the applicant is expected to provide;
 - v. The date that the applicant started providing behavioral health services at the service site;
 - vi. Service site's health care institution class or subclass, as specified in A.A.C. R9-10-102;
 - vii. Whether the service site is a public or non-profit service site according to A.R.S. § 36-2175;
 - viii. An attestation that the service site complies with the requirements in R9-15-301(A)(1)(d) and (e) and (2); and
 - ix. The name and signature of a designee of the governing authority of the service site and the date signed; and
 - b. If applicable, documentation of the service site's HPSA designation and HPSA score, dated within 30 calendar days before the date of submission; and
16. If the applicant's employer is not the governing authority of the service site identified in subsection (B)(1)(b), an attestation from the employer that includes:
- a. The name and mailing address of the employer;
 - b. The name, title, email address, and telephone number of a contact individual for the employer;
 - c. The dates that the applicant started and, if applicable, is expected to end providing behavioral health services for the employer;
 - d. The employer's agreement to notify the Department when the employment status of the applicant changes, as required in R9-15-301(A)(2);
 - e. A statement that the information submitted in the attestation is true and accurate; and
 - f. The employer's signature and date of signature.
- C. If the applicant provided documentation of an existing health professional service obligation under subsection (B)(13), the applicant shall submit to the Department documentation demonstrating the completion of the health professional service obligation before the start of the applicant's behavioral health loan repayment contract with the Department.
- D. The Department shall accept an initial application no more than 30 calendar days before the initial application submission date specified in subsection (A).
- E. If the Department receives an initial application from an applicant at a time other than the time specified in subsection (A), the Department shall return the initial application to the applicant.
- F. Except for when the service site is identified as the Arizona State Hospital, the Department shall not approve an applicant's initial application during a March allocation process if:
- 1. The applicant's service site employs two other applicants approved to participate in the Behavioral Health Care Provider Loan Repayment Program during the March allocation process, or
 - 2. The applicant's employer employs four other applicants approved to participate in the Behavioral Health Loan Care Provider Repayment Program during the March allocation process.
- G. The Department shall review an applicant's initial application according to R9-15-305.

Historical Note

New Section R9-15-302 made by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Section amended and emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-302. Repealed**Historical Note**

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

EMERGENCY RULEMAKING**R9-15-303. Renewal Application**

- A. An applicant who is expected to complete the initial two years of participation in the Behavioral Health Care Provider Loan Repayment Program in the 12 months after December 15 of each year, and whose service site is the Arizona State Hospital or has a HPSA score of 14 or more may request to continue participation by submitting to the Department a renewal application in subsection (B) by January 15 of the same year.
- B. An applicant applying to renew participation in the Behavioral Health Care Provider Loan Repayment Program for an additional year shall submit to the Department by April 1 of each year:
 - 1. The following information in a Department-provided format:
 - a. The applicant's name, home address, telephone number, and email address;
 - b. The existing behavioral health loan repayment contract number;
 - c. The name of each service site where the applicant provides behavioral health services, including street address, telephone number, email address, and fax number;
 - d. Except for a request for a change made according to R9-15-106, a list of any changes that may affect the applicant's health service priority in R9-15-306;
 - e. For each lender receiving loan repayment funds specified according to R9-15-302(B)(1)(f) or R9-15-106:
 - i. The lender's name, street address, email address, and telephone number;

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- ii. The street address where the loan repayment funds are sent;
- iii. The loan identification number;
- iv. If different from the information specified according to R9-15-302(B)(1)(f) or R9-15-106, the percentage of the loan repayment funds that the applicant wants the lender to receive;
- v. Current loan balance, including date provided; and
- vi. Whether the applicant requests to continue loan repayment to the lender;
- f. If the applicant wants to add a qualifying educational loan:
 - i. The lender's name, street address, email address, and telephone number;
 - ii. The street address where the loan repayment funds are sent;
 - iii. The loan identification number;
 - iv. The original date of the loan;
 - v. The applicant's name as it appears on the loan contract;
 - vi. The original loan amount;
 - vii. The current balance of the loan, including the date provided;
 - viii. The interest rate on the loan;
 - ix. The purpose for the loan;
 - x. The month and year of the start and the end of the academic period covered by the loan; and
 - xi. The percentage of the loan repayment funds that the applicant wants the lender to receive;
- g. Whether the applicant agrees to allow the Department to submit supplemental requests for additional information or documentation in R9-15-305;
- h. The applicant's attestation that:
 - i. Except for the circumstances listed in subsection (C)(1)(d), the information specified according to R9-15-302(B), other than loan balances and requested repayment amounts, is still current;
 - ii. The Department is authorized to verify all information provided in the renewal application;
 - iii. The applicant is applying to participate in the Behavioral Health Care Provider Loan Repayment Program for an additional year for loan repayment of all or part of the qualifying educational loans identified according to subsection (B)(1)(e) or (f); and
 - iv. The information and documentation submitted as part of the renewal application is true and accurate;
- i. Whether the applicant is delinquent on:
 - i. State taxes,
 - ii. Court-ordered child support, or
 - iii. A federal income tax liability, or
- j. Whether the applicant has defaulted on:
 - i. Any federally-guaranteed or insured student loan or home mortgage loan,
 - ii. A Federal Health Education Assistance Loan,
 - iii. A Federal Nursing Student Loan, or
 - iv. A Federal Housing Authority Loan; and
- k. The applicant's signature and date of signature;
- 2. To document the total time that an applicant had health service experience to a medically underserved population, including the time during the period the applicant provided services during the initial two years of participation in the Behavioral Health Care Provider Loan Repayment Program, a written statement for each service site where the applicant provided services that includes:
 - a. The service site's name, street address, and telephone number;
 - b. The name, telephone number, and email address of the contact individual for the service site;
 - c. The number of clock hours completed:
 - i. Before participation in the Behavioral Health Care Provider Loan Repayment Program,
 - ii. During the initial two years of participation in the Behavioral Health Care Provider Loan Repayment Program, and
 - iii. In total at the service site;
 - d. A description of the services provided;
 - e. The service start date and end date;
 - f. The service site's federal or state designation as medically underserved; and
 - g. The name and signature of an individual authorized by the governing authority of the service site and the date signed;
- 3. For each qualifying educational loan, a copy of the most recent billing statement from the lender; and
- 4. For any qualifying educational loan identified in subsection (B)(1)(f), documentation from the lender or the National Student Loan Data System established by the U.S. Department of Education verifying that the loan is a qualifying educational loan.
- 5. For each service site where the applicant provides behavioral health services, an attestation that includes:
 - a. A statement that the applicant's employment is extended at least for an additional year;
 - b. The date the applicant started and the date the applicant is expected to end providing behavioral health services;
 - c. That the applicant is providing behavioral health services full-time;
 - d. The number of behavioral health service hours per week the applicant is expected to provide;
 - e. If the applicant will provide telemedicine, the number of telemedicine hours the applicant is expected to provide;
 - f. An attestation that the service site will comply with the requirements in R9-15-301(A)(1)(d) and (e) and (2);
 - g. The name, title, email address, and telephone number of a contact individual for the service site; and
 - h. The signature and date of signature of the designee of the governing authority of the service site;
- C. The Department shall accept a renewal application no more than 30 calendar days before the renewal application submission date specified in subsection (A).
- D. If the Department receives a renewal application at a time other than the date stated in subsection (A), the Department shall return the renewal application to the applicant.
- E. The Department shall review a renewal application according to R9-15-305.

Historical Note

New Section R9-15-303 made by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Section R9-15-303 renumbered to R9-15-304; new Section R9-15-303 renumbered from

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R9-15-304 and amended by renewal of emergency rulemaking at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-303. Repealed**Historical Note**

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

EMERGENCY RULEMAKING**R9-15-304. Supplemental Initial Application**

- A.** By July 1 of each calendar year, the Department shall determine if the Department has sufficient remaining funds available for additional awards under the Behavioral Health Care Provider Loan Repayment Program.
1. If the Department determines that funds are available, the Department shall post, on the Department's website, the information that the Department is accepting applications as specified in subsection (B) including the deadline for accepting applications.
 - a. The Department shall post the information in subsection (A)(1) at least 15 calendar days before the date the Department begins accepting applications.
 - b. The deadline for submission of applications is 30 calendar days after the date the Department begins accepting applications.
 2. If the Department determines that the Department does not have sufficient funds available for loan repayment awards, the Department shall, on the Department's website:
 - a. Post the information that the Department is not accepting applications, and
 - b. Maintain the information until the next review.
- B.** An applicant may reapply to participate or apply to renew participation in the Behavioral Health Care Provider Loan Repayment Program by submitting an application to the Department according to subsection (A)(1)(b) that contains:
1. The information and documentation according to subsection (C), if the applicant submitted an initial application to the Department, according to R9-15-302, and was not approved to participate in the Behavioral Health Care Provider Loan Repayment Program during the initial application allocation process for the same calendar year;
 2. The information and documentation according to R9-15-302(B), if the applicant previously participated in the Behavioral Health Care Provider Loan Repayment Program and completed at least the first two years of participation in the Behavioral Health Loan Care Provider Repayment Program; and
 3. The information and documentation according to R9-15-303(B), if the applicant:
 - a. Provides services at the Arizona State Hospital and will have completed at least the initial two years of participation in the Behavioral Health Care Provider Loan Repayment Program before December 31 of the same calendar year,
 - b. Will have completed at least the initial two years of participation in the Behavioral Health Care Provider Loan Repayment Program before December 31 of the same calendar year and was previously denied participation because loan repayment funds were not available,
 - c. Will have completed at least the initial two years of participation in the Behavioral Health Care Provider Loan Repayment Program before December 31 of the same calendar year at a service site with a HPSA score of less than 14, or
 - d. Will complete three or more years of participation in the Behavioral Health Care Provider Loan Repayment Program before December 31 of the same calendar year.
- C.** An applicant reapplying according to subsection (B)(1) shall submit an application to the Department that contains:
1. The following information in a Department-provided format:
 - a. The applicant's name, home address, telephone number, and email address;
 - b. The name, street address, telephone number, email address, and fax number for each service site;
 - c. For each applicant lender, the following:
 - i. The lender's name, street address, email address, and telephone number;
 - ii. The loan identification number; and
 - iii. The loan balance including principal and interest;
 - d. Whether the applicant agrees to allow the Department to submit supplemental requests for additional information or documentation in R9-15-305;
 - e. The applicant's attestation that:
 - i. The Department is authorized to verify all information provided in the supplemental application;
 - ii. The applicant is applying to participate in the Behavioral Health Care Provider Loan Repayment Program for two years for loan repayment of all or part of qualifying educational loans identified in the initial application, as specified in R9-15-302(B)(1)(f);
 - iii. The information and documentation submitted according to R9-15-302 is still accurate, except for loan or lender information; and
 - iv. The information and documentation submitted as part of the application is true and accurate; and
 - f. The applicant's signature and date of signature;
 2. A copy of the most recent billing statement for the loans listed according to R9-15-302(B)(1)(f);
 3. An attestation from a designee of the governing authority for each service site listed according to subsection (B)(1)(b) that includes:
 - a. The name and mailing address of the service site;
 - b. The name, title, email address, and telephone number of a contact individual for the service site;
 - c. Whether the service site is a public or non-profit service site in A.R.S. § 36-2175;
 - d. That the applicant is providing behavioral health services full-time;
 - e. The dates that the applicant started and, if applicable, is expected to end providing behavioral health services at the service site;
 - f. The service site's agreement to notify the Department when the employment status of the applicant changes, as required in R9-15-301(A)(2);
 - g. A statement that the information submitted in the attestation is true and accurate; and

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- h. The signature of the designee of the governing authority for the service site and date of signature; and
- 4. If the applicant's employer is not the governing authority of the service site identified in subsection (B)(1)(b), an attestation from the employer that includes:
 - a. The name and mailing address of the employer;
 - b. The name, title, email address, and telephone number of a contact individual for the employer;
 - c. The dates that the applicant started and, if applicable, is expected to end providing behavioral health services for the employer;
 - d. The employer's agreement to notify the Department when the employment status of the applicant changes, as required in R9-15-301(A)(2);
 - e. A statement that the information submitted in the attestation is true and accurate; and
 - f. The employer's signature and date of signature; and
- 5. If applicable, documentation of the service site's HPSA designation and HPSA score, dated within 30 calendar days before the supplemental application submission date.
- D. The Department shall accept an application submitted according to subsection (A)(1)(b) no more than 30 calendar days before the submission date specified in subsection (A).
- E. The Department shall review an application according to R9-15-305.
- F. If the Department receives an application at a time other than the date stated in subsection (A), the Department shall return the application to the applicant.

Historical Note

New Section R9-15-304 made by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Section R9-15-304 renumbered to R9-15-303; new Section R9-15-304 renumbered from R9-15-303 and amended by renewal of emergency rulemaking at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-304. Repealed**Historical Note**

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

EMERGENCY RULEMAKING**R9-15-305. Time-frames**

- A. The overall time-frame begins, for:
 - 1. An initial application, on the date established as the deadline for submission of an initial application in R9-15-302(A);
 - 2. A renewal application, on the date established as the deadline for submission of a renewal application in R9-15-303(A);
 - 3. An application submitted according to R9-15-304, on the date established as the deadline for submission in R9-15-304(A); or
 - 4. A request to add or transfer to another service site or employer, add or change a lender, add or change a qualifying educational loan, change hours worked, suspend or cancel a behavioral health loan repayment contract, or waive liquidated damages, on the date the request is received by the Department.
- B. Within the administrative completeness review time-frame for each type of approval in Table 3.1, the Department shall:
 - 1. Provide a notice of administrative completeness to an applicant; or
 - 2. Provide a notice of deficiencies to an applicant, including a list of the missing information or documents.
- C. If the Department provides a notice of deficiencies to an applicant:
 - 1. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice of deficiencies until the date the Department receives the missing information or documents from the applicant;
 - 2. If the applicant submits the missing information or documents to the Department within the time-frame in Table 3.1, the substantive review time-frame begins on the date the Department receives the missing information or documents; and
 - 3. If the applicant does not submit the missing information or documents to the Department within the time-frame in Table 3.1, the Department shall consider the application withdrawn.
- D. Within the substantive review time-frame for each type of approval in Table 3.1, the Department:
 - 1. Shall approve or deny an applicant's request;
 - 2. May make a written comprehensive request for additional information or documentation; and
 - 3. May make supplement requests, if the applicant agrees to allow the Department to submit supplemental requests for additional information and documentation.
- E. If the Department provides a written comprehensive request for additional information or documentation or a supplemental request to the applicant:
 - 1. The substantive review time-frame and the overall time-frame are suspended from the date of the written comprehensive request or supplemental request until the date the Department receives the information and documents requested; and
 - 2. The applicant shall submit to the Department the information and documents listed in the written comprehensive request or supplemental request within 10 working days after the date of the written comprehensive request or supplemental request.
- F. During the substantive review time-frame, the Department shall, for each initial, supplemental, or renewal application that the Department determines is complete and demonstrates that the applicant and service site comply with the requirements in A.R.S. Title 36, Chapter 21 and the applicable Section of this Article, by 60 calendar days after the application submission date established in this Article, determine a health service priority according to R9-15-306(A).
- G. The Department shall issue:
 - 1. An approval for an applicant to participate in the Behavioral Health Care Provider Loan Repayment Program when:
 - a. The applicant and the applicant's service site comply with the requirements in A.R.S. Title 36, Chapter 21 and this Article; and
 - b. The applicant has a health care priority according to R9-15-306 that makes the applicant eligible for available loan repayment funds according to R9-15-301; or

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2. A denial to an applicant, including the reason for the denial and the appeal process in A.R.S. Title 41, Chapter 6, Article 10, if:
- The applicant does not submit all of the information and documentation listed in a written comprehensive request for additional information and documentation or a supplemental request within the time-frame in Table 3.1;
 - The Department determines that the applicant or the applicant's service site does not comply with the applicable requirements in A.R.S. Title 36, Chapter 21 and this Article; or
 - The Department determines that the applicant and the applicant's service site comply with the requirements in A.R.S. Title 36, Chapter 21 and this Article, but:
 - There are no loan repayment funds available for the applicant;
 - Except as specified in R9-15-302(F), for an initial application, the applicant's service site employs two other applicants approved to participate in the Behavioral Health Care Provider Loan Repayment Program; or
 - Except as specified in R9-15-302(F), for an initial application, the applicant's employer employs four other applicants approved to participate in the Behavioral Health Care Provider Loan Repayment Program.
- H.** If the Department issues a denial based on the determination in subsection (G)(2)(c), the Department shall include in the denial, a notice that, depending on the availability of Behavioral Health Loan Repayment funds, the applicant may reapply to participate in the Behavioral Health Care Provider Loan Repayment Program according to R9-15-304(B)(1).
- I.** If the Department issues an approval for an applicant to participate in the Behavioral Health Care Provider Loan Repayment Program according to subsection (G)(1), the applicant is approved to participate for:
- Two years, for an application submitted according to R9-15-302(B) or R9-15-304(C); and
 - One additional year, for an application submitted according to R9-15-303(B).
- J.** The Department shall determine the effective date of a loan repayment contract after receiving acceptance from an applicant following the Department's notice of approval in subsection (G)(1).

Historical Note

New Section R9-15-305 made by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Section amended and emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-305. Repealed**Historical Note**

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

EMERGENCY RULEMAKING**Table 3.1. Time-frames (in calendar days)**

Type of approval	Authority (A.R.S. § or A.A.C.)	Overall Time-frame (in working days)	Time-frame for applicant to complete application (in working days)	Administrative Completeness Time-frame (in working days)	Substantive Review Time-frame (in working days)
Initial application	R9-15-302	45	20	15	30
Renewal application	R9-15-303	45	10	15	30
Supplemental initial application	R9-15-304	45	10	15	30
Request for change	R9-15-106	15		5	10
Request to suspend a loan repayment contract	R9-15-107	15		5	10
Request to waive liquidated damages	R9-15-110	15		5	10
Request to cancel a loan repayment contract	R9-15-108(C)	15		5	10

Historical Note

New Table 3.1 Time-frames, following R9-15-305 made by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Table 3.1 amended and emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

EMERGENCY RULEMAKING**R9-15-306. Behavioral Health Care Provider Health Service Priority**

- A.** The Department shall review an application and assign points based on the following factors to determine the health service priority:
- The applicant is a resident of Arizona according to A.R.S. § 15-1802:

- Yes = 4 points, or
 - No = 0 points;
2. The applicant's service site is:
- The Arizona State Hospital or a behavioral health residential facility licensed under 9 A.A.C. 10, Article 13 = 10 points;
 - A behavioral health hospital in a rural county = 7 points;

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- c. A behavioral health hospital in an urban county, other than as specified in subsection (A)(2)(a) = 5 points;
 - d. A behavioral health residential facility in a rural county = 3 points; or
 - e. A behavioral health residential facility in an urban county = 1 point;
- 3. The applicant is providing direct patient care in a site that has a mental health HPSA score or at the Arizona State Hospital:
 - a. Arizona State Hospital = 35 points; or
 - b. If in a HPSA, the most current mental health HPSA score for the site = 0 through 25 points;
- 4. The applicant's years of service at the current service site:
 - a. Less than 1 year = 0 points,
 - b. 1 to 3 years = 4 points,
 - c. 3+ to 7 years = 6 points, or
 - d. 7+ years = 8 points;
- 5. The length of time the applicant has held the applicable license in Arizona:
 - a. Less than 1 year = 0 points,
 - b. 1 to 5 years = 4 points, or
 - c. 5+ years = 6 points;
- 6. The applicant is a graduate of an accredited Arizona health professional school or program:
 - a. Yes = 4 points, or
 - b. No = 0 points; and
- 7. The applicant has health service experience with a medically underserved population:
 - a. Yes = 4 points, or
 - b. No = 0 points.
- B.** The Department shall determine an applicant's health service priority by calculating the sum of the assigned points for the factors described in subsection (A).
- C.** The Department shall apply the factors in subsection (D) if the Department determines there are:
 - 1. More than one application that have the same health service priority and there are funds available for only one initial or renewal application; or
 - 2. Except for when the service site is identified as the Arizona State Hospital, two or more applications that have the same health service priority for:
 - a. A service site and there was already another applicant with a higher health service priority approved to participate in the Behavioral Health Care Provider Loan Repayment Program at the same service site during the same allocation process, or
 - b. An employer and there were already three other applicants with the same employer and with a higher health service priority approved to participate in the Behavioral Health Care Provider Loan Repayment Program during the same allocation process.
- D.** To determine participation in the Behavioral Health Care Provider Loan Repayment Program for an applicant in subsection (C), the Department shall apply the following to each applicant's application:
 - 1. If only one application is for an applicant who has a service site at the Arizona State Hospital, the Department shall approve the applicant for participation;
 - 2. If only one application is for an applicant who is a resident of Arizona and whose service site is not at the Arizona State Hospital, the Department shall approve the applicant for participation;
- 3. If more than one application is for an applicant who is a resident of Arizona or whose service site is at the Arizona State Hospital, the Department shall apply each of the following factors in descending order until no two health service priority scores are the same and all available loan repayment funds have been allocated:
 - a. The highest score reported in subsection (A)(3);
 - b. How long the applicant has been providing services at the current service site;
 - c. How long the applicant has held a professional license in Arizona;
 - d. Whether the applicant has health service experience to a medically underserved population; and
 - e. The total number of hours the applicant has health service experience to a medically underserved population if reported in subsection (D)(3)(d).
- E.** If more than one application for an applicant in subsection (C) remains after the Department's determinations in subsection (D) and there are limited loan repayment funds available, the Department shall randomly select one application and approve the applicant for participation in the Behavioral Health Care Provider Loan Repayment Program.
- F.** When the Department holds a random selection to determine one application identified in subsection (E), the Department shall:
 - 1. Assign an Assistant Director from a division within the Department other than the division responsible for the Behavioral Health Care Provider Loan Repayment Program for random selection, and
 - 2. Invite all the applicants whose applications are identified to participate in the random selection.
- G.** The Department shall notify an applicant of the Department's decision according to R9-15-305.

Historical Note

New Section R9-15-306 made by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Section amended and emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-306. Repealed**Historical Note**

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

EMERGENCY RULEMAKING**R9-15-307. Allocation of Behavioral Health Care Provider Loan Repayment Funds**

- A.** Each fiscal year, for an application that demonstrates an applicant's and the applicant's service site's compliance with A.R.S. Title 36, Chapter 21 and this Article, the Department shall allocate Behavioral Health Care Provider Loan Repayment funds according to this Section and in the following order to the applicant with the highest health service priority:
 - 1. During the January allocation process of applications submitted according to R9-15-303(B), applicants whose service site is the Arizona State Hospital or has a HPSA score of 14 or more who are approved to participate for a third year in the Behavioral Health Care Provider Loan Repayment Program;

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CHAPTER 15. DEPARTMENT OF HEALTH SERVICES - LOAN REPAYMENT

2. During the March allocation process of applications submitted according to R9-15-302(B), if there are additional loan repayment funds available after the allocation process in subsection (A)(1), applicants who are approved for initial participation for two years in the Behavioral Health Care Provider Loan Repayment Program; and
3. During the allocation process specified in R9-15-304, if there are additional loan repayment funds available after the allocation process in subsection (A)(2), applicants submitting an application according to R9-15-304(B).

B. The Department shall allocate loan repayment funds to an applicant according to the following:

1. For the initial two contract years of service, a maximum of \$50,000; and
2. For each subsequent year, a maximum of \$25,000.

C. If the Department has inadequate funds to provide the maximum annual amount allowable and an applicant agrees to accept the lesser amount, the Department shall allocate the lesser amount agreed to by the applicant.

D. If the Department determines no loan repayment funds are available during a fiscal year for allocations based on an application, the Department shall provide a notice at least 30 calendar days before the application submission date that the Department is not accepting applications.

Historical Note

New Section R9-15-307 made by emergency rulemaking at 28 A.A.R. 3684 (December 2, 2022), with an immediate effective date of November 15, 2022; effective for 180 days (Supp. 22-4). Section amended and emergency renewed at 29 A.A.R. 1274 (June 2, 2023), with an effective date of May 14, 2023; effective for an additional 180 days (Supp. 23-2).

R9-15-307. Repealed

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

R9-15-308. Repealed

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

R9-15-309. Repealed

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

R9-15-310. Repealed

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed

by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

R9-15-311. Repealed

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

R9-15-312. Repealed

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

R9-15-313. Repealed

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

R9-15-314. Repealed

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

R9-15-315. Repealed

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

R9-15-316. Repealed

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

R9-15-317. Repealed

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

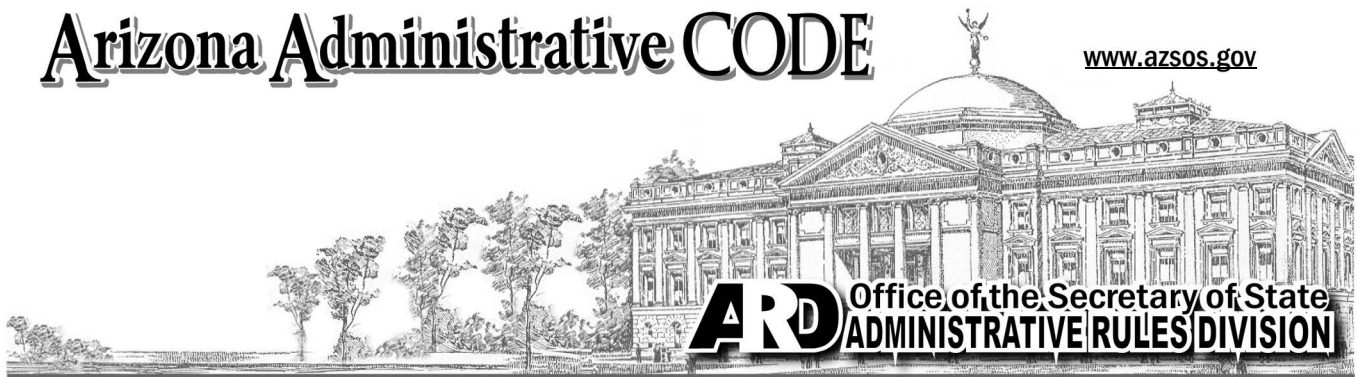
R9-15-318. Repealed

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2823, effective August 9, 2001 (Supp. 01-2). Section repealed by final exempt rulemaking under Laws 2015, Ch. 3, § 8, at 22 A.A.R. 851, effective April 1, 2016 (Supp. 16-1).

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TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

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Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of April 1, 2023 through June 30, 2023

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Questions about these rules? Contact:

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Bureau of Emergency Medical Services and Trauma System

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The release of this Chapter in Supp. 23-2 replaces Supp. 23-1, 1-116 pages.

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

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

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

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HOW TO USE THE CODE

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

ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

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

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

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

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

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

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division

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TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

Authority: A.R.S. §§ 36-136(F) and 36-2209(A) et seq.

Supp. 23-2

Editor's Note: Article 5 consisting of Sections R9-25-501 through R9-25-508 were recodified from Sections in Article 8 effective September 21, 2004 (Supp. 04-3). The Sections recodified from Article 8 were originally made or amended under an exemption from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6).

Editor's Note: The Office of the Secretary of State publishes all Chapters on white paper.

Editor's Note: This Chapter contains rules which were adopted, amended, and repealed under an exemption from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to A.R.S. § 36-2205(C). Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Governor's Regulatory Review Council for review; the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and the Department was not required to hold public hearings on these rules. Because this Chapter contains rules which are exempt from the regular rulemaking process, the Chapter is printed on blue paper.

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Article 5, consisting of R9-25-501 through R9-25-508, recodified from Article 8 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Article 5 repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

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ARTICLE 6. STROKE CARE

Article 6, consisting of new Sections R9-25-601 and R9-25-602 made by exempt rulemaking effective April 5, 2013 (Supp. 13-1).

Article 6 repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Article 6, consisting of Sections R9-25-601 through R9-25-616 and Exhibits L through O and Q through S, adopted effective October 15, 1996 (Supp. 96-4).

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Article 8, consisting of R9-25-801 through R9-25-808, recodified to Article 5 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Article 8, consisting of R9-25-801, R9-25-802, Exhibits 1 through 4, and R9-25-803 Exhibit 1, recodified from A.A.C. R9-13-1501, R9-13-1502, Exhibits 1 through 4, and R9-13-1503 Exhibit 1; originally filed under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 98-1).

Article 8, consisting of Section R9-25-805 and Exhibits 1 through 3, adopted effective May 19, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2).

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Section	
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Table 1.	Repealed
R9-25-1403.	Repealed
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R9-25-1405.	Repealed
R9-25-1406.	Renumbered

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ARTICLE 1. GENERAL

R9-25-101. Definitions (Authorized by A.R.S. §§ 36-2201, 36-2202, 36-2204, and 36-2205)

In addition to the definitions in A.R.S. § 36-2201, the following definitions apply in this Chapter, unless otherwise specified:

1. "Administer" or "administration" means to directly apply or the direct application of an agent to the body of a patient by injection, inhalation, ingestion, or any other means and includes adjusting the administration rate of an agent.
2. "AEMT" has the same meaning as "advanced emergency medical technician" in A.R.S. § 36-2201.
3. "Agent" means a chemical or biological substance that is administered to a patient to treat or prevent a medical condition.
4. "ALS" has the same meaning as "advanced life support" in A.R.S. § 36-2201.
5. "ALS base hospital" has the same meaning as "advanced life support base hospital" in A.R.S. § 36-2201.
6. "Applicant" means a person requesting certification, licensure, approval, or designation from the Department under this Chapter.
7. "Chain of custody" means the transfer of physical control of and accountability for an item from one individual to another individual, documented to indicate the:
 - a. Date and time of the transfer,
 - b. Integrity of the item transferred, and
 - c. Signatures of the individual relinquishing and the individual accepting physical control of and accountability for the item.
8. "Chief administrative officer" means:
 - a. For a hospital, the same as in A.A.C. R9-10-101; and
 - b. For a training program, an individual assigned to act on behalf of the training program by the body organized to govern and manage the training program.
9. "Clinical training" means experience and instruction in providing direct patient care in a health care institution.
10. "Controlled substance" has the same meaning as in A.R.S. § 32-1901.
11. "Course" means didactic instruction and, if applicable, hands-on practical skills training, clinical training, or field training provided by a training program to prepare an individual to become or remain an EMCT.
12. "Course session" means an offering of a course, during a period of time designated by a training program certificate holder, for a specific group of students.
13. "Current" means up-to-date and extending to the present time.
14. "Day" means a calendar day.
15. "Document" or "documentation" means signed and dated information in written, photographic, electronic, or other permanent form.
16. "Drug" has the same meaning as in A.R.S. § 32-1901.
17. "Electronic signature" has the same meaning as in A.R.S. § 44-7002.
18. "EMCT" has the same meaning as "emergency medical care technician" in A.R.S. § 36-2201.
19. "EMT" has the same meaning as "emergency medical technician" in A.R.S. § 36-2201.
20. "EMT-I(99)" means an individual, other than a Paramedic, who:
 - a. Was certified as an EMCT by the Department before January 28, 2013 to perform ALS, and
 - b. Has continuously maintained the certification.
21. "EMS" has the same meaning as "emergency medical services" subsections (17)(a) through (d) in A.R.S. § 36-2201.
22. "Field training" means emergency medical services experience and training outside of a health care institution or a training program facility.
23. "General hospital" has the same meaning as in A.A.C. R9-10-101.
24. "Health care institution" has the same meaning as in A.R.S. § 36-401.
25. "Hospital" has the same meaning as in A.A.C. R9-10-101.
26. "In use" means in the immediate physical possession of an EMCT and readily accessible for potential imminent administration to a patient.
27. "Infusion pump" means a device approved by the U.S. Food and Drug Administration that, when operated mechanically, electrically, or osmotically, releases a measured amount of an agent into a patient's circulatory system in a specific period of time.
28. "Interfacility transport" means an ambulance transport of a patient from one health care institution to another health care institution.
29. "IV" means intravenous.
30. "Locked" means secured with a key, including a magnetic, electronic, or remote key, or combination so that opening is not possible except by using the key or entering the combination.
31. "Medical direction" means administrative medical direction or on-line medical direction.
32. "Medical record" has the same meaning as in A.R.S. § 36-2201.
33. "Minor" means an individual younger than 18 years of age who is not emancipated.
34. "Monitor" means to observe the administration rate of an agent and the patient's response to the agent and may include discontinuing administration of the agent.
35. "On-line medical direction" means emergency medical services guidance or information provided to an EMCT by a physician through two-way voice communication.
36. "Patient" means an individual who is sick, injured, or wounded and who requires medical monitoring, medical treatment, or transport.
37. "Pediatric" means pertaining to a child.
38. "Person" has the same meaning as in A.R.S. § 1-215 and includes governmental agencies.
39. "Physician assistant" has the same meaning as in A.R.S. § 32-2501.
40. "Practical nurse" has the same meaning as in A.R.S. § 32-1601.
41. "Practicing emergency medicine" means acting as an emergency medicine physician in a hospital emergency department.
42. "Prehospital incident history report" has the same meaning as in A.R.S. § 36-2220.
43. "Refresher challenge examination" means a test given to an individual to assess the individual's knowledge, skills, and competencies compared with the national education standards established for the applicable EMCT classification level.
44. "Refresher course" means a course intended to reinforce and update the knowledge, skills, and competencies of an individual who has previously met the national educational standards for a specific level of EMS personnel.
45. "Registered nurse" has the same meaning as in A.R.S. § 32-1601.
46. "Registered nurse practitioner" has the same meaning as in A.R.S. § 32-1601.
47. "Scene" means the location of the patient to be transported or the closest point to the patient at which an ambulance can arrive.
48. "Special hospital" has the same meaning as in A.A.C. R9-10-101.
49. "STR skill" means "Specialty Training Requirement skill," a medical treatment, procedure, or technique or administration of a medication for which an EMCT needs

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specific training beyond the training required in 9 A.A.C. 25, Article 4 in order to perform or administer.

50. "Transfer of care" means to relinquish to the control of another person the ongoing medical treatment of a patient.
51. "Transport agent" means an agent that an EMCT at a specified level of certification is authorized to administer only during interfacility transport of a patient for whom the agent's administration was started at the sending health care institution.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4).
Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-102. Individuals to Act for a Person Regulated Under This Chapter (Authorized by A.R.S. § 36-2202)

When a person regulated under this Chapter is required by this Chapter to provide information on or sign an application form or other document, the following individual shall satisfy the requirement on behalf of the person regulated under this Chapter:

1. If the person regulated under this Chapter is an individual, the individual; or
2. If the person regulated under this Chapter is a business organization, political subdivision, government agency, or tribal government, the individual who the business organization, political subdivision, government agency, or tribal government has designated to act on behalf of the business organization, political subdivision, government agency, or tribal government and who:
 - a. Is a U.S. citizen or legal resident, and
 - b. Has an Arizona address.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

ARTICLE 2. MEDICAL DIRECTION; ALS BASE HOSPITAL CERTIFICATION**R9-25-201. Administrative Medical Direction (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), 36-2204(5), (6), and (7), 36-2204.01, and 36-2205(A) and (D))**

A. An emergency medical services provider or ambulance service shall:

1. Except as specified in subsection (B) or (C), designate a physician as administrative medical director who meets one of the following:
 - a. Has emergency medicine certification issued by a member board of the American Board of Medical Specialties;
 - b. Has emergency medical services certification issued by the American Board of Emergency Medicine;
 - c. Has emergency medicine certification issued by the American Osteopathic Board of Emergency Medicine;
 - d. Has emergency medicine certification issued by the American Board of Physician Specialties;
 - e. Has completed an emergency medicine residency training program accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association; or
 - f. Is an emergency medicine physician in an emergency department located in Arizona and has current certification in:

- i. Advanced emergency cardiac life support that includes didactic instruction and a practical skills test, consistent with training recognized by the American Heart Association;
- ii. Advanced emergency trauma life support that includes didactic instruction and a practical skills test, consistent with training recognized by the American College of Surgeons; and
- iii. Pediatric advanced emergency life support that includes didactic instruction and a practical skills test, consistent with training recognized by the American Heart Association;

2. If the emergency medical services provider or ambulance service designates a physician as administrative medical director according to subsection (A)(1), notify the Department in writing:

- a. Of the identity and qualifications of the designated physician within 10 days after designating the physician as administrative medical director; and
- b. Within 10 days after learning that a physician designated as administrative medical director is no longer qualified to be an administrative medical director; and

3. Maintain for Department review:

- a. A copy of the policies, procedures, protocols, and documentation required in subsection (E); and
- b. Either:
 - i. The name, e-mail address, telephone number, and qualifications of the physician providing administrative medical direction on behalf of the emergency medical services provider or ambulance service; or
 - ii. If the emergency medical services provider or ambulance service provides administrative medical direction through an ALS base hospital or a centralized medical direction communications center, a copy of a written agreement with the ALS base hospital or centralized medical direction communications center documenting that the administrative medical director is qualified under subsection (A)(1).

B. Except as provided in R9-25-502(A)(3), if an emergency medical services provider or ambulance service provides only BLS, the emergency medical services provider or ambulance service is not required to have an administrative medical director.

C. If an emergency medical services provider or ambulance service provides administrative medical direction through an ALS base hospital or a centralized medical direction communications center, the emergency medical services provider or ambulance service shall ensure that the ALS base hospital or centralized medical direction communications center designates a physician as administrative medical director who meets one of the requirements in subsections (A)(1)(a) through (f).

D. An emergency medical services provider or ambulance service may provide administrative medical direction through an ALS base hospital certified according to R9-25-203(C), if the emergency medical services provider or ambulance service:

1. Uses the ALS base hospital for administrative medical direction only for patients who are children, and
2. Has a written agreement for the provision of administrative medical direction with an ALS base hospital that meets the requirements in R9-25-203(B)(1) or a centralized medical direction communications center.

E. An emergency medical services provider or an ambulance service shall ensure that:

1. An EMCT receives administrative medical direction as required by A.R.S. Title 36, Chapter 21.1 and this Chapter;
2. Protocols are established, documented, and implemented by an administrative medical director, consistent with

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A.R.S. Title 36, Chapter 21.1 and this Chapter, that include:

- a. A communication protocol for:
 - i. How and from what sources an EMCT requests and receives on-line medical direction,
 - ii. When and how an EMCT notifies a health care institution of the EMCT's intent to transport a patient to the health care institution, and
 - iii. What procedures an EMCT follows in the event of a communications equipment failure;
 - b. A triage protocol for:
 - i. How an EMCT assesses and prioritizes the medical condition of a patient,
 - ii. How an EMCT selects a health care institution to which a patient may be transported,
 - iii. How a patient is transported to the health care institution, and
 - iv. When on-line medical direction is required;
 - c. A treatment protocol for:
 - i. How an EMCT performs a medical treatment on a patient or administers an agent to a patient, and
 - ii. When on-line medical direction is required while an EMCT is providing treatment; and
 - d. A protocol for the transfer of information to the emergency receiving facility for:
 - i. What information is required to be communicated to emergency receiving facility staff concurrent with the transfer of care and by what method, including the condition of the patient, the treatment provided to the patient, and the patient's response to the treatment;
 - ii. What information is required to be documented on a prehospital incident history report; and
 - iii. The time-frame, which is associated with the transfer of care, for completion and submission of a prehospital incident history report;
3. Policies and procedures are established, documented, and implemented by an administrative medical director, consistent with A.R.S. Title 36, Chapter 21.1 and this Chapter, that:
- a. Are consistent with an EMCT's scope of practice, as specified in Table 5.1;
 - b. Cover:
 - i. Medical recordkeeping;
 - ii. Medical reporting, including to whom and by what method medical reporting is accomplished;
 - iii. Completion and submission of prehospital incident history reports;
 - iv. Obtaining, storing, transferring, and disposing of agents to which an EMCT has access including methods to:
 - (1) Identify individuals authorized by the administrative medical director to have access to agents,
 - (2) Maintain chain of custody for controlled substances, and
 - (3) Minimize potential degradation of agents due to temperature extremes;
 - v. Administration, monitoring, or assisting in patient self-administration of an agent;
 - vi. Monitoring and evaluating an EMCT's compliance with treatment protocols, triage protocols, and communications protocols specified in subsection (E)(2);
 - vii. Monitoring and evaluating an EMCT's compliance with medical recordkeeping, medical reporting, and prehospital incident history report requirements;
 - viii. Monitoring and evaluating an EMCT's compliance with policies and procedures for agents to which the EMCT has access;
 - ix. Monitoring and evaluating an EMCT's competency in performing skills authorized for the EMCT by the EMCT's administrative medical director and within the EMCT's scope of practice, as specified in Table 5.1;
 - x. Ongoing education, training, or remediation necessary to maintain or enhance an EMCT's competency in performing skills within the EMCT's scope of practice, as specified in Table 5.1;
 - xi. The process by which administrative medical direction is withdrawn from an EMCT; and
 - xii. The process for reinstating an EMCT's administrative medical direction; and
 - c. Include a quality assurance process to evaluate the effectiveness of the administrative medical direction provided to EMCTs;
4. Protocols in subsection (E)(2) and policies and procedures in subsection (E)(3) are reviewed annually by the administrative medical director and updated as necessary;
5. Requirements in A.R.S. Title 36, Chapter 21.1 and this Chapter are reviewed annually by the administrative medical director; and
6. The Department is notified in writing no later than ten days after the date:
- a. Administrative medical direction is withdrawn from an EMCT; or
 - b. An EMCT's administrative medical direction is reinstated.
- F. An administrative medical director for an emergency medical services provider or ambulance service shall ensure that:
1. An EMCT for whom the administrative medical director provides administrative medical direction:
 - a. Has access to at least the minimum supply of agents required for the highest level of service to be provided by the EMCT, consistent with requirements in Article 5 of this Chapter;
 - b. Administers, monitors, or assists in patient self-administration of an agent according to the requirements in policies and procedures; and
 - c. Has access to a copy of the policies and procedures required in subsection (F)(2) while on duty for the emergency medical services provider or ambulance service;
 2. Policies and procedures for agents to which an EMCT has access:
 - a. Specify that an agent is obtained only from a person:
 - i. Authorized by law to prescribe the agent, or
 - ii. Licensed under A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23 to dispense or distribute the agent;
 - b. Cover chain of custody and transfer procedures for each supply of agents, requiring an EMCT for whom the administrative medical director provides administrative medical direction to:
 - i. Document the name and the EMCT certification number or employee identification number of each individual who takes physical control of the supply of agents;
 - ii. Document the time and date that each individual takes physical control of the supply of agents;
 - iii. Inspect the supply of agents for expired agents, deteriorated agents, damaged or altered agent containers or labels, and depleted, visibly adulterated, or missing agents upon taking physical control of the supply of agents;

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- iv. Document any of the conditions in subsection (F)(2)(b)(iii);
 - v. Notify the administrative medical director of a depleted, visibly adulterated, or missing controlled substance;
 - vi. Obtain a replacement for each affected agent in subsection (F)(2)(b)(iii) for which the minimum supply is not present; and
 - vii. Record each administration of an agent on a prehospital incident history report;
 - c. Cover mechanisms for controlling inventory of agents and preventing diversion of controlled substances; and
 - d. Include that an agent is kept inaccessible to all individuals who are not authorized access to the agent by policies and procedures required under subsection (E)(3)(b)(iv)(1) and, when not being administered, is:
 - i. Secured in a dry, clean, washable receptacle;
 - ii. While on a motor vehicle or aircraft registered to the emergency medical services provider or ambulance service, secured in a manner that restricts movement of the agent and the receptacle specified in subsection (F)(2)(d)(i); and
 - iii. If a controlled substance, in a hard-shelled container that is difficult to breach without the use of a power cutting tool and:
 - (1) Locked inside a motor vehicle or aircraft registered to the emergency medical services provider or ambulance service,
 - (2) Otherwise locked and secured in such a manner as to deter misappropriation, or
 - (3) On the person of an EMCT authorized access to the agent;
 - 3. The Department is notified in writing within 10 days after the administrative medical director receives notice, as required subsection (F)(2)(b)(v), that any quantity of a controlled substance is depleted, visibly adulterated, or missing; and
 - 4. Except when the emergency medical services provider or ambulance service obtains all agents from an ALS base hospital pharmacy, which retains ownership of the agents, agents to which an EMCT has access are obtained, stored, transferred, and disposed of according to policies and procedures; A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; 4 A.A.C. 23; and requirements of the U.S. Drug Enforcement Administration.
 - G.** An administrative medical director may delegate responsibilities to an individual as necessary to fulfill the requirements in this Section, if the individual is:
 - 1. Another physician,
 - 2. A physician assistant,
 - 3. A registered nurse practitioner,
 - 4. A registered nurse,
 - 5. A Paramedic, or
 - 6. An EMT-I(99).
- Historical Note**
- Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-201 renumbered to R9-25-207; new R9-25-201 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section repealed; new Section R9-25-201 renumbered from R9-25-202 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 953, effective July 1, 2019 (Supp. 19-2).
- R9-25-202. On-line Medical Direction (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), 36-2204(5), (6), and (7), 36-2204.01, and 36-2205(A) and (D))**
- A.** In this Section, "physician" means an individual licensed:
 - 1. According to A.R.S. Title 32, Chapter 13 or 17; or
 - 2. When working in a health care institution operating under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation, by a similar licensing board in another state.
 - B.** An emergency medical services provider or ambulance service shall:
 - 1. Except as provided in R9-25-203(C)(3), ensure that a physician provides on-line medical direction to EMCTs on behalf of the emergency medical services provider or ambulance service only if the physician meets one of the following:
 - a. Has emergency medicine certification issued by a member board of the American Board of Medical Specialties;
 - b. Has emergency medical services certification issued by the American Board of Emergency Medicine;
 - c. Has emergency medicine certification issued by the American Osteopathic Board of Emergency Medicine;
 - d. Has emergency medicine certification issued by the American Board of Physician Specialties;
 - e. Has completed an emergency medicine residency training program accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association; or
 - f. Is an emergency medicine physician in an emergency department located in Arizona and has current certification that meets the requirements in R9-25-201(A)(1)(f)(i) through (iii);
 - 2. For each physician providing on-line medical direction on behalf of the emergency medical services provider or ambulance service, maintain for Department review either:
 - a. The name, e-mail address, telephone number, and qualifications of the physician providing on-line medical direction on behalf of the emergency medical services provider or ambulance service; or
 - b. If the emergency medical services provider or ambulance service provides on-line medical direction through an ALS base hospital or a centralized medical direction communications center, a copy of a written agreement with the ALS base hospital or centralized medical direction communications center documenting that the physician providing on-line medical direction is qualified under subsection (B)(1);
 - 3. Ensure that the on-line medical direction provided to an EMCT on behalf of the emergency medical services provider or ambulance service is consistent with:
 - a. The EMCT's scope of practice, as specified in Table 5.1; and
 - b. Communication protocols, triage protocols, treatment protocols, and protocols for prehospital incident history reports, specified in R9-25-201(E)(2); and
 - 4. Ensures that a physician providing on-line medical direction on behalf of the emergency medical services provider or ambulance service relays on-line medical direction only through one of the following individuals, under the supervision of the physician and consistent with the individual's scope of practice:
 - a. Another physician,
 - b. A physician assistant,
 - c. A registered nurse practitioner,
 - d. A registered nurse,
 - e. A Paramedic, or
 - f. An EMT-I(99).

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- C. An emergency medical services provider or ambulance service may provide on-line medical direction through an ALS base hospital certified according to R9-25-203(C), if the emergency medical services provider or ambulance service:
 - 1. Uses the ALS base hospital for on-line medical direction only for patients who are children, and
 - 2. Has an additional written agreement for the provision of on-line medical direction with an ALS base hospital that meets the requirements in R9-25-203(B)(1) or a centralized medical direction communications center.
- D. An emergency medical services provider or ambulance service shall ensure that the emergency medical services provider or ambulance service, or an ALS base hospital or a centralized medical direction communications center providing on-line medical direction on behalf of the emergency medical services provider or ambulance service, has:
 - 1. Operational and accessible communication equipment that will allow on-line medical direction to be given to an EMCT;
 - 2. A written plan for alternative communications with an EMCT in the event of a disaster, communication equipment breakdown or repair, power outage, or malfunction; and
 - 3. A physician qualified under subsection (B)(1) available to give on-line medical direction to an EMCT 24 hours a day, seven days a week.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-202 renumbered to R9-25-208; new R9-25-202 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-202 renumbered to Section R9-25-201; new Section R9-25-202 renumbered from R9-25-203 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 953, effective July 1, 2019 (Supp. 19-2).

Exhibit A. Repealed**Historical Note**

Exhibit A adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-203. ALS Base Hospital General Requirements (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(5), (6), and (7))

- A. A person shall not operate as an ALS base hospital without certification from the Department.
- B. The Department shall certify an ALS base hospital if the applicant:
 - 1. Is:
 - a. Licensed as a general hospital under 9 A.A.C. 10, Article 2; or
 - b. A facility operated as a hospital in this state by the United States federal government or by a sovereign tribal nation;
 - 2. Maintains at least one current written agreement described in A.R.S. § 36-2201(4);
 - 3. Has not been decertified as an ALS base hospital by the Department within five years before submitting the application;
 - 4. Submits an application that is complete and compliant with the requirements in this Article; and
 - 5. Has not knowingly provided false information on or with an application required by this Article.
- C. The Department may certify as an ALS base hospital a special hospital, which is licensed under 9 A.A.C. 10, Article 2 and provides surgical services and emergency services only to children, if the applicant:
 - 1. Meets the requirements in subsection (B)(2) through (5);
 - 2. Provides administrative medical direction or on-line medical direction only for patients who are children; and
 - 3. Ensures that:
 - a. Administrative medical direction is provided by a physician who meets the requirements in R9-25-201(A)(1); and
 - b. On-line medical direction is provided by a physician who meets one of the following:
 - i. Meets the requirements in R9-25-202(B)(1),
 - ii. Has board certification in pediatric emergency medicine from either the American Board of Pediatrics or the American Board of Emergency Medicine, or
 - iii. Is board eligible in pediatric emergency medicine.

- D. An ALS base hospital certificate is valid only for the name and address listed by the Department on the certificate.
- E. At least every 36 months after certification, the Department shall assess an ALS base hospital to determine ongoing compliance with the requirements of this Article.
- F. The Department may inspect an ALS base hospital according to A.R.S. § 41-1009:
 - 1. As part of the substantive review time-frame required in A.R.S. §§ 41-1072 through 41-1079; or
 - 2. As necessary to determine compliance with the requirements of this Article.
- G. If the Department determines that an ALS base hospital is not in compliance with the requirements in this Article, the Department may:
 - 1. Take an enforcement action as described in R9-25-207; or
 - 2. Require that an ALS base hospital submit to the Department, within 15 days after written notice from the Department, a corrective action plan to address issues of compliance that do not directly affect the health or safety of a patient that:
 - a. Describes how each identified instance of non-compliance will be corrected and reoccurrence prevented, and
 - b. Includes a date for correcting each instance of non-compliance that is appropriate to the actions necessary to correct the instance of non-compliance.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-203 renumbered to Section R9-25-202; new Section R9-25-203 renumbered from R9-25-207 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 953, effective July 1, 2019 (Supp. 19-2).

R9-25-204. Application Requirements for ALS Base Hospital Certification (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(5))

- A. An applicant for ALS base hospital certification shall submit to the Department an application, including:
 - 1. The following information in a Department-provided format:
 - a. The applicant's name, address, and telephone number;
 - b. The name, email address, and telephone number of the applicant's chief administrative officer;
 - c. The name, email address, and telephone number of the applicant's chief administrative officer's designee if the chief administrative officer will not be the liaison between the ALS base hospital and the Department;

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- d. Whether the applicant is applying for certification of a:
 - i. General hospital licensed under 9 A.A.C. 10, Article 2;
 - ii. Special hospital licensed under 9 A.A.C. 10, Article 2, that provides surgical services and emergency services only to children; or
 - iii. Facility operating as a federal or tribal hospital;
 - e. The name of each emergency medical services provider or ambulance service for which the applicant has a proposed written agreement described in A.R.S. § 36-2201(4) to provide administrative medical direction or on-line medical direction;
 - f. The name, address, email address, and telephone number of each administrative medical director;
 - g. The name of each physician providing on-line medical direction;
 - h. Attestation that the applicant meets the requirements in R9-25-202(D);
 - i. Attestation that the applicant will comply with all requirements in A.R.S. Title 36, Chapter 21.1 and this Chapter;
 - j. Attestation that all information required as part of the application has been submitted and is true and accurate; and
 - k. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature;
- 2. A copy of the applicant's current hospital license issued under 9 A.A.C. 10, Article 2, if applicable; and
 - 3. A copy of each executed written agreement described in A.R.S. § 36-2201(4), including all attachments and exhibits.
- B.** The Department shall approve or deny an application under this Section according to Article 12 of this Chapter.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-204 renumbered to R9-25-209; new R9-25-204 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section R9-25-204 repealed; new Section R9-25-204 renumbered from R9-25-208 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 953, effective July 1, 2019 (Supp. 19-2).

R9-25-205. Changes Affecting an ALS Base Hospital Certificate (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(5) and (6))

- A.** No later than 30 days after the date of a change in the name listed on the ALS base hospital certificate, an ALS base hospital certificate holder shall notify the Department of the change, in a Department-provided format, including:
- 1. The current name of the ALS base hospital;
 - 2. The ALS base hospital's certificate number;
 - 3. The new name and the effective date of the name change;
 - 4. Documentation supporting the name change;
 - 5. Documentation of compliance with the requirements in A.A.C. R9-10-109(A), if applicable;
 - 6. Attestation that all information submitted to the Department is true and correct; and
 - 7. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- B.** No later than 48 hours after changing the information provided according to R9-25-204(A)(1)(e) by terminating, adding, or amending a written agreement required in R9-25-203(B)(2),

an ALS base hospital certificate holder shall notify the Department of the change, including:

- 1. The following information in a Department-provided format:
 - a. The name of the ALS base hospital;
 - b. The ALS base hospital's certificate number; and
 - c. As applicable, the name of the emergency medical services provider or ambulance service for which the ALS base hospital:
 - i. Has a newly executed or amended written agreement described in A.R.S. § 36-2201(4), or
 - ii. Is no longer providing administrative medical direction or on-line medical direction under a written agreement described in A.R.S. § 36-2201(4); and
 - 2. If applicable, a copy of the newly executed or amended written agreement described in A.R.S. § 36-2201(4), including all attachments and exhibits.
- C.** No later than 10 days after the date of a change in an administrative medical director provided according to R9-25-204(A)(1)(f), an ALS base hospital certificate holder shall notify the Department of the change, in a Department-provided format, including:
- 1. The name of the ALS base hospital,
 - 2. The ALS base hospital's certificate number,
 - 3. The name of the new administrative medical director and the effective date of the change,
 - 4. Attestation that the new administrative medical director meets the requirements in R9-25-201(A)(1),
 - 5. Attestation that all information submitted to the Department is true and correct, and
 - 6. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- D.** No later than 30 days after the date of a change in the address listed on an ALS base hospital certificate or a change in ownership, as defined in A.A.C. R9-10-101, an ALS base hospital certificate holder shall submit to the Department an application required in R9-25-204(A).

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). Section R9-25-205 repealed; new Section R9-25-205 renumbered from R9-25-209 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 953, effective July 1, 2019 (Supp. 19-2).

R9-25-206. ALS Base Hospital Authority and Responsibilities (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), 36-2204(5) and (6), 36-2208(A), and 36-2209(A)(2))

- A.** An ALS base hospital certificate holder shall:
- 1. Have the capability of providing both administrative medical direction and on-line medical direction;
 - 2. Provide administrative medical direction and on-line medical direction to an EMCT according to:
 - a. A written agreement described in A.R.S. § 36-2201(4);
 - b. The requirements in R9-25-201 for administrative medical direction; and
 - c. The requirements in R9-25-202 for on-line medical direction;
 - 3. Ensure that personnel are available to provide administrative medical direction and on-line medical direction; and
 - 4. Establish, document, and implement policies and procedures, consistent with A.R.S. Title 36, Chapter 21.1 and

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this Chapter, that include a quality assurance process to evaluate the effectiveness of the on-line medical direction provided to EMCTs.

- B.** An ALS base hospital certificate holder shall notify in writing:
1. The Department no later than 24 hours after:
 - a. Ceasing to meet a requirement in R9-25-203(B)(1) or (2); or
 - b. For a special hospital, ceasing to be licensed under 9 A.A.C. 10, Article 2, as a special hospital or to meet the requirement in R9-25-203(B)(2); and
 2. Each emergency medical services provider or ambulance service with which the ALS base hospital has a current written agreement to provide administrative medical direction or on-line medical direction no later than seven days before ceasing to provide administrative medical direction or on-line medical direction or as specified in the written agreement, whichever is earlier.
- C.** An ALS base hospital may act as a training program without training program certification from the Department, if the ALS base hospital:
1. Is eligible for training program certification as provided in R9-25-301(C); and
 2. Complies with the requirements in R9-25-301(D), R9-25-302, R9-25-303(B), (C), and (F), and R9-25-304 through R9-25-306.
- D.** If an ALS base hospital's pharmacy provides all of the agents for an emergency medical services provider or ambulance service, and the ALS base hospital owns the agents provided, the ALS base hospital's certificate holder shall ensure that:
1. Except as stated in subsections (D)(2) and (3), the policies and procedures for agents to which an EMCT has access that are established by the administrative medical director for the emergency medical services provider or ambulance service comply with requirements in R9-25-201(F)(2);
 2. The emergency medical services provider or ambulance service requires an EMCT for the emergency medical services provider or ambulance service to notify the pharmacist in charge of the hospital pharmacy of a missing, visibly adulterated, or depleted controlled substance; and
 3. The pharmacist in charge of the hospital pharmacy notifies the Department, as specified in R9-25-201(F)(3), of a missing, visibly adulterated, or depleted controlled substance.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Amended effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4). Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Former R9-25-206 renumbered to R9-25-210; new R9-25-206 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-206 repealed; new Section R9-25-206 renumbered from R9-25-210 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 953, effective July 1, 2019 (Supp. 19-2).

The following Exhibit was repealed under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to A.R.S. § 36-2205(C). Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit this change to the Secretary of State's Office for publication in the Arizona Administrative Register as proposed rules; the Department did not submit the change to the Governor's Regulatory Review Council for review; and the Department was not required to hold public hearings on

the repealing of this Exhibit (Supp. 98-4).

Exhibit B. Repealed**Historical Note**

Exhibit B adopted effective October 15, 1996 (Supp. 96-4). Repealed effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4).

R9-25-207. ALS Base Hospital Enforcement Actions (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(7))

- A.** Except as provided in subsection (C), the Department may take an action listed in subsection (B) against an ALS base hospital certificate holder who:
1. Does not meet the certification requirements:
 - a. In R9-25-203(B)(1) or (2); or
 - b. For a special hospital, in R9-25-203(B)(2) and being licensed under 9 A.A.C. 10, Article 2, as a special hospital;
 2. Violates the requirements in A.R.S. Title 36, Chapter 21.1 or 9 A.A.C. 25;
 3. Does not submit a corrective action plan, as provided in R9-25-203(G)(2), that is acceptable to the Department;
 4. Does not complete a corrective action plan submitted according to R9-25-203(G)(2); or
 5. Knowingly or negligently provides false documentation or information to the Department.
- B.** The Department may take the following action against an ALS base hospital certificate holder:
1. After notice is provided according to A.R.S. Title 41, Chapter 6, Article 10, issue a letter of censure,
 2. After notice is provided according to A.R.S. Title 41, Chapter 6, Article 10, issue an order of probation,
 3. After notice and an opportunity to be heard is provided according to A.R.S. Title 41, Chapter 6, Article 10, suspend the ALS base hospital certificate, or
 4. After notice and an opportunity to be heard is provided according to A.R.S. Title 41, Chapter 6, Article 10, decertify the ALS base hospital.
- C.** An ALS base hospital operated as a hospital in this state by the United States federal government or by a sovereign tribal nation is under federal or tribal government jurisdiction.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-207 repealed; new R9-25-207 renumbered from R9-25-201 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-207 renumbered to Section R9-25-203; new Section R9-25-207 renumbered from Section R9-25-211 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 953, effective July 1, 2019 (Supp. 19-2).

R9-25-208. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-208 repealed; new R9-25-208 renumbered from R9-25-202 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-208 renumbered to Section R9-25-204 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-209. Renumbered

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Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-209 repealed; new R9-25-209 renumbered from R9-25-204 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-209 renumbered to Section R9-25-205 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-210. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-210 repealed; new R9-25-210 renumbered from R9-25-206 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section R9-25-210 renumbered to Section R9-25-206 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-211. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-211 repealed; new R9-25-211 renumbered from R9-25-213 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-211 renumbered to Section R9-25-207 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-212. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-213. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section renumbered to R9-25-211 by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

ARTICLE 3. TRAINING PROGRAMS**R9-25-301. Application for Certification (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))**

- A. To apply for certification as a training program, an applicant shall submit an application to the Department, in a Department-provided format, including:
1. The applicant's name, address, and telephone number;
 2. The name, telephone number, and e-mail address of the applicant's chief administrative officer;
 3. The name of each course the applicant plans to provide;
 4. Attestation that the applicant has the equipment and facilities that meet the requirements established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references for the courses specified in subsection (A)(3);
 5. The name, telephone number, and e-mail address of the training program medical director;
 6. The name, telephone number, and e-mail address of the training program director;
 7. Attestation that the applicant will comply with all requirements in A.R.S. Title 36, Chapter 21.1 and 9 A.A.C. 25;

8. Attestation that all information required as part of the application has been submitted and is true and accurate; and
 9. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- B. An applicant may submit to the Department a copy of an accreditation report if the applicant is currently accredited by a national accrediting organization.
- C. The Department shall certify a training program if the applicant:
1. Has not operated a training program that has been decertified by the Department within five years before submitting the application,
 2. Submits an application that is complete and compliant with requirements in this Article, and
 3. Has not knowingly provided false information on or with an application required by this Article.
- D. The Department:
1. Shall assess a training program at least once every 24 months after certification to determine ongoing compliance with the requirements of this Article; and
 2. May inspect a training program according to A.R.S. § 41-1009:
 - a. As part of the substantive review time-frame required in A.R.S. §§ 41-1072 through 41-1079, or
 - b. As necessary to determine compliance with the requirements of this Article.
- E. The Department shall approve or deny an application under this Article according to Article 12 of this Chapter.
- F. A training program certificate is valid only for the name of the training program certificate holder and the courses listed by the Department on the certificate and may not be transferred to another person.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 3487, with an immediate effective date of December 4, 2018 (Supp. 18-4).

R9-25-302. Administration (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A. A training program certificate holder shall ensure that a training program medical director:
1. Is a physician or exempt from physician licensing requirements under A.R.S. §§ 32-1421(A)(7) or 32-1821(3);
 2. Meets one of the following:
 - a. Has emergency medicine certification issued by a member board of the American Board of Medical Specialties,
 - b. Has emergency medical services certification issued by the American Board of Emergency Medicine,
 - c. Has completed an emergency medicine residency training program accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association, or

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- d. Is an emergency medicine physician in an emergency department located in Arizona and has current certification that meets the requirements in R9-25-201(A)(1)(d)(i) through (iii); and
3. Before the start date of a course session, reviews the course content outline and final examinations to ensure consistency with the national educational standards for the applicable EMCT classification level.
- B.** A training program certificate holder shall ensure that a training program director:
 1. Is one of the following:
 - a. A physician with at least two years of experience providing emergency medical services as a physician;
 - b. A doctor of allopathic medicine or osteopathic medicine licensed in another state or jurisdiction with at least two years of experience providing emergency medical services as a doctor of allopathic medicine or osteopathic medicine;
 - c. An individual who meets the definition of registered nurse in A.R.S. § 32-1601 with at least two years of experience providing emergency medical services as a registered nurse;
 - d. A physician assistant with at least two years of experience providing emergency medical services as a physician assistant; or
 - e. An EMCT with at least two years of experience at that classification of EMCT, only for courses to prepare an individual for certification or recertification at the same or lower level of EMCT;
 2. Has completed 24 hours of training related to instructional methodology including:
 - a. Organizing and preparing materials for didactic instruction, clinical training, field training, and skills practice;
 - b. Preparing and administering tests and practical examinations;
 - c. Using equipment and supplies;
 - d. Measuring student performance;
 - e. Evaluating student performance;
 - f. Providing corrective feedback; and
 - g. Evaluating course effectiveness;
 3. Supervises the day-to-day operation of the courses offered by the training program;
 4. Supervises and evaluates the lead instructor for a course session;
 5. Monitors the training provided by all preceptors providing clinical training or field training; and
 6. Does not participate as a student in a course session, take a refresher challenge examination, or receive a certificate of completion for a course given by the training program.
- C.** A training program certificate holder shall:
 1. Maintain with an insurance company authorized to transact business in this state:
 - a. A minimum single claim professional liability insurance coverage of \$500,000, and
 - b. A minimum single claim general liability insurance coverage of \$500,000 for the operation of the training program; or
 2. Be self-insured for the amounts in subsection (C)(1).
- D.** A training program certificate holder shall ensure that policies and procedures are:
 1. Established, documented, and implemented covering:
 - a. Student enrollment, including verification that a student has proficiency in reading at the 9th grade level and meets all course admission requirements;
 - b. Maintenance of student records and medical records, including compliance with all applicable state and federal laws governing confidentiality, privacy, and security; and
 - c. For each course offered:
 - i. Student attendance requirements, including leave, absences, make-up work, tardiness, and causes for suspending or expelling a student for unsatisfactory attendance;
 - ii. Grading criteria, including the minimum grade average considered satisfactory for continued enrollment and standards for suspending or expelling a student for unsatisfactory grades;
 - iii. Administration of final examinations; and
 - iv. Student conduct, including causes for suspending or expelling a student for unsatisfactory conduct;
 2. Reviewed annually and updated as necessary; and
 3. Maintained on the premises and provided to the Department at the Department's request.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-303. Changes Affecting a Training Program Certificate (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A.** No later than 10 days after a change in the name, address, or e-mail address of the training program certificate holder listed on a training program certificate, the training program certificate holder shall notify the Department of the change, in a Department-provided format, including:
 1. The current name, address, and e-mail address of the training program certificate holder;
 2. The certificate number for the training program;
 3. The new name, new address, or new e-mail address and the date of the name, address, or e-mail address change;
 4. If applicable, attestation that the training program certificate holder has insurance required in R9-25-302(C) that is valid for the new name or new address;
 5. Attestation that all information submitted to the Department is true and correct; and
 6. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- B.** No later than 10 days after a change in the training program medical director or training program director, a training program certificate holder shall notify the Department, in a Department-provided format, including:
 1. The name and address of the training program certificate holder;
 2. The certificate number for the training program;
 3. The name, telephone number, and e-mail address of the new training program medical director or training program director and the date of the change; and
 4. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- C.** A training program certificate holder that intends to add a course shall submit to the Department a request for approval, in a Department-provided format, including:
 1. The name and address of the training program certificate holder;
 2. The certificate number for the training program;
 3. The name, telephone number, and e-mail address of the applicant's chief administrative officer;

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4. The name of each course the training program certificate holder plans to add;
 5. Attestation that the training program certificate holder has the equipment and facilities that meet the requirements established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references for the courses specified in subsection (C)(4);
 6. Attestation that all information required as part of the request is true and accurate; and
 7. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- D.** For notification made under subsection (A) of a change in the name or address of a certificate holder, the Department shall issue an amended certificate to the training program certificate holder that incorporates the new name or address but retains the date on the current certificate.
- E.** The Department shall approve or deny a request for the addition of a course in subsection (C) according to Article 12 of this Chapter.
- F.** A training program certificate holder shall not conduct a course until an amended certificate is issued by the Department.
- Historical Note**
- Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 3487, with an immediate effective date of December 4, 2018 (Supp. 18-4).
- R9-25-304. Course and Examination Requirements (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1), (2), and (3))**
- A.** For each course provided, a training program director shall ensure that:
1. The required equipment and facilities established for the course are available for use;
 2. The following are prepared and provided to course applicants before the start date of a course session:
 - a. A description of requirements for admission, course content, course hours, course fees, and course completion, including whether the course prepares a student for:
 - i. A national certification organization examination for the specific EMCT classification level,
 - ii. A statewide standardized certification test under the state certification process, or
 - iii. Recertification at a specific EMCT classification level;
 - b. A list of books, equipment, and supplies that a student is required to purchase for the course;
 - c. Notification of eligibility for the course as specified in R9-25-305(B), (D)(1) and (2), or (F)(1) and (2), as applicable;
 - d. Notification of any specific requirements for a student to begin any component of the course, including, as applicable:
 - i. Prerequisite knowledge, skill, and abilities;
 - ii. Physical examinations;
 - iii. Immunizations;
 - iv. Documentation of freedom from infectious tuberculosis;
 - v. Drug screening; and
 - vi. The ability to perform certain physical activities; and
 - e. The policies for the course on student attendance, grading, student conduct, and administration of final examinations, required in R9-25-302(D)(1)(c)(i) through (iv);
- 3.** Information is provided to assist a student to:
- a. Register for and take an applicable national certification organization examination;
 - b. Complete application forms for registration in a national certification organization; and
 - c. Complete application forms for certification under 9 A.A.C. 25, Article 4;
- 4.** A lead instructor is assigned to each course session who:
- a. Is one of the following:
 - i. A physician with at least two years of experience providing emergency medical services;
 - ii. A doctor of allopathic medicine or osteopathic medicine licensed in another state or jurisdiction with at least two years of experience providing emergency medical services;
 - iii. An individual who meets the definition of registered nurse in A.R.S. § 32-1601 with at least two years of experience providing emergency medical services;
 - iv. A physician assistant with at least two years of experience providing emergency medical services; or
 - v. An EMCT with at least two years of experience at that classification of EMCT, only for courses to prepare an individual for certification or recertification at the same or lower EMCT classification level;
 - b. Has completed training related to instructional methodology specified in R9-25-302(B)(2);
 - c. Except as provided in subsection (A)(4)(d), is available for student-instructor interaction during all course hours established for the course session; and
 - d. Designates an individual who meets the requirements in subsections (A)(4)(a) and (b) to be present and act as the lead instructor when the lead instructor is not present; and
- 5.** Clinical training and field training are provided:
- a. Under the supervision of a preceptor who has at least two years of experience providing emergency medical services and is one of the following:
 - i. An individual licensed in this or another state or jurisdiction as a doctor of allopathic medicine or osteopathic medicine;
 - ii. An individual licensed in this or another state or jurisdiction as a registered nurse;
 - iii. An individual licensed in this or another state or jurisdiction as a physician assistant; or
 - iv. An EMCT, only for courses to prepare an individual for certification or recertification at the same or lower EMCT classification level;
 - b. Consistent with the clinical training and field training requirements established for the course; and
 - c. If clinical training or field training are provided by a person other than the training program certificate holder, under a written agreement with the person providing the clinical training or field training that includes a termination clause that provides sufficient time for a student to complete the training upon termination of the written agreement.
- B.** A training program director may combine the students from more than one course session for didactic instruction.
- C.** For a final examination or refresher challenge examination for each course offered, a training program director shall ensure that:

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1. The final examination or refresher challenge examination for the course is completed onsite at the training program or at a facility used for course instruction;
 2. Except as provided in subsection (D), the final examination or refresher challenge examination for a course includes a:
 - a. Written test:
 - i. With one absolutely correct answer, two incorrect answers, and one distractor, none of which is "all of the above" or "none of the above";
 - ii. With 150 multiple-choice questions for the:
 - (1) Final examination for a refresher course, or
 - (2) Refresher challenge examination for a course;
 - iii. That covers the learning objectives of the course with representation from all topics covered by the course; and
 - iv. That requires a passing score of 75% or higher in no more than three attempts for a final examination and no more than one attempt for a refresher challenge examination; and
 - b. Comprehensive practical skills test:
 - i. Evaluating the student's technical proficiency in skills consistent with the national education standards for the applicable EMCT classification level, and
 - ii. Reflecting the skills necessary to pass a national certification organization examination at the applicable EMCT classification level;
 3. The identity of each student taking the final examination or refresher challenge examination is verified;
 4. A student does not receive verbal or written assistance from any other individual or use notes, books, or documents of any kind as an aid in taking the examination;
 5. A student who violates subsection (C)(4) is not permitted to complete the examination or to receive a certificate of completion for the course or refresher challenge examination; and
 6. An instructor who allows a student to violate subsection (C)(4) or assists a student in violating subsection (C)(4) is no longer permitted to serve as an instructor.
- D.** A training program director shall ensure that a standardized certification test for a student under the state certification process includes:
1. A written test that meets the requirements in subsection (C)(2)(a); and
 2. Either:
 - a. A comprehensive practical skills test that meets the requirements in subsection (C)(2)(b), or
 - b. An attestation of practical skills proficiency on a Department-provided form.
- E.** A training program director shall ensure that:
1. A student is allowed no longer than six months after the date of the last day of classroom instruction for a course session to complete all course requirements,
 2. There is a maximum ratio of four students to one preceptor for the clinical training portion of a course, and
 3. There is a maximum ratio of one student to one preceptor for the field training portion of a course.
- F.** A training program director shall:
1. For a student who completes a course, issue a certificate of completion containing:
 - a. Identification of the training program,
 - b. Identification of the course completed,
 - c. The name of the student who completed the course,
 - d. The date the student completed all course requirements,
 - e. Attestation that the student has met all course requirements, and
 - f. The signature or electronic signature of the training program director and the date of signature or electronic signature; and
2. For an individual who passes a refresher challenge examination, issue a certificate of completion containing:
- a. Identification of the training program,
 - b. Identification of the refresher challenge examination administered,
 - c. The name of the individual who passed the refresher challenge examination,
 - d. The date or dates the individual took the refresher challenge examination,
 - e. Attestation that the individual has passed the refresher challenge examination, and
 - f. The signature or electronic signature of the training program director and the date of signature or electronic signature.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-305. Supplemental Requirements for Specific Courses (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A.** Except as specified in subsection (B), a training program certificate holder shall ensure that a certification course offered by the training program:
1. Covers knowledge, skills, and competencies comparable to the national education standards established for a specific EMCT classification level;
 2. Prepares a student for:
 - a. A national certification organization examination for the specific EMCT classification level, or
 - b. A standardized certification test under the state certification process;
 3. Has no more than 24 students enrolled in each session of the course; and
 4. Has a minimum course length of:
 - a. For an EMT certification course, 130 hours;
 - b. For an AEMT certification course, 244 hours, including:
 - i. A minimum of 100 contact hours of didactic instruction and practical skills training, and
 - ii. A minimum of 144 contact hours of clinical training and field training; and
 - c. For a Paramedic certification course, 1000 hours, including:
 - i. A minimum of 500 contact hours of didactic instruction and practical skills training, and
 - ii. A minimum of 500 contact hours of clinical training and field training.
- B.** A training program director shall ensure that, for an AEMT certification course or a Paramedic certification course, a student has one of the following:
1. Current certification from the Department as an EMT or higher EMCT classification level,
 2. Documentation of completion of prior training in an EMT course or a course for a higher EMCT classification level provided by a training program certified by the Department or an equivalent training program, or
 3. Documentation of current registration in a national certification organization at the EMT classification level or higher EMCT classification level.

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- C. A training program director shall ensure that for a course to prepare an EMT-I(99) for Paramedic certification:
1. A student has current certification from the Department as an EMT-I(99);
 2. The course covers the knowledge, skills, and competencies established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references;
 3. The minimum course length is 600 hours, including:
 - a. A minimum of 220 contact hours of didactic instruction and practical skills training; and
 - b. A minimum of 380 contact hours of clinical training and field training; and
 4. A minimum of 60 contact hours of training in anatomy and physiology are completed by the student:
 - a. As a prerequisite to the course,
 - b. As preliminary instruction completed at the beginning of the course session before the didactic instruction required in subsection (C)(3)(a) begins, or
 - c. Through integration of the anatomy and physiology material with the units of instruction required in subsection (C)(3).
- D. A training program director shall ensure that for an EMT refresher course:
1. A student has one of the following:
 - a. Current certification from the Department as an EMT or higher EMCT classification level,
 - b. Documentation of completion of prior training in an EMT course or a course for a higher EMCT classification level provided by a training program certified by the Department or an equivalent training program,
 - c. Documentation of current registration in a national certification organization at the EMT classification level or higher EMCT classification level, or
 - d. Documentation from a national certification organization requiring the student to complete the EMT refresher course to be eligible to apply for registration in the national certification organization;
 2. A student has documentation of current certification in adult, pediatric, and infant cardiopulmonary resuscitation through instruction consistent with American Heart Association recommendations for emergency cardiovascular care by EMCTs;
 3. The EMT refresher course cover the knowledge, skills, and competencies in the national education standards established at the EMT classification level;
 4. No more than 32 students are enrolled in each session of the course; and
 5. The minimum course length is 24 contact hours.
- E. A training program authorized to provide an EMT refresher course may administer a refresher challenge examination covering materials included in the EMT refresher course to an individual eligible for admission into the EMT refresher course.
- F. A training program director shall ensure that for an ALS refresher course:
1. A student has one of the following:
 - a. Current certification from the Department as an AEMT, EMT-I(99), or Paramedic;
 - b. Documentation of completion of a prior training course, at the AEMT classification level or higher, provided by a training program certified by the Department or an equivalent training program;
 - c. Documentation of current registration in a national certification organization at the AEMT or Paramedic classification level; or
 - d. Documentation from a national certification organization requiring the student to complete the ALS refresher course to be eligible to apply for registration in the national certification organization;
 2. A student has documentation of current certification in:
 - a. Adult, pediatric, and infant cardiopulmonary resuscitation through instruction consistent with American Heart Association recommendations for emergency cardiovascular care by EMCTs, and
 - b. For a student who has current certification as an EMT-I(99) or higher level of EMCT classification, advanced emergency cardiac life support;
 3. The ALS refresher course covers:
 - a. For a student who has current certification as an AEMT or documentation of completion of prior training at an AEMT classification level, the knowledge, skills, and competencies in the national education standards established for an AEMT;
 - b. For a student who has current certification as an EMT-I(99), the knowledge, skills, and competencies established according to A.R.S. § 36-2204 for an EMT-I(99) as of the effective date of this Section and available through the Department at www.azdhs.gov/ems-regulatory-references; and
 - c. For a student who has current certification as a Paramedic or documentation of completion of prior training at a Paramedic classification level, the knowledge, skills, and competencies in the national education standards established for a Paramedic;
 4. No more than 32 students are enrolled in each session of the course; and
 5. The minimum course length is 48 contact hours.
- G. A training program authorized to provide an ALS refresher course may administer a refresher challenge examination covering materials included in the ALS refresher course to an individual eligible for admission into the ALS refresher course.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 3487, with an immediate effective date of December 4, 2018 (Supp. 18-4).

Exhibit F. Repealed**Historical Note**

Exhibit F adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-306. Training Program Notification and Recordkeeping (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A. At least 10 days before the start date of a course session, a training program certificate holder shall submit to the Department the following information in a Department-provided format:
1. Identification of the training program;
 2. Identification of the course;
 3. The name of the training program medical director;

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4. The name of the training program director;
 5. The name of the course session's lead instructor;
 6. The course session start date and end date;
 7. The physical location at which didactic training and practical skills training will be provided;
 8. The days of the week and times of each day during which didactic training and practical skills training will be provided;
 9. The number of clock hours of didactic training and practical skills training;
 10. If applicable, the number of hours of clinical training and field training included in the course session;
 11. The date, start time, and location of the final examination for the course;
 12. Attestation that the lead instructor is qualified under R9-25-304(A)(4)(a); and
 13. The name and signature of the chief administrative officer or program director and the date signed.
- B.** The Department shall review the information submitted according to subsection (A) and, within five days after receiving the information:
1. Approve a course session, issue an identifying number to the course session, and notify the training program certificate holder of the approval and identifying number; or
 2. Disapprove a course session that does not comply with requirements in this Article and notify the training program certificate holder of the disapproval.
- C.** A training program certificate holder shall ensure that:
1. No later than 10 days after the date a student completes all course requirements, the training program director submits to the Department the following information in a Department-provided format:
 - a. Identification of the training program;
 - b. The name of the training program director;
 - c. Identification of the course and the start date and end date of the course session completed by the student;
 - d. The name, date of birth, and mailing address of the student who completed the course;
 - e. The date the student completed all course requirements;
 - f. The score the student received on the final examination;
 - g. Attestation that the student has met all course requirements;
 - h. Attestation that all information submitted is true and accurate; and
 - i. The signature of the training program director and the date signed; and
 2. No later than 10 days after the date an individual passes a refresher challenge examination administered by the training program, the training program director submits to the Department the following information in a Department-provided format:
 - a. Identification of the training program;
 - b. Identification of the:
 - i. Refresher challenge examination administered, and
 - ii. Course for which the refresher challenge examination substitutes;
 - c. The name of the training program medical director;
 - d. The name of the training program director;
 - e. The name, date of birth, and mailing address of the individual who passed the refresher challenge examination;
 - f. The date and location at which the refresher challenge examination was administered;
 - g. The score the individual received on the refresher challenge examination;
 - h. Attestation that the individual:
 - i. Met the requirements for taking the refresher challenge examination, and
 - ii. Passed the refresher challenge examination;
 - i. Attestation that all information submitted is true and accurate; and
 - j. The name and signature of the training program director and the date signed.
- D.** A training program certificate holder shall ensure that:
1. A record is established for each student enrolled in a course session, including:
 - a. The student's name and date of birth;
 - b. A copy of the student's enrollment agreement or contract;
 - c. Identification of the course in which the student is enrolled;
 - d. The start date and end date for the course session;
 - e. Documentation supporting the student's eligibility to enroll in the course;
 - f. Documentation that the student meets prerequisites for the course, established as specified in R9-25-304(A)(2)(d)(i);
 - g. The student's attendance records;
 - h. The student's clinical training records, if applicable;
 - i. The student's field training records, if applicable;
 - j. The student's grades;
 - k. Documentation of the final examination for the course, including:
 - i. A copy of each scored written test attempted or completed by the student, and
 - ii. All forms used as part of the comprehensive practical skills test attempted or completed by the student; and
 - l. A copy of the student's certificate of completion required in R9-25-304(F)(1);
 2. A student record required in subsection (D)(1) is maintained for at least three years after the end date of a student's course session and provided to the Department at the Department's request;
 3. A record is established for each individual to whom a refresher challenge examination is administered, including:
 - a. The individual's name and date of birth;
 - b. Identification of the refresher challenge examination administered to the individual;
 - c. Documentation supporting the individual's eligibility for a refresher challenge examination;
 - d. The date the refresher challenge examination was administered;
 - e. Documentation of the refresher challenge examination, including:
 - i. A copy of the scored written test attempted or completed by the individual, and
 - ii. All forms used as part of the comprehensive practical skills test attempted or completed by the individual; and
 - f. A copy of the individual's certificate of completion required in R9-25-304(F)(2); and
 4. A record required in subsection (D)(3) is maintained for at least three years after the date the refresher challenge examination was administered and provided to the Department at the Department's request.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 11 A.A.R. 553, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). R9-25-306 repealed; new Section R9-25-306 renumbered from R9-25-316 and amended by exempt rulemaking at 19 A.A.R.

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282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1).

R9-25-307. Training Program Enforcement Actions (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A.** The Department may take an action listed in subsection (B) against a training program certificate holder who:
1. Violates the requirements in A.R.S. Title 36, Chapter 21.1 or 9 A.A.C. 25; or
 2. Knowingly or negligently provides false documentation or information to the Department.
- B.** The Department may take the following action against a training program certificate holder:
1. After notice is provided according to A.R.S. Title 41, Chapter 6, Article 10, issue:
 - a. A letter of censure, or
 - b. An order of probation; or
 2. After notice and opportunity to be heard is provided according to A.R.S. Title 41, Chapter 6, Article 10:
 - a. Suspend the training program certificate, or
 - b. Decertify the training program.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (Supp. 12-3). New Section R9-25-307 renumbered from R9-25-317 and amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit H. Repealed

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-308. Repealed

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-309. Repealed

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 11 A.A.R. 553, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014,

effective October 6, 2007 (Supp. 07-3). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-310. Repealed

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-311. Repealed

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

Exhibit D. Repealed

Historical Note

Exhibit D adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit C. Repealed

Historical Note

Exhibit C adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit E. Repealed

Historical Note

Exhibit E adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-312. Repealed

Historical Note

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-313. Repealed

Historical Note

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-314. Repealed

Historical Note

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007

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(Supp. 06-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-315. Repealed**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-316. Renumbered**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). R9-25-316 renumbered to R9-25-306 by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-317. Renumbered**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). R9-25-317 renumbered to R9-25-307 by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-318. Repealed**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

Exhibit A. Repealed**Historical Note**

New Exhibit made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Exhibit A repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

Exhibit B. Expired**Historical Note**

New Exhibit made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Exhibit B expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (Supp. 12-3).

Exhibit C. Repealed**Historical Note**

New Exhibit made by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). Exhibit C repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

ARTICLE 4. EMCT CERTIFICATION

Article 4 repealed; new Article 4 made by final rulemaking at

9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-401. EMCT General Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (H) and 36-2204(1), (6), and (7))

- A. Except as provided in R9-25-404(E) and R9-25-405, an individual shall not act as an EMCT unless the individual has current certification or recertification from the Department.
- B. An EMCT shall act as an EMCT only:
 1. As authorized under the EMCT's scope of practice as specified in Article 5 of this Chapter; and
 2. For an EMCT required to have medical direction according to A.R.S. Title 36, Chapter 21.1 and R9-25-502, as authorized by the EMCT's administrative medical director under:
 - a. Treatment protocols, triage protocols, and communication protocols approved by the EMCT's administrative medical director as specified in R9-25-201(E)(2); and
 - b. Medical recordkeeping, medical reporting, and pre-hospital incident history report requirements approved by the EMCT's administrative medical director as specified in R9-25-201(E)(3)(b).
- C. Except as provided in A.R.S. § 36-2211, the Department shall certify or re-certify an individual as an EMCT for a period of two years.
- D. An individual whose EMCT certificate is expired shall not apply for recertification, except as provided in R9-25-404(A).
- E. The Department shall comply with the confidentiality requirements in A.R.S. §§ 36-2220(E) and 36-2245(M).

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 13 A.A.R. 1713, effective June 30, 2007 (Supp. 07-2). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1).

R9-25-402. EMCT Certification and Recertification Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (H) and 36-2204(1), (6), and (7))

- A. The Department shall not certify an EMCT if the applicant:
 1. Is currently:
 - a. Incarcerated for a criminal conviction;
 - b. On parole for a criminal conviction;
 - c. On supervised release for a criminal conviction; or
 - d. On probation for a criminal conviction;
 2. Within 10 years before the date of filing an application for certification required by this Article, has been convicted of any of the following crimes, or any similarly defined crimes in this state or in any other state or jurisdiction, unless the conviction has been absolutely discharged, expunged, or vacated:
 - a. 1st or 2nd degree murder;
 - b. Attempted 1st or 2nd degree murder;
 - c. Sexual assault;
 - d. Attempted sexual assault;
 - e. Sexual abuse of a minor;
 - f. Attempted sexual abuse of a minor;
 - g. Sexual exploitation of a minor;
 - h. Attempted sexual exploitation of a minor;
 - i. Commercial sexual exploitation of a minor;
 - j. Attempted commercial sexual exploitation of a minor;
 - k. Molestation of a child;
 - l. Attempted molestation of a child; or

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- m. A dangerous crime against children as defined in A.R.S. § 13-705;
- 3. Within five years before the date of filing an application for certification required by this Article, has been convicted of a misdemeanor involving moral turpitude or a felony in this state or any other state or jurisdiction, other than a misdemeanor involving moral turpitude or a felony listed in subsection (A)(2), unless the conviction has been absolutely discharged, expunged, or vacated;
- 4. Within five years before the date of filing an application for certification required by this Article, has had EMCT certification or recertification revoked in this state or certification, recertification, or licensure at an EMCT classification level revoked in any other state or jurisdiction; or
- 5. Knowingly provides false information in connection with an application required by this Article.
- B. The Department shall not re-certify an EMCT, if:
 - 1. While certified, the applicant has been convicted of a crime listed in subsection (A)(2), or any similarly defined crimes in this state or in any other state or jurisdiction, unless the conviction has been absolutely discharged, expunged, or vacated; or
 - 2. The applicant knowingly provides false information in connection with an application required by this Article.
- C. The Department shall make probation a condition of EMCT certification if, within two years before the date of filing an application under R9-25-403, an applicant has been convicted of a misdemeanor in this state or in any other state or jurisdiction, involving:
 - 1. Possession, use, administration, acquisition, sale, manufacture, or transportation of an intoxicating liquor, dangerous drug, or narcotic drug, as defined in A.R.S. § 13-3401, unless the conviction has been absolutely discharged, expunged, or vacated; or
 - 2. Driving or being in physical control of a vehicle while under the influence of an intoxicating liquor, a dangerous drug, or a narcotic drug, as defined in A.R.S. § 13-3401, unless the conviction has been absolutely discharged, expunged, or vacated.
- D. Except as provided in subsection (E), the Department shall make probation a condition of EMCT recertification if an applicant:
 - 1. Is currently:
 - a. Incarcerated for a criminal conviction,
 - b. On parole for a criminal conviction,
 - c. On supervised release for a criminal conviction, or
 - d. On probation for a criminal conviction; or
 - 2. Within five years before the date of filing an application under R9-25-404, has been convicted of a misdemeanor involving moral turpitude or a felony in this state or any other state or jurisdiction, other than those listed in subsection (A)(2), unless the conviction has been absolutely discharged, expunged, or vacated.
- E. As specified in R9-25-409, the Department may make probation a condition of EMCT recertification if an applicant, within two years before the date of filing an application under R9-25-404, has been convicted of a misdemeanor in this state or in any other state or jurisdiction, involving:
 - 1. Possession, use, administration, acquisition, sale, manufacture, or transportation of an intoxicating liquor, dangerous drug, or narcotic drug, as defined in A.R.S. § 13-3401, unless the conviction has been absolutely discharged, expunged, or vacated; or
 - 2. Driving or being in physical control of a vehicle while under the influence of an intoxicating liquor, a dangerous drug, or a narcotic drug, as defined in A.R.S. § 13-3401, unless the conviction has been absolutely discharged, expunged, or vacated.
- F. If the Department makes probation a condition of EMCT certification or recertification, the Department shall fix the period and terms of probation that will:

- 1. Protect the public health and safety, and
- 2. Rehabilitate and educate the applicant.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1).

R9-25-403. Application Requirements for EMCT Certification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and (H) and 36-2204(1) and (6))

- A. An individual may apply for initial EMCT certification if:
 - 1. The individual is at least 18 years of age;
 - 2. The individual complies with the requirements in A.R.S. § 41-1080;
 - 3. The individual is not ineligible under R9-25-402; and
 - 4. One of the following applies to the individual:
 - a. The individual has not previously applied for certification from the Department or has withdrawn an application for certification;
 - b. An application for certification submitted by the individual was denied by the Department two or more years before the present date;
 - c. Except as provided in R9-25-404(A)(2) or (3), the individual's certification as an EMCT is expired;
 - d. The individual's certification as an EMCT was revoked by the Department five or more years before the present date; or
 - e. The individual has current certification as an EMCT and is applying for certification at a different classification level of EMCT.
- B. An applicant for initial EMCT certification shall submit to the Department an application in a Department-provided format, including:
 - 1. A form containing:
 - a. The applicant's name, address, telephone number, email address, date of birth, gender, and Social Security number;
 - b. The level of EMCT certification being requested;
 - c. Responses to questions addressing the applicant's criminal history according to R9-25-402(A)(1) through (3) and (C);
 - d. Whether the applicant has within the five years before the date of the application had:
 - i. EMCT certification or recertification revoked in Arizona; or
 - ii. Certification, recertification, or licensure at an EMCT classification level revoked in another state or jurisdiction;
 - e. Attestation that all information required as part of the application has been submitted and is true and accurate; and
 - f. The applicant's signature or electronic signature and date of signature;
 - 2. For each affirmative response to a question addressing the applicant's criminal history required in subsection (B)(1)(c), a detailed explanation on a Department-provided form and supporting documentation;
 - 3. For each affirmative response to subsection (B)(1)(d), a detailed explanation on a Department-provided form and supporting documentation;
 - 4. If applicable, a copy of certification, recertification, or licensure at an EMCT classification level issued to the applicant in another state or jurisdiction;
 - 5. A copy of one of the following for the applicant:
 - a. U.S. passport, current or expired;
 - b. Birth certificate;

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- c. Naturalization documents; or
 - d. Documentation of legal resident alien status; and
 - 6. One of the following:
 - a. Either:
 - i. A certificate of completion showing that within two years before the date of the application, the applicant completed statewide standardized training; and
 - ii. A statewide standardized certification test; or
 - b. Documentation of current registration in a national certification organization at the applicable or higher level of EMCT classification.
 - B. The Department shall approve or deny an application for initial EMCT certification according to Article 12 of this Chapter.
 - C. If the Department denies an application for initial EMCT certification, the applicant may request a hearing according to A.R.S. Title 41, Chapter 6, Article 10.
- Historical Note**
- Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-403 repealed; new Section R9-25-403 renumbered from Section R9-25-404 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1).
- R9-25-404. Application Requirements for EMCT Recertification (Authorized by A.R.S. §§ 36-2202(A)(2), (3), (4), and (6), (B), and (H) and 36-2204(1), (4), and (6))**
- A. An individual may apply for recertification at the same level of EMCT certification held or at a lower level of EMCT certification:
 - 1. Within 90 days before the expiration date of the individual's current EMCT certification;
 - 2. Within the 30-day period after the expiration date of the individual's EMCT certification, as provided in subsection (E); or
 - 3. Within the extension time period granted under R9-25-405.
 - B. To apply for recertification, an applicant shall submit to the Department an application, in a Department-provided format, including:
 - 1. A form containing:
 - a. The applicant's name, address, telephone number, email address, date of birth, and Social Security number;
 - b. The applicant's current certification number;
 - c. Responses to questions addressing the applicant's criminal history according to R9-25-402(B), (D), and (E);
 - d. Whether the applicant has within the five years before the date of the application had:
 - i. EMCT certification or recertification revoked in Arizona; or
 - ii. Certification, recertification, or licensure at an EMCT classification level revoked in another state or jurisdiction;
 - e. An indication of the level of EMCT certification held currently or within the past 30 days and of the level of EMCT certification for which recertification is requested;
 - f. Attestation that all information required as part of the application has been submitted and is true and accurate; and
 - g. The applicant's signature or electronic signature and date of signature;
 - 2. For each affirmative response to a question addressing the applicant's criminal history required in subsection (B)(1)(c), a detailed explanation on a Department-provided form and supporting documentation;
 - 3. For an affirmative response to subsection (B)(1)(d), a detailed explanation on a Department-provided form; and
 - 4. For an application submitted within 30 days after the expiration date of EMCT certification, a nonrefundable certification extension fee of \$150.
 - C. In addition to the application in subsection (B), an applicant for EMCT recertification shall submit one of the following to the Department:
 - 1. A certificate of course completion issued by the training program director under R9-25-304(F) showing that within two years before the date of the application, the applicant completed either the applicable refresher course or applicable refresher challenge examination;
 - 2. Documentation of current registration in a national certification organization at the applicable or higher level of EMCT classification; or
 - 3. Attestation on a Department-provided form that the applicant:
 - a. Has documentation of current certification in adult, pediatric, and infant cardiopulmonary resuscitation through instruction consistent with American Heart Association recommendations for emergency cardiovascular care by EMCTs;
 - b. For EMT-I(99) recertification or Paramedic recertification, has documentation of current certification in advanced emergency cardiac life support;
 - c. Has documentation of having completed within the previous two years the following number of hours of continuing education in topics that are consistent with the content of the applicable refresher course:
 - i. For EMT recertification, a minimum of 24 hours;
 - ii. For AEMT recertification, EMT-I(99) recertification, or Paramedic recertification, a minimum of 48 hours; and
 - iii. Included in the hours required in subsections (C)(3)(c)(i) or (ii), as applicable, a minimum of 5 hours in pediatric emergency care; and
 - d. For EMT recertification, has functioned in the capacity of an EMT for at least 240 hours during the previous two years.
 - D. An applicant who submits an attestation under subsection (C)(3) shall maintain the applicable documentation for at least three years after the date of the application.
 - E. If an individual submits an application for recertification, with a certification extension fee, within 30 days after the expiration date of the individual's EMCT certification, the individual:
 - 1. Was authorized to act as an EMCT during the period between the expiration date of the individual's EMCT certification and the date the application was submitted, and
 - 2. Is authorized to act as an EMCT until the Department makes a final determination on the individual's application for recertification.
 - F. If an individual does not submit an application for recertification before the expiration date of the individual's EMCT certification or, with a certification extension fee, within 30 days after the expiration date of the individual's EMCT certification, the individual:
 - 1. Is not an EMCT,
 - 2. Was not authorized to act as an EMCT during the 30-day period after the expiration date of the individual's EMCT certification, and
 - 3. May submit an application to the Department for initial EMCT certification according to R9-25-403.

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- G. The Department shall approve or deny an application for recertification according to Article 12 of this Chapter.
- H. If the Department denies an application for recertification, the applicant may request a hearing according to A.R.S. Title 41, Chapter 6, Article 10.
- I. The Department may deny, based on failure to meet the standards for recertification in A.R.S. Title 36, Chapter 21.1 and this Article, an application submitted with a certification extension fee.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section R9-25-404 renumbered to R9-25-403; new Section R9-25-404 renumbered from Section R9-25-406 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-405. Extension to File an Application for EMCT Recertification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (H) and 36-2204(1), (4), (5), and (7))

- A. Before the expiration of a current certificate, an EMCT who is unable to meet the recertification requirements in R9-25-404 because of personal or family illness, military service, or authorized federal or state emergency response deployment may apply to the Department in writing for an extension of time to file for recertification by submitting:
 1. The following information in a Department-provided format:
 - a. The EMCT's name, address, telephone number, and email address;
 - b. The EMCT's current certification number;
 - c. The reason for requesting the extension; and
 - d. The EMCT's signature or electronic signature and date of signature; and
 2. For an exemption based on military service or authorized federal or state emergency response deployment, a copy of the EMCT's military orders or documentation of authorized federal or state emergency response deployment.
- B. The Department may grant an extension of time to file for recertification:
 1. For personal or family illness, for no more than 180 days; or
 2. For each military service or authorized federal or state emergency response deployment, for the term of service or deployment plus 180 days.
- C. An individual applying for or granted an extension of time to file for recertification:
 1. Remains certified according to A.R.S. § 41-1092.11 during the extension period, and
 2. Shall submit an application for recertification according to R9-25-404.
- D. An individual who does not meet the recertification requirements in R9-25-404 within the extension period or has the application for recertification denied by the Department:
 1. Is not an EMCT, and
 2. May submit an application to the Department for initial EMCT certification according to R9-25-403.
- E. The Department shall approve or deny a request for an extension to file for EMCT recertification according to Article 12 of this Chapter.
- F. If the Department denies a request for an extension to file for EMCT recertification, the applicant may request a hearing according to A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-405 repealed; new Section R9-25-405 renumbered from Section R9-25-407 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1).

R9-25-406. Requirements for Downgrading of Certification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and (H) and 36-2204(1) and (6))

An individual who holds current EMCT certification at a classification level higher than EMT and who is not under investigation according to A.R.S. § 36-2211 may apply for:

1. Continued certification at a lower EMCT classification level for the remainder of the certification period by submitting to the Department:
 - a. A written request containing:
 - i. The EMCT's name, address, email address, telephone number, date of birth, and Social Security number;
 - ii. The lower EMCT classification level requested;
 - iii. Attestation that the applicant has not committed an act or engaged in conduct that would warrant revocation of a certificate under A.R.S. § 36-2211;
 - iv. Attestation that all information submitted is true and accurate; and
 - v. The applicant's signature or electronic signature and date of signature; and
 - b. Either:
 - i. A written statement from the EMCT's administrative medical director attesting that the EMCT is able to perform at the lower EMCT classification level requested; or
 - ii. If applying for continued certification as an EMT, an Arizona EMT refresher certificate of completion or an Arizona EMT refresher challenge examination certificate of completion signed by the training program director designated for the Arizona EMT refresher course; or
2. Recertification at a lower EMCT classification level according to R9-25-404.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 1713, effective June 30, 2007 (Supp. 07-2). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Section R9-25-406 renumbered to Section R9-25-404; new Section R9-25-406 renumbered from Section R9-25-408 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1).

R9-25-407. Notification Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), and (A)(4), 36-2204(1) and (6), and 36-2211)

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- A. No later than 30 days after the date an EMCT's name legally changes, the EMCT shall submit to the Department:
 1. A completed form provided by the Department containing:
 - a. The name under which the EMCT is currently certified by the Department;
 - b. The EMCT's address, telephone number, and Social Security number; and
 - c. The EMCT's new name; and
 2. Documentation showing that the name has been legally changed.
- B. No later than 30 days after the date an EMCT's address or email address changes, the EMCT shall submit to the Department a completed form provided by the Department containing:
 1. The EMCT's name, telephone number, and Social Security number; and
 2. The EMCT's new address or email address.
- C. An EMCT shall notify the Department in writing no later than 10 days after the date the EMCT:
 1. Is incarcerated or is placed on parole, supervised release, or probation for any criminal conviction;
 2. Is convicted of:
 - a. A crime specified in R9-25-402(A)(2),
 - b. A misdemeanor involving moral turpitude,
 - c. A felony in this state or any other state or jurisdiction, or
 - d. A misdemeanor specified in R9-25-402(E);
 3. Has registration revoked or suspended by a national certification organization; or
 4. Has certification, recertification, or licensure at an EMCT classification level revoked or suspended in another state or jurisdiction.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-407 renumbered to Section R9-25-405; new Section R9-25-407 renumbered from Section R9-25-409 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1).

R9-25-408. Unprofessional Conduct; Physical or Mental Incompetence; Gross Incompetence; Gross Negligence (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (H), 36-2204(1), (6), and (7), and 36-2211)

- A. For purposes of A.R.S. § 36-2211(A)(1), unprofessional conduct is an act or omission made by an EMCT that is contrary to the recognized standards or ethics of the Emergency Medical Technician profession or that may constitute a danger to the health, welfare, or safety of a patient or the public, including:
 1. Impersonating an EMCT of a higher level of certification or impersonating a health professional as defined in A.R.S. § 32-3201;
 2. Permitting or allowing another individual to use the EMCT's certification for any purpose;
 3. Aiding or abetting an individual who is not certified according to this Chapter in acting as an EMCT or in representing that the individual is certified as an EMCT;
 4. Engaging in or soliciting sexual relationships, whether consensual or non-consensual, with a patient while acting as an EMCT;
 5. Physically or verbally harassing, abusing, threatening, or intimidating a patient or another individual while acting as an EMCT;
 6. Making false or materially incorrect entries in a medical record or willful destruction of a medical record;

7. Failing or refusing to maintain adequate records on a patient;
8. Soliciting or obtaining monies or goods from a patient by fraud, deceit, or misrepresentation;
9. Aiding or abetting an individual in fraud, deceit, or misrepresentation in meeting or attempting to meet the application requirements for EMCT certification or EMCT recertification contained in this Article, including the requirements established for:
 - a. Completing and passing a course provided by a training program; and
 - b. The national certification organization examination process and national certification organization registration process;
10. Providing false information or making fraudulent or untrue statements to the Department or about the Department during an investigation conducted by the Department;
11. Being incarcerated or being placed on parole, supervised release, or probation for any criminal conviction;
12. Being convicted of a misdemeanor identified in R9-25-402(E), which has not been absolutely discharged, expunged, or vacated;
13. Having national certification organization registration revoked or suspended by the national certification organization for material noncompliance with national certification organization rules or standards; and
14. Having certification, recertification, or licensure at an EMCT classification level revoked or suspended in another state or jurisdiction.
- B. Under A.R.S. § 36-2211, physical or mental incompetence of an EMCT is the EMCT's lack of physical or mental ability to provide emergency medical services as required under this Chapter.
- C. Under A.R.S. § 36-2211 gross incompetence or gross negligence is an EMCT's willful act or willful omission of an act that is made in disregard of an individual's life, health, or safety and that may cause death or injury.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section R9-25-408 renumbered to Section R9-25-406; new Section R9-25-408 renumbered from Section R9-25-410 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1).

R9-25-409. Enforcement Actions (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (H), 36-2204(1), (6), and (7), and 36-2211)

- A. If the Department determines that an applicant or EMCT is not in substantial compliance with applicable laws and rules, under A.R.S. §§ 36-2204 or 36-2211, the Department may:
 1. Take the following action against an applicant or EMCT:
 - a. After notice is provided according to A.R.S. § 36-2211 and, if applicable, A.R.S. Title 41, Chapter 6, Article 10, issue:
 - i. A decree of censure to the EMCT, or
 - ii. An order of probation to the EMCT; or
 - b. After notice and opportunity to be heard is provided according to A.R.S. Title 41, Chapter 6, Article 10:
 - i. Deny an application,
 - ii. Suspend the EMCT's certificate, or
 - iii. Revoke the EMCT's certificate; and
 2. Assess civil penalties against the EMCT.

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- B.** In determining which action in subsection (A) is appropriate, the Department shall consider:
1. Prior disciplinary actions;
 2. The time interval since a prior disciplinary action, if applicable;
 3. The applicant's or EMCT's motive;
 4. The applicant's or EMCT's pattern of conduct;
 5. The number of offenses;
 6. Whether the applicant or EMCT failed to comply with instructions from the Department;
 7. Whether interim rehabilitation efforts were made by the applicant or EMCT;
 8. Whether the applicant or EMCT refused to acknowledge the wrongful nature of the misconduct;
 9. Whether the applicant or EMCT made timely and good-faith efforts to rectify the consequences of the misconduct;
 10. The submission of false evidence, false statements, or other deceptive practices during an investigation or disciplinary process;
 11. The vulnerability of a patient or other victim of the applicant's or EMCT's conduct, if applicable; and
 12. How much control the applicant or EMCT had over the processes or situation leading to the misconduct.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-409 renumbered to Section R9-25-407; new Section R9-25-409 renumbered from Section R9-25-411 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1).

R9-25-410. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-410 renumbered to Section R9-25-408 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-411. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-411 renumbered to Section R9-25-409 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit I. Repealed**Historical Note**

Exhibit I adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit J. Repealed**Historical Note**

Exhibit J adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit K. Repealed**Historical Note**

Exhibit K adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-412. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (Supp. 12-3).

ARTICLE 5. MEDICAL DIRECTION PROTOCOLS FOR EMERGENCY MEDICAL CARE TECHNICIANS

Article 5, consisting of R9-25-501 through R9-25-508, recodified from Article 8 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Article 5 repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-501. Definitions

In addition to the definitions in A.R.S. § 36-2201 and R9-25-101, the following definitions apply in this Article, unless otherwise specified:

1. "ALS skill" means a medical treatment, procedure, or technique or administration of a medication that is indicated by a check mark in Table 5.1 under AEMT, EMT-I(99), or Paramedic, but not under EMT.
2. "Immunizing agent" means an immunobiologic recommended by the Advisory Committee on Immunization Practices of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-501 recodified from R9-25-801 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking 14 A.A.R. 3491, effective August 14, 2008 (Supp. 08-3).

Section R9-25-501 repealed; new Section R9-25-501 made by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-502. Scope of Practice for EMCTs

- A.** An EMCT shall perform a medical treatment, procedure, or technique or administer a medication only:
1. If the skill is within the EMCT's scope of practice skills, as specified in Table 5.1;
 2. For an ALS skill:
 - a. If authorized for the EMCT by the EMCT's administrative medical director, and
 - b. If the EMCT is able to receive on-line medical direction;
 3. For a STR skill:
 - a. If the EMCT has documentation of having completed training specific to the skill that is consistent with the knowledge, skills, and competencies established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references;

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- b. If authorized for the EMCT by the EMCT's administrative medical director; and
 - c. If the EMCT is able to receive on-line medical direction;
 - 4. If the medication is listed as an agent in a table of agents, established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references, that the EMCT's administrative medical director may authorize the EMCT to administer, monitor, or assist a patient in self-administration based on the classification for which the EMCT is certified;
 - 5. If the EMCT is authorized to administer the medication by the:
 - a. EMCT's administrative medical director, if applicable; or
 - b. If the EMCT is an EMT with no administrative medical director, emergency medical services provider or ambulance service by which the EMCT is employed or for which the EMCT volunteers; and
 - 6. In a manner consistent with standards described in R9-25-408 and, if applicable, with the training in 9 A.A.C. 25, Article 3.
- B. An administrative medical director:**
- 1. Shall:
 - a. Ensure that an EMCT has completed training in administration or monitoring of an agent before authorizing the EMCT to administer or monitor the agent;
 - b. Ensure that an EMCT has competency in an ALS skill before authorizing the EMCT to perform the ALS skill;
 - c. Before authorizing an EMCT to perform a STR skill, ensure that the EMCT has:
 - i. Completed training specific to the skill, consistent with the knowledge, skills, and competencies established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references; and
 - ii. Demonstrated competency in the skill;
 - d. Periodically thereafter assess an EMCT's competency in an authorized ALS skill and STR skill, according to policies and procedures required in R9-25-201(E)(3)(b)(ix), to ensure continued competency;
 - e. Document the EMCT's:
 - i. Completion of training in administration or monitoring of an agent required in subsection (B)(1)(a),
 - ii. Competency in performing an ALS skill required in subsection (B)(1)(b),
 - iii. Specific training required in subsection (B)(1)(c)(i) and competency required in subsection (B)(1)(c)(ii); and
 - iv. Periodic reassessment required in subsection (B)(1)(d); and
 - 2. May authorize an EMCT to perform all of the ALS skills in Table 5.1 for the applicable level of EMCT or restrict the EMCT to a subset of the ALS skills in Table 5.1 for the applicable level of EMCT.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-502 recodified from R9-25-802 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 24 A.A.R. 2955, effective September 27, 2018 (Supp. 18-3).

Table 1. Repealed**Historical Note**

Table 1 adopted by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 13 A.A.R. 578, effective January 31, 2007 (Supp. 07-1). Historical note added to Table 1; amended by exempt rulemaking 14 A.A.R. 3491, effective August 14, 2008 (Supp. 08-3). Amended by exempt rulemaking at 15 A.A.R. 234, effective January 2, 2009 (Supp. 09-1). Amended by exempt rulemaking at 14 A.A.R. 3491, effective August 14, 2008 (Supp. 08-3). Amended by exempt rulemaking at 15 A.A.R. 234, effective January 2, 2009 (Supp. 09-1). Amended by exempt rulemaking at 16 A.A.R. 2116, effective October 15, 2010 (Supp. 10-4). Amended by exempt rulemaking at 18 A.A.R. 102, effective January 1, 2012 (Supp. 11-4). Table 1 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

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Table 5.1. Arizona Scope of Practice Skills**KEY:**

✓ = Arizona Scope of Practice skill

STR = STR skill

* = With training in R9-25-505

A. Airway/Ventilation/Oxygenation	EMT	AEMT	EMT-I(99)	Paramedic
1. Airway - nasal	✓	✓	✓	✓
2. Airway - oral	✓	✓	✓	✓
3. Airway - supraglottic	STR	✓	✓	✓
4. Airway obstruction - dislodgement by direct laryngoscopy	-	-	✓	✓
5. Airway obstruction - manual dislodgement techniques	✓	✓	✓	✓
6. Automated transport ventilator	-	STR	✓	✓
7. Bag-valve-mask (BVM)	✓	✓	✓	✓
8. BiPAP	-	-	-	✓
9. CPAP	STR	✓	✓	✓
10. Chest decompression - needle	-	-	✓	✓
11. Chest tube placement - assist only	-	-	-	✓
12. Chest tube monitoring and management	-	-	-	✓
13. Cricothyrotomy	-	-	-	✓
14. End tidal CO ₂ monitoring and interpretation of waveform capnography	STR	✓	✓	✓
15. Gastric decompression - NG tube	-	-	✓	✓
16. Gastric decompression - OG tube	-	-	✓	✓
17. Head-tilt chin lift	✓	✓	✓	✓
18. Intubation - endotracheal	-	-	✓	✓
19. Intubation - nasotracheal	-	-	-	✓
20. Jaw-thrust	✓	✓	✓	✓
21. Medication Assisted Intubation (paralytics)	-	-	-	STR
22. Mouth-to-barrier	✓	✓	✓	✓
23. Mouth-to-mask	✓	✓	✓	✓
24. Mouth-to-mouth	✓	✓	✓	✓
25. Mouth-to-nose	✓	✓	✓	✓
26. Mouth-to-stoma	✓	✓	✓	✓
27. Oxygen therapy - high flow nasal cannula	-	-	-	✓
28. Oxygen therapy - humidifiers	✓	✓	✓	✓
29. Oxygen therapy - nasal cannula	✓	✓	✓	✓
30. Oxygen therapy - non-rebreather mask	✓	✓	✓	✓
31. Oxygen therapy - partial rebreather mask	✓	✓	✓	✓
32. Oxygen therapy - simple face mask	✓	✓	✓	✓
33. Oxygen therapy - Venturi mask	✓	✓	✓	✓
34. Pulse oximetry	✓	✓	✓	✓
35. Suctioning - upper airway	✓	✓	✓	✓
36. Suctioning - tracheobronchial of an intubated patient	-	✓	✓	✓
B. Cardiovascular/Circulation	EMT	AEMT	EMT-I (99)	Paramedic
1. Cardiac monitoring - 12-lead ECG (interpretive)	-	-	✓	✓
2. Cardiac monitoring - 12-lead ECG acquisition and transmission	✓	✓	✓	✓
3. Cardiopulmonary resuscitation	✓	✓	✓	✓
4. Cardioversion - electrical	-	-	✓	✓
5. Defibrillation - automated/semi-automated	✓	✓	✓	✓
6. Defibrillation - manual	-	-	✓	✓
7. Hemorrhage control - direct pressure	✓	✓	✓	✓
8. Hemorrhage control - tourniquet	✓	✓	✓	✓
9. Hemorrhage control - wound packing	✓	✓	✓	✓
10. Mechanical CPR device	?	?	?	?
11. Telemetric monitoring devices and transmission of clinical data, including video data	✓	✓	✓	✓
12. Transcutaneous pacing	-	-	✓	✓
13. Transvenous cardiac pacing - monitoring and maintenance	-	-	✓	✓
C. Splinting/Spinal Motion Restriction/Patient Restraint	EMT	AEMT	EMT-I (99)	Paramedic
1. Cervical collar	✓	✓	✓	✓

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2.	Long spine board	✓	✓	✓	✓
3.	Manual cervical stabilization	✓	✓	✓	✓
4.	Seated spinal motion restriction (KED, etc.)	✓	✓	✓	✓
5.	Extremity stabilization - manual	✓	✓	✓	✓
6.	Extremity splinting	✓	✓	✓	✓
7.	Splint-traction	✓	✓	✓	✓
8.	Mechanical patient restraint	✓	✓	✓	✓
9.	Emergency moves for endangered patients	✓	✓	✓	✓
D.	Medication Administration - routes/agent types	EMT	AEMT	EMT-I (99)	Paramedic
1.	Aerosolized/nebulized	✓	✓	✓	✓
2.	Endotracheal tube	-	-	✓	✓
3.	Inhaled	✓	✓	✓	✓
4.	Intradermal	-	-	-	✓
5.	Intramuscular	STR	✓	✓	✓
6.	Intramuscular - autoinjector	✓	✓	✓	✓
7.	Intranasal	✓	✓	✓	✓
8.	Intraosseous - initiation, pediatric or adult	-	✓	✓	✓
9.	Intravenous	-	✓	✓	✓
10.	Mucosal/Sublingual	✓	✓	✓	✓
11.	Nasogastric	-	-	-	✓
12.	Oral	✓	✓	✓	✓
13.	Rectal	-	-	-	✓
14.	Subcutaneous	-	✓	✓	✓
15.	Topical	-	-	-	✓
16.	Transdermal	-	-	-	✓
17.	Use/monitoring of infusion pump for agent administration during interfacility transports	-	-	STR	STR
18.	Use/monitoring of agents specified in <i>Table 3 - Special Agents Eligible for Administration and Monitoring</i> , established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references	-	-	STR	STR
19.	Epinephrine anaphylaxis-prepared kit; only for anaphylaxis when no auto-injector is available	STR	✓	✓	✓
20.	Immunizations	-	-	✓*	✓*
21.	Thrombolytics	-	-	-	STR
E.	IV Initiation/Maintenance Fluids	EMT	AEMT	EMT-I (99)	Paramedic
1.	Access indwelling catheters and implanted central IV ports	-	-	-	✓
2.	Central line - monitoring	-	-	-	✓
3.	Intraosseous - initiation, pediatric or adult	-	✓	✓	✓
4.	Intravenous access	STR	✓	✓	✓
5.	Intravenous initiation - peripheral	STR	✓	✓	✓
6.	Intravenous- maintenance of medicated IV fluids	-	-	✓	✓
7.	Intravenous- maintenance of nonmedicated IV fluids	STR	✓	✓	✓
8.	Intravenous initiation - ultrasound guided IV in a hospital setting	-	-	-	STR
F.	Miscellaneous	EMT	AEMT	EMT-I (99)	Paramedic
1.	Assisted delivery (childbirth)	✓	✓	✓	✓
2.	Assisted complicated delivery (childbirth)	✓	✓	✓	✓
3.	Blood chemistry analysis	-	-	-	✓
4.	Blood glucose monitoring	✓	✓	✓	✓
5.	Blood pressure- automated	✓	✓	✓	✓
6.	Blood pressure- manual	✓	✓	✓	✓
7.	Eye irrigation	✓	✓	✓	✓
8.	Eye irrigation hands-free irrigation using sterile eye irrigation device	-	-	-	✓
9.	Urinary catheterization	STR	STR	STR	STR
10.	Venous blood sampling	STR	✓	✓	✓

Historical Note

Table 5.1 made by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final exempt rulemaking, pursuant to Laws 2014, Ch. 233, § 5 at 20 A.A.R. 3554, effective January 1, 2015 (Supp. 14-4). Amended by final exempt rulemaking, pursuant to Laws 2015,

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Ch. 222, § 3, at 21 A.A.R. 3241, effective November 24, 2015 (Supp. 15-4). Amended by final exempt rulemaking at 23 A.A.R. 1161, effective April 19, 2017 (Supp. 17-2). Amended by exempt rulemaking at 24 A.A.R. 2955, effective September 27, 2018 (Supp. 18-3). Amended by exempt rulemaking at 27 A.A.R. 1385, with an immediate effective date of August 9, 2021 (Supp. 21-3). Amended by exempt rulemaking at 28 A.A.R. 3321 (October 14, 2022), with an immediate effective date of September 22, 2022 (Supp. 22-3).

Table 5.2. Repealed**Historical Note**

Table 5.2 made by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final exempt rulemaking, pursuant to Laws 2014, Ch. 233, § 5 at 20 A.A.R. 3554, effective January 1, 2015 (Supp. 14-4). Amended by final exempt rulemaking, pursuant to Laws 2015, Ch. 222, § 3, at 21 A.A.R. 3241, effective November 24, 2015 (Supp. 15-4). Amended by final exempt rulemaking at 23 A.A.R. 1161, effective April 19, 2017 (Supp. 17-2). Amended by final exempt rulemaking at 23 A.A.R. 1161, effective April 19, 2017 (Supp. 17-2). Repealed by exempt rulemaking at 24 A.A.R. 2955, effective September 27, 2018 (Supp. 18-3).

Table 5.3. Repealed**Historical Note**

Table 5.3 made by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Repealed by exempt rulemaking at 24 A.A.R. 2955, effective September 27, 2018 (Supp. 18-3).

Table 5.4. Repealed**Historical Note**

Table 5.4 made by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Repealed by exempt rulemaking at 24 A.A.R. 2955, effective September 27, 2018 (Supp. 18-3).

R9-25-503. Testing of Medical Treatments, Procedures, Medications, and Techniques that May Be Administered or Performed by an EMCT

- A. Under A.R.S. § 36-2205, the Department may authorize the testing and evaluation of a medical treatment, procedure, technique, practice, medication, or piece of equipment for possible use by an EMCT or an emergency medical services provider.
- B. Before authorizing any test and evaluation according to subsection (A), the Department director shall approve the test and evaluation according to subsections (C), (D), (E).
- C. The Department director shall consider approval of a test and evaluation conducted according to subsection (A), only if a written request for testing and evaluation:
 1. Is submitted to the Department director from:
 - a. The Department,
 - b. A state agency other than the Department,
 - c. A political subdivision of this state,
 - d. An EMCT,
 - e. An emergency medical services provider,
 - f. An ambulance service, or
 - g. A member of the public; and
 2. Includes:
 - a. A cover letter, signed and dated by the individual making the request;
 - b. An identification of the person conducting the test and evaluation;
 - c. An identification of the medical treatment, procedure, technique, practice, medication, or piece of equipment to be tested and evaluated;
 - d. An explanation of the reasons for and the benefits of the test and evaluation;
 - e. The scope of the test and evaluation, including the:

- i. Projected number of individuals, EMCTs, emergency medical services providers, or ambulance services involved; and
 - ii. Proposed length of time required to complete the test and evaluation; and
 - f. The methodology to be used to evaluate the test's and evaluation's findings.
- D. The Department director shall approve a test and evaluation if:
 1. The test and evaluation does not pose a threat to the public health, safety, or welfare;
 2. The test is necessary to evaluate the safest and most current advances in medical treatments, procedures, techniques, practices, medications, or equipment; and
 3. The medical treatment, procedure, technique, practice, medication, or piece of equipment being tested and evaluated may:
 - a. Reduce or eliminate the use of outdated or obsolete medical treatments, procedures, techniques, practices, medications, or equipment;
 - b. Improve patient care; or
 - c. Benefit the public's health, safety, or welfare.
 - E. Within 180 days after receiving a written request for testing and evaluation that contains all of the information in subsection (C), the Department director shall send written notification of approval or denial of the test and evaluation to the individual making the request.
 - F. Upon completion of a test and evaluation authorized by the Department director, the person conducting the test and evaluation shall submit a written report to the Department director that includes:
 1. An identification of the test and evaluation;
 2. A detailed evaluation of the test; and
 3. A recommendation regarding future use of the medical treatment, procedure, technique, practice, medication, or piece of equipment tested and evaluated.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-503 recodified from R9-25-803 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 13 A.A.R. 578, effective January 31, 2007 (Supp. 07-1). Amended by exempt rulemaking at 14 A.A.R. 3491, effective August 14, 2008 (Supp. 08-3). Section R9-25-503 renumbered to R9-25-505; new Section R9-25-503 renumbered from R9-25-506 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit 1. Repealed**Historical Note**

New Exhibit 1 recodified from Article 8, Exhibit 1 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking at 11 A.A.R. 1438, effective March 25, 2005 (Supp. 05-1). Amended by exempt rulemaking at 11 A.A.R. 2379, effective June 8, 2005 (Supp. 05-2). Amended by exempt rulemaking at 11 A.A.R. 3177, effective September 1, 2005 (Supp. 05-3).

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Exhibit 1 repealed by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4).

Exhibit 2. Repealed**Historical Note**

New Exhibit 2 recodified from Article 8, Exhibit 2 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking at 11 A.A.R. 1438, effective March 25, 2005 (Supp. 05-1). Exhibit 2 repealed by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4).

Exhibit 3. Repealed**Historical Note**

Exhibit made by exempt rulemaking at 11 A.A.R. 1438, effective March 25, 2005 (Supp. 05-1). Exhibit 3 repealed by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4).

R9-25-504. Protocol for Selection of a Health Care Institution for Transport

- A.** Except as provided in subsection (B), an EMCT shall transport a patient accessing emergency medical services through a call to 9-1-1 or a similar public emergency dispatch number to:
 1. An emergency receiving facility, or
 2. A special hospital that is physically connected to an emergency receiving facility.
- B.** Under A.R.S. §§ 36-2205(D) and 36-2232(F), an EMCT who responds to a call made to 9-1-1 or a similar public emergency dispatch number may refer, advise, or transport the patient at the scene to a health care institution other than a health care institution specified in subsection (A), if the EMCT determines that:
 1. The patient's condition does not pose an immediate threat to life or limb, based on medical direction; and
 2. The health care institution is the most appropriate for the patient, based on the following:
 - a. The patient's:
 - i. Medical condition,
 - ii. Choice of health care institution, and
 - iii. Health care provider;
 - b. The location of the health care institution and the emergency medical resources available at the health care institution; and
 - c. A determination by the administrative medical director that the health care institution is able to accept and capable of treating the patient.
- C.** Before initiating transport of a patient accessing emergency medical services through a call to 9-1-1 or a similar public emergency dispatch number, an EMCT, emergency medical services provider, or ambulance service shall:
 1. Notify, by radio or telephone communication, a health care institution that is not an emergency receiving facility of the EMCT's intent to transport the patient to the health care institution; and
 2. Receive confirmation of the willingness of the health care institution to accept the patient.
- D.** An EMCT transporting a patient accessing emergency medical services through a call to 9-1-1 or a similar public emergency dispatch number to a health care institution that is not an emergency receiving facility shall transfer care of the patient to a designee authorized by:
 1. A physician,
 2. A registered nurse practitioner,
 3. A physician assistant, or
 4. A registered nurse.
- E.** An emergency medical services provider or an ambulance service that implements this rule shall make available for Department

review and inspection written records relating to the transport of a patient under subsections (B), (C), and (D).

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-504 recodified from R9-25-804 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking at 14 A.A.R. 3124, effective July 9, 2008 (Supp. 08-3).

Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final exempt rulemaking, pursuant to Laws 2014, Ch. 233, § 5 at 20 A.A.R. 3554, effective January 1, 2015 (Supp. 14-4).

R9-25-505. Protocol for an EMT-I(99) or a Paramedic to Become Eligible to Administer an Immunizing Agent

- A.** An EMT-I(99) or a Paramedic may be authorized by the EMT-I(99)'s or Paramedic's administrative medical director to administer an immunizing agent if the EMT-I(99) or Paramedic completes training that:
 1. Includes:
 - a. Basic immunology and the human immune response;
 - b. Mechanics of immunity, adverse effects, dose, and administration schedule of available immunizing agents;
 - c. Response to an emergency situation, such as an allergic reaction, resulting from the administration of an immunization;
 - d. Routes of administration for available immunizing agents;
 - e. A description of the individuals to whom an EMCT may administer an immunizing agent; and
 - f. The requirements in 9 A.A.C. 6, Article 7 related to:
 - i. Obtaining written consent for administration of an immunizing agent,
 - ii. Providing immunization information and written immunization records, and
 - iii. Recordkeeping and reporting;
 2. Requires the EMT-I(99) or Paramedic to demonstrate competency in the subject matter listed in subsection (A)(1); and
 3. Is approved by the EMT-I(99)'s or Paramedic's administrative medical director based upon a determination that the training meets the requirements in subsections (A)(1) and (A)(2).
- B.** An administrative medical director of an EMT-I(99) or a Paramedic who completes the training required in subsection (A) shall maintain for Department review and inspection written evidence that the EMT-I(99) or Paramedic has completed the training required in subsection (A), including at least:
 1. The name of the training,
 2. The date the training was completed, and
 3. A signed and dated attestation from the administrative medical director that the training is approved.
- C.** Before administering an immunizing agent to an individual, an EMT-I(99) or a Paramedic shall:
 1. Receive written consent consistent with the requirements in 9 A.A.C. 6, Article 7;
 2. Provide immunization information and written immunization records consistent with the requirements in 9 A.A.C. 6, Article 7; and
 3. Provide documentary proof of immunity to the individual consistent with the requirements in 9 A.A.C. 6, Article 7.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-505 recodified

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from R9-25-805 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Section R9-25-505 repealed; new Section R9-25-505 renumbered from R9-25-503 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit 1. Repealed**Historical Note**

New Exhibit 1 recodified from Article 8, Exhibit 1 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Exhibit 1 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit 2. Repealed**Historical Note**

New Exhibit 2 recodified from Article 8, Exhibit 2 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Exhibit 2 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-506. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-506 recodified from R9-25-806 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Section R9-25-506 renumbered to R9-25-503 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-507. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-507 recodified from R9-25-807 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Section R9-25-507 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-508. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Subsection (A)(2) corrected to reflect adopted rules on file with the Office of the Secretary of State, effective October 15, 1996 (Supp. 97-1). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-508 recodified from R9-25-808 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Section R9-25-508 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-509. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 11 A.A.R. 2379, effective June 8, 2005 (Supp. 05-2). Section repealed by exempt rulemaking at 13 A.A.R. 3038, effective October 6, 2007 (Supp. 07-3).

R9-25-510. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 11 A.A.R. 1502, effective April 1, 2005 (Supp. 05-1). Amended by exempt rulemaking at 11 A.A.R. 2379, effective June 8, 2005 (Supp. 05-2). Section R9-25-510 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit P. Repealed**Historical Note**

Exhibit P adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-511. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Subsection (C) corrected to reflect adopted rules on file with the Office of the Secretary of State, effective October 15, 1996 (Supp. 97-3). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 11 A.A.R. 4982, effective November 1, 2005 (Supp. 05-4). Section R9-25-511 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-512. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Subsection (A) corrected to reflect adopted rules on file with the Office of the Secretary of State, effective October 15, 1996 (Supp. 97-1). Subsection (A) corrected again to reflect adopted rules on file with the Office of the Secretary of State, effective October 15, 1996 (Supp. 97-3). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 16 A.A.R. 2116, effective October 15, 2010 (Supp. 10-4).

R9-25-513. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 13 A.A.R. 3038, effective October 6, 2007 (Supp. 07-3). R9-25-513 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-514. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-515. Repealed

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Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

ARTICLE 6. STROKE CARE

Article 6, consisting of new Sections R9-25-601 and R9-25-602, made by exempt rulemaking effective April 5, 2013 (Supp. 13-1).

Article 6 repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-601. Definitions (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

In addition to the definitions in A.R.S. § 36-2201 and R9-25-101, the following definitions apply in this Article, unless otherwise specified:

1. "Acute stroke-ready hospital" means a hospital that is certified by a national stroke center certification organization as meeting national stroke care standards for the initial assessment, diagnosis, stabilization, and either:
 - a. Transfer of a stroke patient to a primary stroke center or comprehensive stroke center, or
 - b. Care of a stroke patient with input from the staff of a primary stroke center or comprehensive stroke center.
2. "Comprehensive stroke center" means a hospital that is certified by a national stroke center certification organization as meeting national stroke care standards for the assessment, diagnosis using advanced imaging devices, and treatment of stroke patients with complex cases of ischemic stroke, caused by the loss of the blood supply to a part of the brain, or hemorrhagic stroke, caused by bleeding into a part of the brain.
3. "Council" means the emergency medical services council established under A.R.S. § 36-2203.
4. "Health care provider" means an individual licensed according to A.R.S. Title 32, Chapter 13, 15, 17, 19, 25, or 34.
5. "Local EMS coordinating system" means the same as in A.R.S. § 36-2210.
6. "National stroke care standards" means criteria for the assessment and treatment of stroke that are consistent with guidelines established by the American Heart Association/American Stroke Association, an organization that focuses on reducing the impact of stroke.
7. "National stroke center certification organization" means an entity:
 - a. Such as:
 - i. The Joint Commission;
 - ii. The Healthcare Facilities Accreditation Program;
 - iii. Det Norske Veritas Healthcare, Inc.; or
 - iv. The American Heart Association/American Stroke Association;
 - b. That assesses the compliance of a hospital with national stroke care standards; and
 - c. That documents hospitals that meet national stroke care standards.
8. "Primary stroke center" means a hospital that is certified by a national stroke center certification organization as meeting national stroke care standards for the assessment, diagnosis, and treatment of stroke patients.
9. "Stroke patient" means an individual who has signs or symptoms of a stroke and is receiving assessment or treatment for a stroke.
10. "Transport" means the same as in A.A.C. R9-10-101.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 19 A.A.R. 643, effective April 5, 2013 (Supp. 13-1). Amended by final rulemaking at 23 A.A.R. 1728, effective July 1, 2017 (Supp. 17-2).

R9-25-602. Emergency Stroke Care Protocols (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A. The council shall:
 1. Establish emergency stroke care protocols, and
 2. Support the adoption of emergency stroke care protocols by emergency medical services providers through local EMS coordinating systems.
- B. The council shall ensure that emergency stroke care protocols:
 1. Are developed and implemented in coordination with:
 - a. Local EMS coordinating systems,
 - b. National organizations that focus on heart disease and stroke,
 - c. Emergency medical services providers, and
 - d. Health care providers;
 2. Include procedures for the pre-hospital assessment and treatment of stroke patients, which may include education about identifying stroke patients who may have an emergent large vessel occlusion, the blockage of a large blood vessel that causes an individual to have an ischemic stroke;
 3. Provide for transport of stroke patients to the most appropriate emergency receiving facility, consistent with A.R.S. § 36-2205(E), taking into account the:
 - a. Needs of a stroke patient;
 - b. Availability of resources in urban areas, suburban areas, rural areas, and wilderness areas;
 - c. Capability of an emergency receiving facility to practice telemedicine, as defined in A.R.S. § 36-3601, with specialists in stroke care;
 - d. Location of emergency receiving facilities that:
 - i. Are:
 - (1) Acute stroke-ready hospitals,
 - (2) Primary stroke centers, or
 - (3) Comprehensive stroke centers; and
 - ii. Participate in quality improvement activities, including the submission of data on stroke care provided by the emergency receiving facility that may be compiled on a statewide basis;
 - e. Capability of an emergency receiving facility that is not a primary stroke center or comprehensive stroke center to stabilize a stroke patient before initiating a transfer to a primary stroke center or comprehensive stroke center;
 - f. Capability of an emergency receiving facility that is not a primary stroke center or comprehensive stroke center to stabilize and admit a stroke patient; and
 - g. Distance and duration of transport;
 4. Are consistent with national stroke care standards; and
 5. Are based on data on stroke care from:
 - a. National organizations that focus on heart disease and stroke;
 - b. U.S. Department of Transportation, National Highway Traffic Safety Administration; and
 - c. Statewide data on stroke care, as available.
- C. The council shall review and update, as necessary, the emergency stroke care protocols in subsection (A) after seeking input from:
 1. Local EMS coordinating systems,
 2. National organizations that focus on heart disease and stroke,
 3. Nonprofit organizations that focus on the development of stroke systems of care,
 4. Emergency medical services providers, and

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5. Health care providers.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 19 A.A.R. 643, effective April 5, 2013 (Supp. 13-1). Amended by final rulemaking at 23 A.A.R. 1728, effective July 1, 2017 (Supp. 17-2).

R9-25-603. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-604. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-605. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-606. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-607. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-608. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-609. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit R. Repealed**Historical Note**

Exhibit R adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-610. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-611. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-612. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-613. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-614. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-615. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-616. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit S. Repealed**Historical Note**

Exhibit S adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit G. Repealed**Historical Note**

Exhibit G adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit L. Repealed**Historical Note**

Exhibit L adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit M. Repealed

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Historical Note

Exhibit M adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit N. Repealed**Historical Note**

Exhibit N adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit O. Repealed**Historical Note**

Exhibit O adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit Q. Repealed**Historical Note**

Exhibit Q adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

ARTICLE 7. AIR AMBULANCE SERVICE LICENSING**R9-25-701. Definitions (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2215)**

In addition to the definitions in A.R.S. § 36-2201 and R9-25-101, the following definitions apply in this Article and in Article 8 of this Chapter, unless otherwise specified:

1. "Air ambulance" means an aircraft that is an "ambulance" as defined in A.R.S. § 36-2201.
2. "Air ambulance service" means an ambulance service that uses an air ambulance.
3. "Application packet" means the information, applicable fees, and documents required by the Department when making a decision for:
 - a. Licensing an air ambulance service, or
 - b. Issuing a certificate of registration for an air ambulance.
4. "Base location" means a physical location at which a person houses an air ambulance or equipment and supplies used for the operation of an air ambulance service or provides administrative or other support for the operation of an air ambulance service.
5. "CAMTS" means the Commission on Accreditation of Medical Transport Systems, formerly known as the Commission on Accreditation of Air Medical Services.
6. "Certificate holder" means a person who holds a current and valid certificate of registration for an air ambulance.
7. "Change of ownership" means a transfer of controlling legal or controlling equitable interest and authority in an air ambulance service.
8. "Critical care" means pertaining to a patient who has an illness or injury acutely impairing one or more organ systems, such that the conditions are life-threatening and require constant monitoring to avoid deterioration of the patient's condition.
9. "Estimated time of arrival" means the number of minutes from the time that an air ambulance service agrees to perform a mission to the time that an air ambulance arrives at the scene.
10. "Interfacility" means between two health care institutions.
11. "Interfacility maternal transport" means an interfacility transport of a woman:
 - a. Whose pregnancy is considered by a physician to be high risk,
 - b. Who is in need of critical care services related to the pregnancy, and
 - c. Who is being transferred to a medical facility that has the specialized perinatal and neonatal resources and capabilities necessary to provide an appropriate level of care.
12. "Interfacility neonatal transport" means an interfacility transport of an infant who is 28 days of age or younger and who is in need of critical care services.
13. "Licensed respiratory care practitioner" has the same meaning as in A.R.S. § 32-3501.
14. "Licensee" means a person who holds a current and valid license from the Department to operate an air ambulance service.
15. "Medical team" means personnel whose main function on a mission is the medical care of the patient being transported.
16. "Mission" means a transport event that involves an air ambulance service's sending an air ambulance to a patient's location to provide transport of the patient from one location to another, whether or not transport of the patient is actually provided.
17. "Mission level" means critical care services or ALS services, based on the staffing and the services provided by the air ambulance service.
18. "Mission type" means an emergency medical services transport, interfacility transport, interfacility maternal transport, or interfacility neonatal transport provided by an air ambulance service.
19. "On-line medical guidance" means emergency medical services direction or information provided to a non-EMCT medical team member by a physician through two-way voice communication.
20. "Operate an air ambulance service" means to use an air ambulance:
 - a. To transport a patient from a location in this state to another location in this state,
 - b. From a base location in this state, or
 - c. To transport a patient from a location in this state to a location outside of this state more than once per month.
21. "Owner" means a person that holds a controlling legal or equitable interest and authority in a business organization.
22. "Personnel" means individuals who work for an air ambulance service, with or without compensation, whether as employees, contractors, or volunteers.
23. "Premises" means each physical location of air ambulance service operations and includes all equipment and records at each location.
24. "Proficiency in neonatal resuscitation" means current and valid certification in neonatal resuscitation obtained through completing a nationally recognized training program such as the American Academy of Pediatrics and American Heart Association NRP: Neonatal Resuscitation Program.
25. "Regularly" means at recurring, fixed, or uniform intervals.
26. "Subspecialization" means:

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- a. For a physician board certified by a specialty board approved by the American Board of Medical Specialties, subspecialty certification;
 - b. For a physician board certified by a specialty board approved by the American Osteopathic Association, attainment of either a certification of special qualifications or a certification of added qualifications; and
 - c. For a physician who has completed an accredited residency program, completion of at least one year of training pertaining to the specified area of medicine.
27. "Two-way voice communication" means that two individuals are able to convey information back and forth to each other orally, either directly or through a third-party relay.
28. "Valid" means that a license, certification, or other form of authorization is in full force and effect and not suspended.
29. "Working day" means the period between 8:00 a.m. and 5:00 p.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

R9-25-702. Applicability (A.R.S. §§ 36-2202(A)(4) and 36-2217)

This Article and Article 8 of this Chapter do not apply to persons and vehicles exempted from the provisions of A.R.S. Title 36, Chapter 21.1 as provided in A.R.S. § 36-2217(A).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-703. Requirement and Eligibility for a License (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2215)

- A. A person shall not operate an air ambulance service in this state unless the person has a current and valid air ambulance service license and, except as provided in A.R.S. § 36-2212(C), a current and valid certificate of registration for an air ambulance as required under Article 8 of this Chapter.
- B. To be eligible to obtain an air ambulance service license, an applicant shall:
 - 1. Have applied for a certificate of registration, issued by the Department under Article 8 of this Chapter, for each aircraft to be used as an air ambulance by the air ambulance service;
 - 2. Possess a copy of a current and valid registration, issued by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4, for each aircraft to be used as an air ambulance by the air ambulance service;
 - 3. Have current and valid liability insurance coverage for the air ambulance service that complies with A.R.S. § 36-2215 and that has at least the following liability limits:
 - a. \$1 million for injuries to or death of any one person arising out of any one incident or accident;
 - b. \$3 million for injuries to or death of more than one person in any one incident or accident; and
 - c. \$500,000 for damage to property arising from any one incident or accident;
 - 4. Have current and valid malpractice insurance coverage for the air ambulance service that complies with A.R.S. § 36-2215 and that has a maximum liability limit of at least \$1 million per occurrence; and
 - 5. Comply with all applicable requirements of this Article, Articles 2 and 8 of this Chapter, and A.R.S. Title 36, Chapter 21.1.
- C. To maintain eligibility for an air ambulance service license, a licensee shall meet the requirements of subsections (B)(2) through (5) and hold a current and valid certificate of registration, issued by the Department under Article 8 of this Chapter, for each aircraft used as an air ambulance in Arizona by the air ambulance service.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

R9-25-704. Application and Licensing Process (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2213, 36-2214, and 36-2215)

- A. An applicant for an initial license shall submit an application packet to the Department, including:
 - 1. The following information in a Department-provided format:
 - a. The applicant's name; mailing address; e-mail address; fax number, if any; and telephone number;
 - b. The names of all other business organizations operated by the applicant related to the air ambulance service;
 - c. The physical and mailing addresses to be used for the air ambulance service, if different from the applicant's mailing address;
 - d. The name, title, address, e-mail address, and telephone number of the applicant's statutory agent or the individual designated by the applicant to accept service of process and subpoenas for the air ambulance service;
 - e. The name, title, address, e-mail address, and telephone number of the individual acting on behalf of the applicant according to R9-25-102;
 - f. If the applicant is a business organization:
 - i. The type of business organization; and
 - ii. The name; address; e-mail address; telephone number; and fax number, if any, of the individual who is to serve as the primary contact for information regarding the application;
 - g. The name and Arizona license number for the physician who is to serve as the administrative medical director for the air ambulance service;
 - h. The intended hours of operation for the air ambulance service;
 - i. The intended schedule of rates for the air ambulance service;
 - j. Which of the following mission types is to be provided:
 - i. Emergency medical services transports,
 - ii. Interfacility transports,

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- iii. Interfacility maternal transports, or
 - iv. Interfacility neonatal transports;
 - k. Which of the following mission levels is to be provided:
 - i. Critical care, or
 - ii. Advanced life support;
 - l. Whether the applicant plans to use fixed-wing or rotor-wing aircraft for the air ambulance service;
 - m. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-25-1201(C)(3);
 - n. Attestation that the applicant will comply with all applicable requirements in this Article, Articles 2 and 8 of this Chapter, and A.R.S. Title 36, Chapter 21.1;
 - o. Attestation that the information provided in the application packet, including the information in the accompanying documents, is accurate and complete; and
 - p. The signature of the applicant and the date signed;
 - 2. Documentation for the individual specified according to subsection (A)(1)(e) that complies with A.R.S. § 41-1080;
 - 3. A copy of the business organization's articles of incorporation, articles of organization, or partnership documents, if applicable;
 - 4. For each aircraft to be used as an air ambulance by the air ambulance service:
 - a. An application for registration that includes all of the information and documents required under R9-25-801(B); and
 - b. A copy of a current and valid registration, issued by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4;
 - 5. A certificate of insurance establishing that the applicant has current and valid liability insurance coverage for the air ambulance service as required under R9-25-703(B)(3);
 - 6. A certificate of insurance establishing that the applicant has current and valid malpractice insurance coverage for the air ambulance service as required under R9-25-703(B)(4);
 - 7. A list of each entity that or physician who is to provide on-line medical direction to EMCTs of the air ambulance service, including:
 - a. For each entity, such as an ALS base hospital, centralized medical direction communications center, or physician group practice, the name, mailing address, e-mail address, and telephone number of the entity; or
 - b. For each physician who is to provide on-line medical direction, the name, professional license number, mailing address, e-mail address, and telephone number for the physician; and
 - 8. If the applicant holds current CAMTS accreditation for the air ambulance service, a copy of the current CAMTS accreditation report.
- B.** No more than 30 days before the expiration date of the current license, a licensee shall submit to the Department a renewal application packet including:
- 1. The information required in subsection (A)(1), in a Department-provided format;
 - 2. The documents required in subsections (A)(5), (6), (7), and, if applicable, (8); and
- 3. For each aircraft used or to be used as an air ambulance by the air ambulance service:
 - a. Either:
 - i. A copy of a current and valid certificate of registration issued by the Department under Article 8 of this Chapter, or
 - ii. An application packet for registration that includes all of the information and documents required under R9-25-801(B); and
 - b. A copy of a current and valid registration, issued by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4.
 - C.** Unless an applicant or licensee documents current CAMTS accreditation, as provided in subsection (A)(8), or is applying for an initial license because of a change of ownership as described in R9-25-710(D), the Department shall conduct an inspection, as required under A.R.S. § 36-2214(B) and R9-25-711, during the substantive review period for the application for a license.
 - D.** The Department shall review each application packet as described in Article 12 of this Chapter, and:
 - 1. Approve the application;
 - 2. Approve the application with a corrective action plan, as specified in R9-25-711(G)(2); or
 - 3. Deny the application.
 - E.** The Department may deny an application if an applicant or licensee:
 - 1. Fails to meet the eligibility requirements of R9-25-703(B);
 - 2. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;
 - 3. Fails or has failed to comply with any provision in this Article or Article 2 or 8 of this Chapter;
 - 4. Knowingly or negligently provides false documentation or false or misleading information to the Department; or
 - 5. Fails to submit to the Department documents or information requested under R9-25-1201(B)(1) or (C)(3) and requests a denial as permitted under R9-25-1201(E).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

R9-25-705. Minimum Standards for Operations as an Air Ambulance Service (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

- A.** A licensee shall ensure that the air ambulance service:
- 1. Maintains eligibility for licensure as required under R9-25-703(C);
 - 2. Makes a good faith effort to communicate information about its hours of operation to the general public through print media, broadcast media, the Internet, or other means;
 - 3. Makes the air ambulance service's schedule of rates available to any individual upon request and, if requested, in writing;
 - 4. Provides an accurate estimated time of arrival to the person requesting transport at the time that transport is requested and provides an amended estimated time of

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- arrival to the person requesting transport if the estimated time of arrival changes;
5. Except as provided in subsection (B), only transports patients for whom the air ambulance service has the resources to provide appropriate medical care;
 6. Does not perform interfacility transport of a patient unless:
 - a. The transport is initiated by the sending health care institution, and
 - b. The destination health care institution confirms that a bed is available for the patient;
 7. Ensures that the protocol for the transfer of information to be communicated to emergency receiving facility staff concurrent with the transfer of care, required in R9-25-201(E)(2)(d)(i), includes:
 - a. The date and time the call requesting service was received by the air ambulance service;
 - b. The unique number used by the air ambulance service to identify the mission;
 - c. The name of the air ambulance service;
 - d. The number or other identifier of the air ambulance used for the mission;
 - e. The following information about the patient:
 - i. The patient's name;
 - ii. The patient's date of birth or age, as available;
 - iii. The principal reason for requesting services for the patient;
 - iv. The patient's medical history, including any chronic medical illnesses, known allergies to medications, and medications currently being taken by the patient;
 - v. The patient's level of consciousness at initial contact and when reassessed;
 - vi. The patient's pulse rate, respiratory rate, oxygen saturation, and systolic blood pressure at initial contact and when reassessed;
 - vii. The results of an electrocardiograph, if available;
 - viii. The patient's glucose level at initial contact and when reassessed, if applicable;
 - ix. The patient's level of responsiveness score, as applicable, at initial contact and when reassessed;
 - x. The results of the patient's neurological assessment, if applicable; and
 - xi. The patient's pain level at initial contact and when reassessed; and
 - f. Any procedures or other treatment provided to the patient at the scene or during transport, including any agents administered to the patient;
 8. Creates a prehospital incident history report, in a Department-provided format, for each patient that includes the following information:
 - a. The name and identification number of the air ambulance service;
 - b. Information about the software for the storage and submission of the prehospital incident history report;
 - c. The unique number assigned to the mission;
 - d. The unique number assigned to the patient;
 - e. Information about the response to the call requesting service, including:
 - i. The mission level requested;
 - ii. Information obtained by the person providing direction for response to the request;
 - iii. Information about the air ambulance assigned to the mission;
 - iv. Information about the medical team responding to the call requesting service;
 - v. The priority assigned to the response; and
 - vi. Response delays, as applicable;
 - f. Whether patient care was transferred from another EMS provider or ambulance service and, if so, identification of the EMS provider or ambulance service;
 - g. The date and time that:
 - i. The call requesting service was received;
 - ii. The request was received by the person coordinating transport;
 - iii. The air ambulance service received the transport request;
 - iv. The air ambulance left for the patient's location;
 - v. The air ambulance arrived at the patient's location;
 - vi. The medical team in the air ambulance arrived at the patient's side;
 - vii. Transfer of the patient's care occurred at a location other than the destination, if applicable;
 - viii. The air ambulance departed the patient's location;
 - ix. The air ambulance arrived at the destination;
 - x. Transfer of the patient's care occurred at the destination;
 - xi. The air ambulance was available to take another mission;
 - h. Information about the patient, including:
 - i. The patient's first and last name;
 - ii. The address of the patient's residence;
 - iii. The county of the patient's residence;
 - iv. The country of the patient's residence;
 - v. The patient's gender, race, ethnicity, and age;
 - vi. The patient's estimated weight;
 - vii. The patient's date of birth; and
 - viii. If the patient has an alternate residence, the address of the alternate residence;
 - i. The primary method of payment for services and anticipated level of payment;
 - j. Information about the scene, including:
 - i. Specific information about the location of the scene;
 - ii. Whether the air ambulance was first on the scene;
 - iii. The number of patients at the scene;
 - iv. Whether the scene was the location of a mass casualty incident; and
 - v. If the scene was the location of a mass casualty incident, triage information;
 - k. Information about the reason for requesting service for the patient, including:
 - i. The date and time of onset of symptoms and when the patient was last well;
 - ii. Information about the complaint;
 - iii. The patient's symptoms;
 - iv. The results of the medical team's initial assessment of the patient;
 - v. If the patient was injured, information about the injury and the cause of the injury;

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- vi. If the patient experienced a cardiac arrest, information about the etiology of the cardiac arrest and subsequent treatment provided; and
 - vii. For an interfacility transport, the reason for the transport;
 - l. Information about any specific barriers to providing care to the patient;
 - m. Information about the patient's medical history, including:
 - i. Known allergies to medications,
 - ii. Surgical history,
 - iii. Current medications, and
 - iv. Alcohol or drug use;
 - n. Information about the patient's current medical condition, including the information in subsections (A)(7)(e)(v) through (xi) and the time and method of assessment;
 - o. Information about agents administered to the patient, including the dose and route of administration, time of administration, and the patient's response to the agent;
 - p. If not specifically included under subsection (A)(8)(k), (m)(iv), (n), or (o), the information required in A.A.C. R9-4-602(A);
 - q. Information about any procedures performed on the patient and the patient's response to the procedure;
 - r. Whether the patient was transported and, if so, information about the transport;
 - s. Information about the destination of the transport, including the reason for choosing the destination;
 - t. Whether patient care was transferred to another EMS provider or ambulance service and, if so, identification of the EMS provider or ambulance service;
 - u. Unless patient care was transferred to another EMS provider or ambulance service, information about:
 - i. Whether the destination facility was notified that the patient being transported has a time-sensitive condition and the time of notification;
 - ii. The disposition of the patient at the destination; and
 - iii. The disposition of the mission;
 - v. Any other narrative information about the patient, care receive by the patient, or transport; and
 - w. The name and certification level of the medical team member providing the information;
9. Creates a record for each mission that includes:
- a. Mission date;
 - b. Mission level;
 - c. Mission type;
 - d. Staffing of the mission;
 - e. Aircraft type—fixed-wing aircraft or rotor-wing aircraft;
 - f. Name of the person requesting the transport;
 - g. Time of receipt of the transport request;
 - h. The estimated time of arrival, as provided according to subsection (A)(4);
 - i. Departure time to the patient's location;
 - j. Address of the patient's location;
 - k. Arrival time at the patient's location;
 - l. Departure time to the destination health care institution;
 - m. Name and address of the destination health care institution;
 - n. Arrival time at the destination health care institution;
- o. Either the:
 - i. Unique reference number used by the air ambulance service to identify the patient, or
 - ii. Unique call number used by the air ambulance service to identify the specific mission; and
 - p. Aircraft tail number for the air ambulance used on the mission;
10. Establishes, documents, and, if necessary, implements a plan to address and minimize potential issues of patient health and safety due to the air ambulance service terminating operations at a physical address used for the air ambulance service that:
- a. Is developed in conjunction with hospitals near the physical address used for the air ambulance service and other persons who may be adversely affected by the air ambulance service terminating operations;
 - b. Includes notification by the air ambulance service of the persons in subsection (A)(10)(a) of the intent to terminate operations, at least 30 calendar days before the termination of operations; and
 - c. Includes temporary measures that will be used until alternate methods may be arranged for patient transport that address patient health and safety;
11. Establishes, documents, and implements a quality improvement program, as specified in policies and procedures, through which:
- a. Data related to initial patient assessment, patient care, transport services provided, and patient status upon arrival at the destination are:
 - i. Collected continuously;
 - ii. For the information required in subsection (A)(8), submitted to the Department, in a Department-provided format and within 48 hours after the date of a mission, for quality improvement purposes; and
 - iii. If the air ambulance service is notified that the submission of information to the Department according to subsection (A)(11)(a)(ii) was unsuccessful, corrected and resubmitted within seven days after notification;
 - b. Continuous quality improvement processes are developed to identify, document, and evaluate issues related to the provision of services, including:
 - i. Care provided to patients with time-sensitive conditions;
 - ii. Transport or documentation, and
 - iii. Patient status upon arrival at the destination;
 - c. A committee consisting of the administrative medical director, the individual managing the air ambulance service or designee, and other employees as appropriate:
 - i. Review the data in subsection (A)(11)(a) and any issues identified in subsection (A)(11)(b) on at least a quarterly basis; and
 - ii. Implement activities to improve performance when deviations in patient care, transport, or documentation are identified; and
 - d. The activities in subsection (A)(11)(c) are documented, consistent with A.R.S. §§ 36-2401, 36-2402, and 36-2403; and
12. Beginning within 12 months after the effective date of this Section, establish and maintain a method to electronically document patient information and treatment that is capable of being transferred.

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- B.** An air ambulance service may transport a patient for whom the air ambulance does not have the resources to provide appropriate medical care:
1. In a rescue situation in which:
 - a. An individual's life, limb, or health is imminently threatened;
 - b. The threat may be reduced or eliminated by removing the individual from the situation to a location in which medical services may be provided; and
 - c. There is no other practical means of transport, including another air ambulance service, available; or
 2. For an interfacility transport of a patient if:
 - a. The sending health care institution provides medically appropriate life support measures, staff, and equipment to sustain the patient during the interfacility transport; and
 - b. Each staff member provided by the sending health care institution has completed training in the subject areas listed in R9-25-707(A) before participating in the interfacility transport.
- C.** If an air ambulance service completes a mission under subsection (B) for which the air ambulance service does not have the resources to provide appropriate medical care, the licensee shall ensure that the air ambulance service creates a record within five working days after the mission, including:
1. The information required under subsection (A)(8),
 2. The manner in which the air ambulance service deviated from subsection (A)(5), and
 3. The justification for operating under subsection (B).
- D.** If an air ambulance service uses a single-member medical team as authorized under R9-25-706(B) and (C), the licensee shall ensure that the air ambulance service creates a record within five working days after the mission, including:
1. The information required under subsection (A)(9),
 2. The name and qualifications of the individual comprising the single-member medical team, and
 3. The justification for using a single-member medical team.
- E.** If an air ambulance service completes a critical care interfacility transport mission under conditions permitted in R9-25-802(F), the licensee shall ensure that the air ambulance service creates a record within five working days after the mission, including:
1. The information required under subsection (A)(9),
 2. A description of the life-support equipment used on the mission,
 3. A list of the equipment and supplies required in R9-25-802(C) that were removed from the air ambulance for the mission, and
 4. The justification for conducting the mission as permitted under R9-25-802(F).
- F.** A licensee shall ensure that an individual does not serve on the medical team for an interfacility maternal transport unless the air ambulance service's medical director has verified and attested in writing to the individual's having the proficiencies described in R9-25-706(A)(2).
- G.** A licensee shall ensure that an individual does not serve on the medical team for an interfacility neonatal transport unless the air ambulance service's medical director has verified and attested in writing to the individual's having the proficiencies described in R9-25-706(A)(3).
- H.** A licensee shall ensure that the air ambulance service:
1. Retains each document required to be created or maintained under this Article or Article 2 or 8 of this Chapter for at least three years after the last event recorded in the document, and
 2. Produces each document for Department review upon request.
- I.** A licensee shall ensure that, while on a mission, two-way voice communication is available:
1. Between and among personnel on the air ambulance, including the pilot; and
 2. Between personnel on the air ambulance and the following persons on the ground:
 - a. Personnel;
 - b. Physicians providing on-line medical direction or on-line medical guidance to medical team members; and
 - c. For a rotor-wing air ambulance mission:
 - i. Emergency medical services providers, and
 - ii. Law enforcement agencies.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). R9-25-705 repealed; new Section R9-25-705 renumbered from R9-25-710 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

R9-25-706. Minimum Standards for Mission Staffing (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

- A.** A licensee shall ensure that, except as provided in subsection (B):
1. Each critical care mission is staffed by a medical team of at least two individuals with the following qualifications:
 - a. For a critical care interfacility transport mission:
 - i. A physician or registered nurse; and
 - ii. Another physician, another registered nurse, a Paramedic, or a licensed respiratory care practitioner; and
 - b. For a critical care mission that is an emergency medical services transport:
 - i. A physician or registered nurse; and
 - ii. A Paramedic or another registered nurse;
 2. Each interfacility maternal transport mission is staffed by a medical team that:
 - a. Complies with the requirements for a critical care mission medical team in subsection (A)(1); and
 - b. Has the following additional qualifications:
 - i. Proficiency in advanced emergency cardiac life support that includes didactic instruction and a practical skills test, consistent with training recognized by the American Heart Association;
 - ii. Proficiency in neonatal resuscitation; and
 - iii. Proficiency in stabilization and transport of the pregnant patient;
 3. Each interfacility neonatal transport mission is staffed by a medical team that:
 - a. Complies with the requirements for a critical care mission medical team in subsection (A)(1); and
 - b. Has the following additional qualifications:
 - i. Proficiency in pediatric advanced emergency life support that includes didactic instruction and a practical skills test, consistent with training recognized by the American Heart Association; and

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- ii. Proficiency in neonatal resuscitation and stabilization of the neonatal patient; and
 - 4. Each advanced life support mission is staffed by a medical team of at least two individuals with the following qualifications:
 - a. For an advanced life support mission that is an emergency medical services transport:
 - i. A physician, registered nurse, or Paramedic; and
 - ii. Another Paramedic or another registered nurse;
 - b. For an advanced life support interfacility transport mission:
 - i. A physician, registered nurse, or Paramedic; and
 - ii. Another Paramedic, a licensed respiratory care practitioner, or another registered nurse.
- B. If the pilot on a mission using a rotor-wing air ambulance determines, in accordance with the air ambulance service's written guidelines required under subsection (C)(1), that the weight of a second medical team member could potentially compromise the performance of the rotor-wing air ambulance and the safety of the mission, and the use of a single-member medical team is consistent with the on-line medical direction or on-line medical guidance received as required under subsection (C)(2), an air ambulance service may use a single-member medical team consisting of an individual with the following qualification:
 - 1. For a critical care mission, a physician or registered nurse; and
 - 2. For an advanced life support mission, a physician, registered nurse, or Paramedic.
- C. A licensee shall ensure that:
 - 1. Each air ambulance service rotor-wing pilot is provided with written guidelines to use in determining when the weight of a second medical team member could potentially compromise the performance of a rotor-wing air ambulance and the safety of a mission, including the conditions of density altitude and weight that warrant the use of a single-member medical team;
 - 2. The following are done, without delay, after an air ambulance service rotor-wing pilot determines that the weight of a second medical team member could potentially compromise the performance of a rotor-wing air ambulance and the safety of a mission:
 - a. The pilot communicates that information to the medical team,
 - b. The medical team obtains on-line medical direction or on-line medical guidance regarding the use of a single-member medical team, and
 - c. The medical team proceeds in compliance with the on-line medical direction or on-line medical guidance;
 - 3. A single-member medical team has the knowledge and medical equipment to perform one-person cardiopulmonary resuscitation;
 - 4. The patient care provided by each single-member medical team, including consideration of each patient's status upon arrival at the destination health care institution, is reviewed through the quality improvement processes in R9-25-705(A)(11)(b) and (c); and
 - 5. A single-member medical team is used only when no other transport team is available that would be more appropriate for delivering the level of care that a patient requires.
- D. A licensee shall ensure that the air ambulance service creates and maintains for each personnel member a file containing documentation of the personnel member's qualifications, including, as applicable, licenses, certifications, and training records.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). R9-25-706 renumbered to R9-25-710; new Section R9-25-706 renumbered from R9-25-711 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by exempt rulemaking at 28 A.A.R. 3681 (December 2, 2022), with an immediate effective date of November 8, 2022 (Supp. 22-4).

R9-25-707. Minimum Standards for Training (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2213)

- A. A licensee shall ensure that each medical team member completes training in the following subjects before serving on a mission:
 - 1. Aviation terminology;
 - 2. Physiological aspects of flight;
 - 3. Patient loading and unloading;
 - 4. Safety in and around the aircraft;
 - 5. In-flight communications;
 - 6. Use, removal, replacement, and storage of the medical equipment installed on the aircraft;
 - 7. In-flight emergency procedures;
 - 8. Emergency landing procedures; and
 - 9. Emergency evacuation procedures.
- B. A licensee shall ensure that the air ambulance service documents each medical team member's completion of the training required under subsection (A), including the name of the medical team member, each training component completed, and the date of completion.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). R9-25-707 renumbered to R9-25-709; new Section R9-25-707 renumbered from R9-25-713 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

R9-25-708. Minimum Standards for Medical Control (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

- A. A licensee shall ensure that:
 - 1. The air ambulance service has an administrative medical director who:
 - a. Meets the qualifications in subsection (B);
 - b. Supervises and evaluates the quality of medical care provided by medical team members;
 - c. Ensures the competency and current qualifications of all medical team members;
 - d. Except as provided in subsections (A)(3) and (4), ensures that:
 - i. Each EMCT medical team member receives medical direction as required under Article 2 of this Chapter; and
 - ii. Each non-EMCT medical team member receives medical guidance through written treatment protocols and according to subsection (C); and
 - e. Approves, ensures implementation of, and annually reviews treatment protocols to be followed by medical team members;
 - 2. The administrative medical director reviews data related to patient care and transport services provided, documentation, and patient status upon arrival at destination that are collected through the quality management program in R9-25-705(A)(11);
 - 3. For an interfacility maternal transport mission, on-line medical direction or on-line medical guidance provided

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to medical team member is provided by a physician who meets the qualifications of subsection (B)(2)(b)(i);

4. For an interfacility neonatal transport mission, on-line medical direction or on-line medical guidance provided to medical team member is provided by a physician who meets the qualifications of subsection (B)(2)(b)(ii);

B. An administrative medical director shall:

1. Be a physician; and
2. Comply with one of the following:
 - a. If the air ambulance service provides emergency medical services transports, meet the qualifications of R9-25-201(A)(1); or
 - b. If the air ambulance service does not provide emergency medical services transports, meet the qualifications of R9-25-201(A)(1) or one of the following:
 - i. If the air ambulance service provides interfacility maternal transport missions, have board certification or have completed an accredited residency program in one of the following specialty areas:
 - (1) Obstetrics and gynecology, with subspecialization in critical care medicine or maternal and fetal medicine; or
 - (2) Pediatrics, with subspecialization in neonatal-perinatal medicine;
 - ii. If the air ambulance service provides interfacility neonatal transport missions, have board certification or have completed an accredited residency program in one of the following specialty areas:
 - (1) Obstetrics and gynecology, with subspecialization in maternal and fetal medicine; or
 - (2) Pediatrics, with subspecialization in neonatal-perinatal medicine, neonatology, pediatric critical care medicine, or pediatric intensive care; or
 - iii. If neither subsection (B)(2)(b)(i) or (ii) applies, have board certification or have completed an accredited residency program in one of the following specialty areas:
 - (1) Anesthesiology, with subspecialization in critical care medicine;
 - (2) Internal medicine, with subspecialization in critical care medicine;
 - (3) If the air ambulance service transports only pediatric patients, pediatrics, with subspecialization in pediatric critical care medicine or pediatric emergency medicine; or
 - (4) If the air ambulance service transports only surgical patients, surgery, with subspecialization in surgical critical care.

- C. An administrative medical director shall ensure that each non-EMCT medical team member receives on-line medical guidance provided by:
 1. The administrative medical director;
 2. Another physician designated by the administrative medical director; or
 3. If the medical guidance needed exceeds the administrative medical director's area of expertise, a consulting specialty physician.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). R9-25-708 renumbered to R9-25-711; new Section R9-25-708 renumbered from R9-25-715 and amended by final rulemaking at 28

A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

R9-25-709. Changes Affecting a License (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2213)

- A. At least 30 days before the date of a change in an air ambulance service's name, the licensee shall send the Department written notice of the name change.
- B. At least 90 days before an air ambulance service ceases to operate, the licensee shall send the Department written notice of the intention to cease operating, effective on a specific date, and the licensee's intention to relinquish the air ambulance service's license as of that date.
- C. Within 30 days after the date of receipt of a notice described in subsection (A) or (B), the Department shall:
 1. For a notice described in subsection (A), issue an amended license that incorporates the name change but retains the expiration date of the current license; and
 2. For a notice described in subsection (B), send the licensee written confirmation of the voluntary relinquishment of the air ambulance service's license, with an effective date consistent with the written notice.
- D. A licensee shall notify the Department in writing at least 30 calendar days before:
 1. Changing the physical address used for the air ambulance service, as provided according to R9-25-704(A)(1)(c); or
 2. Terminating operations at a physical address used for the air ambulance service, as provided according to R9-25-704(A)(1)(c).
- E. A licensee shall notify the Department in writing within one working day after:
 1. A change in the air ambulance service's eligibility for licensure under R9-25-703(B) or (C);
 2. A change in the business organization information most recently submitted to the Department according to R9-25-704(A)(1)(f);
 3. A change in the air ambulance service's CAMTS accreditation status, including a copy of the air ambulance service's new CAMTS accreditation report, if applicable;
 4. A change in the air ambulance service's hours of operation, as specified according to R9-25-704(A)(1)(h);
 5. A change in the air ambulance service's schedule of rates, as specified according to R9-25-704(A)(1)(i); or
 6. A change in the mission types provided, as specified according to R9-25-704(A)(1)(j).
- F. If the Department receives a notice specified in subsection (E)(6), the Department:
 1. Shall reissue a license for the air ambulance service reflecting the change, but retaining the expiration date on the original license; and
 2. May conduct an inspection according to R9-25-711.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). R9-25-709 renumbered to R9-25-712; new Section R9-25-709 renumbered from R9-25-707 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

R9-25-710. Term and Transferability of License (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, 36-2214, and 41-1092.11)

- A. The Department shall issue an initial license:
 1. When based on current CAMTS accreditation, with a term beginning on the date of issuance of the initial license and ending on the expiration date of the CAMTS accreditation upon which licensure is based; and

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2. When based on Department inspection, with a term beginning on the date of issuance of the initial license and ending three years later.
- B. The Department shall issue a renewal license with a term beginning on the day after the expiration date shown on the previous license and ending:
 1. When based on current CAMTS accreditation, on the expiration date of the CAMTS accreditation upon which licensure is based; and
 2. When based on Department inspection, three years after the effective date of the renewal license.
- C. If a licensee submits an application packet for renewal as described in R9-25-704(B), the current license does not expire until the Department has made a final determination on the application for renewal, as provided in A.R.S. § 41-1092.11.
- D. At least 30 days before an anticipated change of ownership:
 1. A licensee wanting to transfer an air ambulance service license shall submit a letter to the Department that contains:
 - a. A request that the air ambulance service license be transferred,
 - b. The name and license number of the currently licensed air ambulance service, and
 - c. The name of the person to whom the air ambulance service license is to be transferred; and
 2. The person to whom the license is to be transferred shall submit to the Department an application packet that complies with R9-25-704(A).
- E. A new owner shall not operate an air ambulance service in this state until:
 1. The new owner complies with requirements in Articles 7 and 8 of this Chapter, and
 2. The Department has issued an air ambulance service license to the new owner.
- D. Except as provided in subsection (C), the Department shall not conduct an inspection of an air ambulance service before issuing an initial or renewal license if an applicant or licensee provides documentation of current CAMTS certification as part of the application packet according to R9-25-704(A)(8).
- E. When an application for an air ambulance service license is submitted along with a transfer request due to a change of ownership, the Department shall determine whether an inspection is necessary based upon the potential impact to public health, safety, and welfare.
- F. The Department shall conduct each inspection in compliance with A.R.S. § 41-1009.
- G. If the Department determines that an air ambulance service is not in compliance with the requirements in this Article, Article 2 or 8 of this Chapter, or A.R.S. Title 36, Chapter 21.1, the Department may:
 1. Take an enforcement action as described in R9-25-712; or
 2. Require that the air ambulance service submit to the Department, within 15 days after written notice from the Department, a corrective action plan to address issues of compliance that do not directly affect the health or safety of a patient that:
 - a. Describes how each identified instance of non-compliance will be corrected and reoccurrence prevented, and
 - b. Includes a date for correcting each instance of non-compliance that is appropriate to the actions necessary to correct the instance of non-compliance.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). R9-25-711 renumbered to R9-25-706; new Section R9-25-711 renumbered from R9-25-708 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

Historical Note
New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). R9-25-710 renumbered to R9-25-705; new Section R9-25-710 renumbered from R9-25-706 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

R9-25-711. Inspections and Investigations (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, and 36-2214)

- A. Except as provided in subsections (D) and (E), the Department shall inspect an air ambulance service, as required under A.R.S. § 36-2214(B), before issuing an initial or renewal license and as necessary to determine compliance with this Article, Articles 2 and 8 of this Chapter, and A.R.S. Title 36, Chapter 21.1.
- B. A Department inspection may include the air ambulance service's premises, records, and equipment, and each air ambulance used by the air ambulance service.
- C. If the Department receives written or verbal information alleging a violation of this Article, Article 2 or 8 of this Chapter, or A.R.S. Title 36, Chapter 21.1, the Department shall conduct an investigation.
 1. The Department may conduct an inspection as part of an investigation.
 2. A licensee shall allow the Department to inspect the air ambulance service's premises, records, and equipment,

R9-25-712. Enforcement Actions (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, 36-2214, 36-2215, 41-1092.03, and 41-1092.11(B))

- A. The Department may take an action listed in subsection (B) against an air ambulance service that:
 1. Fails to meet the eligibility requirements of R9-25-703;
 2. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;
 3. Fails or has failed to comply with any provision in this Article or Article 2 or 8 of this Chapter;
 4. Does not submit a corrective action plan, as provided in R9-25-711(G)(2), that is acceptable to the Department;
 5. Does not complete a corrective action plan submitted according to R9-25-711(G)(2); or
 6. Knowingly or negligently provides false documentation or false or misleading information to the Department or to a patient, third-party payor, or other person billed for service.
- B. The Department may take the following actions against an air ambulance service:
 1. Except as provided in subsection (B)(3), after notice and an opportunity to be heard is provided under A.R.S. Title 41, Chapter 6, Article 10, suspend:

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- a. The air ambulance service license, or
 - b. The certificate of registration of an aircraft to be used as an air ambulance by the air ambulance service;
2. After notice and an opportunity to be heard is provided under A.R.S. Title 41, Chapter 6, Article 10, revoke:
- a. The air ambulance service license, or
 - b. The certificate of registration of an aircraft to be used as an air ambulance by the air ambulance service; and
3. As permitted under A.R.S. § 41-1092.11(B), if the Department determines that the public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in the Department's order, immediately suspend:
- a. The air ambulance service license pending proceedings for revocation or other action, or
 - b. The certificate of registration of an aircraft to be used as an air ambulance by the air ambulance service pending proceedings for revocation or other action.
- C. In determining whether to take action under subsection (B), the Department shall consider:
- 1. The severity of each violation relative to public health and safety;
 - 2. The number of violations relative to the transport volume of the air ambulance service;
 - 3. The nature and circumstances of each violation;
 - 4. Whether each violation was corrected and, if so, the manner of correction; and
 - 5. The duration of each violation.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (Supp. 12-3). New Section R9-25-712 renumbered from R9-25-709 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

R9-25-713. Renumbered**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Section R9-25-713 renumbered to R9-25-707 by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

R9-25-714. Repealed**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Repealed by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

R9-25-715. Renumbered**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Section R9-25-715 renumbered to R9-

25-708 by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

R9-25-716. Repealed**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Repealed by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

R9-25-717. Repealed**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Repealed by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

R9-25-718. Repealed**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Repealed by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

ARTICLE 8. AIR AMBULANCE REGISTRATION

Article 8, consisting of R9-25-801 through R9-25-808, recodified to Article 5 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Editor's Note: Article 8, consisting of Sections R9-25-801 through R9-25-803 and Exhibits, was recodified from A.A.C. R9-13-1501 through R9-13-1503. These recodified Sections were originally filed under an exemption from A.R.S. Title 41, Chapter 6. Refer to the historical notes in 9 A.A.C. 13 for adoption dates (Supp. 98-1).

Article 8, consisting of Section R9-25-805 and Exhibits 1 through 3, was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to A.R.S. § 36-2205(C). Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; and the Department was not required to hold public hearings on this Section. Under A.R.S. § 36-2205(D) a person may petition the Director to amend an adopted protocol pursuant to A.R.S. § 41-1033 (Supp. 97-2).

R9-25-801. Requirement, Eligibility, and Application for an Initial or Renewal Certificate of Registration for an Air Ambulance (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, 36-2232(A)(11), and 36-2240(4))

A. To be eligible to obtain a certificate of registration for an air ambulance, an applicant shall:

- 1. Ensure that the aircraft is not currently registered with the Department by another air ambulance service;
- 2. Hold a current and valid air ambulance service license issued under Article 7 of this Chapter;
- 3. Possess a copy of a current and valid registration for the air ambulance, issued by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4; and
- 4. Comply with all applicable requirements of this Article, Articles 2 and 7 of this Chapter, and A.R.S. Title 36, Chapter 21.1.

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- B.** An applicant for an initial or renewal certificate of registration for an air ambulance shall submit an application packet to the Department, including:
1. The following information in a Department-provided format:
 - a. The applicant's name; mailing address; e-mail address; fax number, if any; and telephone number;
 - b. The names of all other business organizations operated by the applicant related to the use of an air ambulance;
 - c. The physical address of the applicant, if different from the mailing address;
 - d. If applicable, the number of the applicant's air ambulance service license;
 - e. The name, title, address, e-mail address, and telephone number of the individual acting on behalf of the applicant according to R9-25-102;
 - f. The name, address, telephone number, and e-mail address of the owner of the air ambulance, if different from the applicant;
 - g. Whether the air ambulance is a fixed-wing or rotor-wing aircraft;
 - h. The number of engines on the air ambulance;
 - i. The manufacturer's name;
 - j. The model name of the air ambulance;
 - k. The year the air ambulance was manufactured;
 - l. The serial number of the air ambulance;
 - m. The tail number of the air ambulance;
 - n. The aircraft colors, including fuselage, stripe, and lettering;
 - o. A description of any insignia, monogram, or other distinguishing characteristics of the aircraft's appearance;
 - p. The address at which the air ambulance is usually based;
 - q. The address in Arizona at which the air ambulance will be available for inspection;
 - r. The name and telephone number of the individual to contact to arrange for inspection, if the inspection is preannounced;
 - s. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-25-1201(C)(3);
 - t. Attestation that the information provided in the application packet, including the information in the accompanying documents, is accurate and complete; and
 - u. The dated signature of the applicant;
 2. A copy of a current and valid registration for the air ambulance, issued by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4; and
 3. Unless the applicant uses or intends to use the aircraft as an air ambulance only as a volunteer not-for-profit service, the following fees:
 - a. A \$50 registration fee, as required under A.R.S. § 36-2212(D); and
 - b. A \$200 annual regulatory fee, as required under A.R.S. § 36-2240(4).
- C.** The Department requires submission of a separate application and the fees in subsection (B)(3) for each air ambulance.
- D.** Except as provided in A.R.S. § 36-2232(A)(11), the Department shall inspect each air ambulance according to R9-25-805(A) and (B) to determine compliance with the provisions of A.R.S. Title 36, Chapter 21.1 and this Article:
1. Within 30 calendar days before issuing an initial certificate of registration; and
 2. At least every 12 months thereafter, before issuing a renewal certificate of registration.
- E.** The Department shall review and approve or deny each application as described in Article 12 of this Chapter.
- F.** If the Department approves the application and sends the applicant the written notice of approval, specified in R9-25-1201(C)(5), the Department shall issue the certificate of registration to the applicant:
1. For an applicant with a current and valid air ambulance service license issued under Article 7 of this Chapter, within five working days after the date on the written notice of approval; and
 2. For an applicant that does not have a current and valid air ambulance service license issued under Article 7 of this Chapter, when the air ambulance service license is issued.
- G.** The Department may deny a certificate of registration for an air ambulance if the applicant:
1. Fails to meet the eligibility requirements of subsection (A);
 2. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;
 3. Fails or has failed to comply with any provision in this Article or Article 2 or 7 of this Chapter;
 4. Knowingly or negligently provides false documentation or false or misleading information to the Department; or
 5. Fails to submit to the Department documents or information requested under R9-25-1201(B)(1) or (C)(3) and requests a denial as permitted under R9-25-1201(E).

Historical Note

R9-25-801 recodified from A.A.C. R9-13-1501 (Supp. 98-1). Amended by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-501 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Section R9-25-801 repealed; new Section R9-25-801 renumbered from R9-25-802 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

R9-25-802. Minimum Standards for an Air Ambulance (Authorized by A.R.S. §§ 36-2202(A)(3), (4), and (5); 36-2209(A)(2); and 36-2212)

- A.** An applicant or certificate holder shall ensure that an air ambulance has:
1. A climate control system to prevent temperature extremes that would adversely affect patient care;
 2. If a fixed-wing air ambulance, pressurization capability;
 3. Interior lighting that allows for patient care and monitoring without interfering with the pilot's vision;
 4. For each place where a patient may be positioned, at least one electrical power outlet or other power source that is capable of operating all electrically powered medical equipment without compromising the operation of any electrical aircraft equipment;
 5. A back-up source of electrical power or batteries capable of operating all electrically powered life-support equipment for at least one hour;

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6. An entry that allows for patient loading and unloading without rotating a patient and stretcher more than 30 degrees about the longitudinal axis or 45 degrees about the lateral axis and without compromising the operation of monitoring systems, intravenous lines, or manual or mechanical ventilation;
 7. A configuration that allows each medical team member sufficient access to each patient to begin and maintain treatment modalities, including complete access to the patient's head and upper body for effective airway management;
 8. A configuration that allows for rapid exit of personnel and patients, without obstruction from stretchers and medical equipment;
 9. A configuration that protects the aircraft's flight controls, throttles, and communications equipment from any intentional or accidental interference from a patient or equipment and supplies;
 10. A padded interior or an interior that is clear of objects or projections in the head strike envelope;
 11. An installed self-activating emergency locator transmitter;
 12. A voice communications system that:
 - a. Is capable of air-to-ground communication, and
 - b. Allows the flight crew and medical team members to communicate with each other during flight;
 13. Interior patient compartment wall and floor coverings that are:
 - a. Free of cuts or tears,
 - b. Made from non-absorbent material,
 - c. Capable of being disinfected, and
 - d. Maintained in a sanitary manner; and
 14. If a rotor-wing air ambulance, the following:
 - a. A searchlight that:
 - i. Has a range of motion of at least 90 degrees vertically and 180 degrees horizontally,
 - ii. Is capable of illuminating a landing site, and
 - iii. Is located so that the pilot can operate the searchlight without removing the pilot's hands from the aircraft's flight controls;
 - b. Restraining devices that can be used to prevent a patient from interfering with the pilot or the aircraft's flight controls; and
 - c. A light to illuminate the tail rotor.
- B.** An applicant or certificate holder shall ensure that:
1. Except as provided in subsections (D), (E), and (F), each air ambulance has the equipment and supplies required in subsection (C) for each mission for which the air ambulance is used; and
 2. The equipment and supplies on an air ambulance are secured, stored, and maintained in a manner that prevents hazards to personnel and patients.
- C.** An applicant or certificate holder shall ensure that an air ambulance used for an advanced life support mission or critical care mission has the following equipment and supplies:
1. The following ventilation and airway equipment and supplies:
 - a. Portable and fixed suction apparatus, with wide-bore tubing, rigid pharyngeal curved suction tip, tonsillar and flexible suction catheters, 5F-14F;
 - b. Portable and fixed oxygen equipment, with variable flow regulators;
 - c. Oxygen administration equipment, including: tubing; non-rebreathing masks (adult and pediatric sizes); and nasal cannulas (adult and pediatric sizes);
 - d. Bag-valve mask, with hand-operated, self-reexpanding bag (adult size), with oxygen reservoir/accumulator; mask (adult, pediatric, infant, and neonate sizes); and valve;
 - e. Airways, oropharyngeal (adult, pediatric, and infant sizes);
 - f. Laryngoscope handle, adult and pediatric, with, if applicable, extra batteries and bulbs;
 - g. Laryngoscope blades, sizes 0, 1, and 2, straight; sizes 3 and 4, straight and curved;
 - h. Endotracheal tube cuff pressure manometer;
 - i. Endotracheal tubes, sizes 2.5-5.0 mm cuffed or uncuffed and 6.0-8.0 mm cuffed;
 - j. Stylettes for Endotracheal tubes, adult and pediatric;
 - k. Airways, nasal (adult, pediatric, and infant sizes), one each in French sizes 16 to 34;
 - l. One type of supraglottic airway device, adult and pediatric;
 - m. 10 mL straight-tip syringes;
 - n. Small volume nebulizer or nebulizers and aerosol masks, adult and pediatric;
 - o. Magill forceps, adult and pediatric;
 - p. Nasogastric tubes, sizes 5F and 8F, Salem sump sizes 14F and 18F;
 - q. End-tidal CO₂ detectors, quantitative;
 - r. Portable automatic ventilator with positive end expiratory pressure; and
 - s. In-line viral/bacterial filter;
 2. The following monitoring and defibrillation equipment and supplies:
 - a. Portable, battery-operated monitor/defibrillator, with:
 - i. Tape write-out/recorder,
 - ii. Defibrillator pads,
 - iii. Adult and pediatric paddles or hands-free patches,
 - iv. ECG leads,
 - v. Adult and pediatric chest attachment electrodes, and
 - vi. Capability to provide electrical discharge below 25 watt-seconds; and
 - b. Transcutaneous cardiac pacemaker, either stand-alone unit or integrated into monitor/defibrillator;
 3. For rotor wing aircraft only, the following immobilization devices and supplies:
 - a. Cervical collars, rigid, adjustable or in an assortment of adult and pediatric sizes;
 - b. Head immobilization device, either firm padding or another commercial device;
 - c. Lower extremity (femur) traction device, including lower extremity, limb support slings, padded ankle hitch, padded pelvic support, and traction strap; and
 - d. Upper and lower extremity immobilization splints;
 4. The following bandages:
 - a. Burn pack, including standard package, clean burn sheets;
 - b. Dressings, including:
 - i. Sterile multi-trauma dressings (various large and small sizes);
 - ii. Abdominal pads, 10" x 12" or larger; and
 - iii. 4" x 4" gauze sponges;
 - c. Gauze rolls, sterile (4" or larger);
 - d. Elastic bandages, non-sterile (4" or larger);
 - e. Occlusive dressing, sterile, 3" x 8" or larger; and
 - f. Adhesive or self-adhesive tape, including various sizes (1" or larger) hypoallergenic and various sizes (1" or larger) adhesive or self-adhesive;
 5. The following obstetrical equipment and supplies:
 - a. Separate sterile obstetrical kit, including:
 - i. Towels,
 - ii. 4" x 4" dressing,
 - iii. Umbilical tape,
 - iv. Sterile scissors or other cutting utensil,
 - v. Bulb suction,
 - vi. Clamps for cord,
 - vii. Sterile gloves,
 - viii. Blankets, and

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- ix. A head cover; and
- b. An alternate portable patient heat source or two heat packs;
- 6. The following infection control equipment and supplies, including the availability of latex-free:
 - a. Eye protection (full peripheral glasses or goggles, face shield);
 - b. Masks, at least as protective as a National Institute for Occupational Safety and Health-approved N-95 respirator, which are fit-tested;
 - c. Gloves, non-sterile;
 - d. Jumpsuits or gowns;
 - e. Shoe covers;
 - f. Disinfectant hand wash, commercial antimicrobial (towelette, spray, or liquid);
 - g. Disinfectant solution for cleaning equipment;
 - h. Standard sharps containers;
 - i. Disposable red trash bags; and
 - j. Protective facemasks or cloth face coverings for patients;
- 7. The following injury prevention equipment:
 - a. Appropriate restraints, such as seat belts or, if applicable, child safety restraints, for patient, personnel, and family members;
 - b. For rotor wing aircraft only, safety vest or other garment with reflective material for each personnel member;
 - c. Fire extinguisher, either disposable with an indicator of a full charge or with a current inspection tag;
 - d. Hazardous material reference guide; and
 - e. Hearing protection for patient and personnel;
- 8. The following vascular access equipment and supplies:
 - a. Intravenous administration equipment, with fluid in bags;
 - b. Antiseptic solution (alcohol wipes and povidone-iodine wipes);
 - c. Intravenous pole or roof hook;
 - d. Intravenous catheters 14G-24G;
 - e. Intraosseous needles, adult and pediatric sizes;
 - f. Venous tourniquet;
 - g. One of each of the following types of intravenous solution administration sets:
 - i. A set with blood tubing,
 - ii. A set capable of delivering 60 drops per cc, and
 - iii. A set capable of delivering 10 or 15 drops per cc;
 - h. Intravenous arm boards, adult and pediatric;
 - i. IV pump or pumps (minimum of 3 infusion lines); and
 - j. IV pressure bag;
- 9. The agents, specified in a table of agents established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references, that an administrative medical director has authorized for use, based on the EMCT classification of the medical team; and
- 10. The following miscellaneous equipment and supplies:
 - a. Sphygmomanometer (infant, pediatric, and adult regular and large sizes);
 - b. Stethoscope;
 - c. Pediatric equipment sizing reference guide;
 - d. Thermometer with low temperature capability;
 - e. Heavy bandage or paramedic scissors for cutting clothing, belts, and boots;
 - f. Cold packs;
 - g. Flashlight (1) with extra batteries or recharger, as applicable;
 - h. Blankets;
 - i. Sheets;
 - j. Disposable emesis bags or basins;
 - k. For fixed wing aircraft only, a disposable bedpan;
 - l. For fixed wing aircraft only, a disposable urinal;
 - m. Properly secured patient transport system;
 - n. Lubricating jelly (water soluble);
 - o. Glucometer or blood glucose measuring device with reagent strips;
 - p. Pulse oximeter with pediatric and adult probes;
 - q. Automatic blood pressure monitor; and
 - r. A commercially available trauma arterial tourniquet.
- D. An applicant or certificate holder shall ensure that an air ambulance used for an interfacility maternal transport mission has:
 - 1. The equipment and supplies in subsection (C); and
 - 2. The following:
 - a. A Doppler fetal heart monitor;
 - b. Unless use is not indicated for the patient as determined through on-line medical direction or on-line medical guidance provided as described in R9-25-708(A)(3), an external fetal heart and tocographic monitor with printer capability;
 - c. Tocolytic and anti-hypertensive medications;
 - d. Advanced emergency cardiac life support equipment and supplies; and
 - e. Neonatal resuscitation equipment and supplies.
- E. An applicant or certificate holder shall ensure that an air ambulance used for an interfacility neonatal transport mission has:
 - 1. The equipment and supplies in subsection (C); and
 - 2. The following:
 - a. A transport incubator with:
 - i. Battery and inverter capabilities,
 - ii. An infant safety restraint system, and
 - iii. An integrated neonatal-capable pressure ventilator with oxygen-air supply and blender;
 - b. An invasive automatic blood pressure monitor;
 - c. A neonatal monitor or monitors with heart rate, respiratory rate, temperature, non-invasive blood pressure, and pulse oximetry capabilities;
 - d. Neonatal-specific drug concentrations and doses;
 - e. Thoracostomy supplies;
 - f. Neonatal resuscitation equipment and supplies;
 - g. A neonatal size cuff (size 2, 3, or 4) for use with an automatic blood pressure monitor; and
 - h. A neonatal probe for use with a pulse oximeter.
- F. A certificate holder may conduct a critical care interfacility transport mission using an air ambulance that does not have all of the equipment and supplies required in subsection (C) if:
 - 1. Care of the patient to be transported necessitates use of life-support equipment that, because of its size or weight or both, makes it unsafe or impossible for the air ambulance to carry all of the equipment and supplies required in subsection (C), as determined by the certificate holder based upon:
 - a. The individual aircraft's capabilities,
 - b. The size and weight of the equipment and supplies required in subsection (C) and of the additional life-support equipment,
 - c. The composition of the required medical team, and
 - d. Environmental factors such as density altitude;
 - 2. The certificate holder ensures that, during the mission, the air ambulance has the equipment and supplies necessary to provide an appropriate level of medical care for the patient and to protect the health and safety of the personnel on the mission; and
 - 3. The certificate holder ensures that the air ambulance is not used for another mission until the air ambulance has all of the equipment and supplies required in subsection (C).

Historical Note

R9-25-802 recodified from A.A.C. R9-13-1502 (Supp. 98-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4092, effective September 1,

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2001 (Supp. 01-3). Amended by exempt rulemaking at 8 A.A.R. 931, effective February 15, 2002 (Supp. 02-1). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-502 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Section R9-25-802 renumbered to R9-25-801; new Section R9-25-802 renumbered from R9-25-807 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

Exhibit 1. Repealed**Historical Note**

Section R9-25-802, Exhibit 1 recodified from A.A.C. R9-13-1502, Exhibit 1 (Supp. 98-1). Exhibit 1 repealed by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4).

Exhibit 2. Repealed**Historical Note**

Section R9-25-802, Exhibit 2 recodified from A.A.C. R9-13-1502, Exhibit 2 (Supp. 98-1). Exhibit 2 repealed by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4).

Exhibit 3. Repealed**Historical Note**

Section R9-25-802, Exhibit 3 recodified from A.A.C. R9-13-1502, Exhibit 3 (Supp. 98-1). Exhibit 3 repealed by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4).

Exhibit 4. Repealed**Historical Note**

Section R9-25-802, Exhibit 4 recodified from A.A.C. R9-13-1502, Exhibit 4 (Supp. 98-1). Exhibit 4 repealed by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4).

R9-25-803. Changes Affecting Registration (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), and 36-2212)

- A. At least 30 days before the date of a change in a certificate holder's name, the certificate holder shall send the Department written notice of the name change.
- B. No later than 10 days after a certificate holder ceases to use an aircraft as an air ambulance, the certificate holder shall send the Department written notice of the date that the certificate holder ceased to use the aircraft as an air ambulance and of the certificate holder's intention to relinquish the certificate of registration for the use as an air ambulance as of that date.
- C. Within 30 days after the date of receipt of a notice described in subsection (A) or (B), the Department shall:
 1. For a notice described in subsection (A), issue an amended certificate of registration that incorporates the name change but retains the expiration date of the current certificate of registration; and
 2. For a notice described in subsection (B):
 - a. Void the certificate of registration for the air ambulance; and
 - b. Send the certificate holder written confirmation of the voluntary relinquishment of the certificate of registration, with an effective date that corresponds to the written notice.

- D. A certificate holder shall notify the Department in writing within one working day after a change in the certificate holder's eligibility to hold a certificate of registration for an air ambulance under R9-25-801(A).
- E. Upon receiving a notification required in subsection (D), the Department:
 1. Shall revoke the certificate for the aircraft used as an air ambulance; and
 2. If the air ambulance is the only aircraft used as an air ambulance by an air ambulance service, may revoke the license of the air ambulance service.

Historical Note

Section R9-25-803 recodified from A.A.C. R9-13-1503, (Supp. 98-1). Section repealed; new Section adopted effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4). Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Amended by exempt rulemaking at 8 A.A.R. 2625, effective June 1, 2002 (Supp. 02-2). Section recodified to R9-25-503 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Section R9-25-803 renumbered to R9-25-804; new Section R9-25-803 renumbered from R9-25-804 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

Exhibit 1. Recodified**Historical Note**

Section R9-25-803, Exhibit 1 "EMT-P Drug List" and "EMT-I Drug List" recodified from A.A.C. R9-13-1503, Exhibit 1 "EMT-P Drug List" and "EMT-I Drug List" (Supp. 98-1). Exhibit 1 repealed; new Exhibit 1 adopted effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4). Amended under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) at 6 A.A.R. 1507, effective May 1, 2000 (Supp. 00-1). Amended under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) at 6 A.A.R. 3762, effective October 1, 2000 (Supp. 00-3). Amended by exempt rulemaking at 7 A.A.R. 1654, effective March 30, 2001 (Supp. 01-1). Amended by exempt rulemaking at 8 A.A.R. 2625, effective June 1, 2002 (Supp. 02-2). Amended by exempt rulemaking at 9 A.A.R. 1703, effective May 15, 2003 (Supp. 03-2). Exhibit 1 recodified to Article 5, Exhibit 1 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Exhibit 2. Recodified**Historical Note**

Exhibit 2 adopted effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4). Amended under an exemption from the pro-

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visions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) at 6 A.A.R. 1507, effective May 1, 2000 (Supp. 00-1). Amended under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) at 6 A.A.R. 3762, effective October 1, 2000 (Supp. 00-3). Amended by exempt rulemaking at 7 A.A.R. 1199, effective February 13, 2001 (Supp. 01-1). Amended by exempt rulemaking at 8 A.A.R. 2625, effective June 1, 2002 (Supp. 02-2). Exhibit 2 recodified to Article 5, Exhibit 2 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

R9-25-804. Term and Transferability of Certificate of Registration (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, and 41-1092.11)

- A. The Department shall issue an initial certificate of registration:
 1. With a term of one year from date of issuance of the initial certificate of registration; or
 2. If requested by the applicant, with a term shorter than one year that allows for the Department to conduct annual inspections of all of the applicant's air ambulances at one time.
- B. The Department shall issue a renewal certificate of registration with a term of one year from the expiration date on the previous certificate of registration.
- C. If a certificate holder submits an application for renewal as described in R9-25-801 before the expiration date of the current certificate of registration, the current certificate of registration does not expire until the Department has made a final determination on the application for renewal, as provided in A.R.S. § 41-1092.11.
- D. A certificate of registration is not transferable from one person to another.
- E. If there is a change in the ownership of an aircraft used as an air ambulance or the person who can legally use the aircraft as an air ambulance, the new owner or person who can legally use the aircraft as an air ambulance shall apply for and obtain a new certificate of registration before using the aircraft as an air ambulance in this state.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-504 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Section R9-25-804 renumbered to R9-25-803; new Section R9-25-804 renumbered from R9-25-803 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

R9-25-805. Inspections (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, and 36-2232(A)(11))

- A. Except as provided in R9-25-711(C), an applicant or a certificate holder shall make an air ambulance available for inspection within Arizona within 10 working days after a request by the Department.
- B. The Department shall conduct each inspection in compliance with A.R.S. § 41-1009.
- C. As permitted under A.R.S. § 36-2232(A)(11), upon a certificate holder's request and at the certificate holder's expense, the annual inspection of an air ambulance required for renewal

of a certificate of registration may be conducted by a Department-approved inspection facility.

Historical Note

Adopted under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C), effective May 19, 1997; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-505 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

Exhibit 1. Recodified

Historical Note

Adopted under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C), effective May 19, 1997; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Exhibit 1 recodified to Article 5, Exhibit 1 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Exhibit 2. Recodified

Historical Note

Adopted under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C), effective May 19, 1997; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Exhibit 2 recodified to Article 5, Exhibit 2 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Exhibit 3. Repealed

Historical Note

Adopted under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C), effective May 19, 1997; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2). Exhibit repealed by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4).

R9-25-806. Repealed

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-506 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Repealed by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

R9-25-807. Renumbered

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 2633, effective June 1, 2002 (Supp. 02-2). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-507 at 10

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A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Section R9-25-807 renumbered to R9-25-802 by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

Table 8.1. Repealed**Historical Note**

New Table 8.1 renumbered from Table 1 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Table 8.1 amended by final expedited rulemaking at 24 A.A.R. 3487, with an immediate effective date of December 4, 2018 (Supp. 18-4). Table 8.1, Minimum Equipment and Supplies Required on Air Ambulances, by Mission Level and Aircraft Type, repealed by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

Table 1. Renumbered**Historical Note**

New Table 1 made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Table 1 renumbered to Table 8.1 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-808. Recodified**Historical Note**

New Section made by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-508 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

ARTICLE 9. GROUND AMBULANCE CERTIFICATE OF NECESSITY**R9-25-901. Definitions (Authorized by A.R.S. § 36-2202 (A))**

In addition to the definitions in A.R.S. § 36-2201 and R9-25-101, the following definitions apply in Articles 9, 10, 11, and 12 unless otherwise specified:

1. "Adjustment" means a modification, correction, or alteration to a rate or charge.
2. "ALS base rate" means the monetary amount assessed to a patient according to A.R.S. § 36-2239(F).
3. "Ambulance Revenue and Cost Report" means Exhibit A or Exhibit B, which records and reports the financial activities of an applicant or a certificate holder.
4. "Application packet" means the fee, documents, forms, and additional information the Department requires to be submitted by an applicant or on an applicant's behalf.
5. "Back-up agreement" means a written arrangement between a certificate holder and a neighboring certificate holder for temporary coverage during limited times when the neighboring certificate holder's ambulances are not available for service in its service area.
6. "BLS base rate" means the monetary amount assessed to a patient according to A.R.S. § 36-2239(G).
7. "Certificate holder" means a person to whom the Department issues a certificate of necessity.
8. "Certificate of registration" means an authorization issued by the Department to a certificate holder to operate a ground ambulance vehicle.
9. "Change of ownership" means:
 - a. In the case of ownership by a sole proprietor, 20% or more interest or a beneficial interest is sold or transferred;
 - b. In the case of ownership by a partnership or a private corporation, 20% or more of the stock, interest, or beneficial interest is sold or transferred; or
 - c. The controlling influence changes to the extent that the management and control of the ground ambulance service is significantly altered.
10. "Charge" means the monetary amount assessed to a patient for disposable supplies, medical supplies, medication, and oxygen-related costs.
11. "Chassis" means the part of a ground ambulance vehicle consisting of all base components, including front and rear suspension, exhaust system, brakes, engine, engine hood or cover, transmission, front and rear axles, front fenders, drive train and shaft, fuel system, engine air intake and filter, accelerator pedal, steering wheel, tires, heating and cooling system, battery, and operating controls and instruments.
12. "Convalescent transport" means a scheduled transport other than an interfacility transport.
13. "Dispatch" means the direction to a ground ambulance service or vehicle to respond to a call for EMS or transport.
14. "Driver's compartment" means the part of a ground ambulance vehicle that contains the controls and instruments for operation of the ground ambulance vehicle.
15. "Financial statements" means an applicant's balance sheet, annual income statement, and annual cash flow statement.
16. "Frame" means the structural foundation on which a ground ambulance vehicle chassis is constructed.
17. "General public rate" means the monetary amount assessed to a patient by a ground ambulance service for ALS, BLS, mileage, standby waiting, or according to a subscription service contract.
18. "Generally accepted accounting principles" means the conventions, and rules and procedures for accounting, including broad and specific guidelines, established by the Financial Accounting Standards Board.
19. "Goodwill" means the difference between the purchase price of a ground ambulance service and the fair market value of the ground ambulance service's identifiable net assets.
20. "Gross revenue" means:
 - a. The sum of revenues reported in the Ambulance Revenue and Cost Report Exhibit A, page 2, lines 1, 9, and 20; or
 - b. The sum of revenues reported in the Ambulance Revenue and Cost Report Exhibit B, page 3, lines 1, 24, 25, and 26.
21. "Ground ambulance service" means an ambulance service that operates on land.
22. "Ground ambulance service contract" means a written agreement between a certificate holder and a person for the provision of ground ambulance service.
23. "Ground ambulance vehicle" means a motor vehicle, defined in A.R.S. § 28-101, specifically designed to transport ambulance attendants and patients on land.
24. "Indirect costs" means the cost of providing ground ambulance service that does not include the costs of equipment.
25. "Interfacility transport" means a scheduled transport between two health care institutions.
26. "Level of service" means ALS or BLS ground ambulance service, including the type of ambulance attendants used by the ground ambulance service.
27. "Major defect" means a condition that exists on a ground ambulance vehicle that requires the Department or the certificate holder to place the ground ambulance vehicle out-of-service.

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28. "Mileage rate" means the monetary amount assessed to a patient for each mile traveled from the point of patient pick-up to the patient's destination point.
29. "Minor defect" means a condition that exists on a ground ambulance vehicle that is not a major defect.
30. "Needs assessment" means a study or statistical analysis that examines the need for ground ambulance service within a service area or proposed service area that takes into account the current or proposed service area's medical, fire, and police services.
31. "Out-of-service" means a ground ambulance vehicle cannot be operated to transport patients.
32. "Patient compartment" means the ground ambulance vehicle body part that holds a patient.
33. "Public necessity" means an identified population needs or requires all or part of the services of a ground ambulance service.
34. "Response code" means the priority assigned to a request for immediate dispatch by a ground ambulance service on the basis of the information available to the certificate holder or the certificate holder's dispatch authority.
35. "Response time" means the difference between the time a certificate holder is notified that a need exists for immediate dispatch and the time the certificate holder's first ground ambulance vehicle arrives at the scene. Response time does not include the time required to identify the patient's need, the scene, and the resources necessary to meet the patient's need.
36. "Response-time tolerance" means the percentage of actual response times for a response code and scene locality that are compliant with the response time approved by the Department for the response code and scene locality, for any 12-month period.
37. "Rural area" means a geographic region with a population of less than 40,000 residents that is not a suburban area.
38. "Scene locality" means an urban, suburban, rural, or wilderness area.
39. "Scheduled transport" means to convey a patient at a pre-arranged time by a ground ambulance vehicle for which an immediate dispatch and response is not necessary.
40. "Service area" means the geographical boundary designated in a certificate of necessity using the criteria in A.R.S. § 36-2233(E).
41. "Settlement" means the difference between the monetary amount Medicare establishes or AHCCCS pays as an allowable rate and the general public rate a ground ambulance service assesses a patient.
42. "Standby waiting rate" means the monetary amount assessed to a patient by a certificate holder when a ground ambulance vehicle is required to wait in excess of 15 minutes to load or unload the patient, unless the excess delay is caused by the ground ambulance vehicle or the ambulance attendants on the ground ambulance vehicle.
43. "Subscription service" means the provision of EMS or transport by a certificate holder to a group of individuals within the certificate holder's service area and the allocation of annual costs among the group of individuals.
44. "Subscription service contract" means a written agreement for subscription service.
45. "Subscription service rate" means the monetary amount assessed to a person under a subscription service contract.
46. "Substandard performance" means a certificate holder's:
 - a. Noncompliance with A.R.S. Title 36, Chapter 21.1, Articles 1 and 2, or 9 A.A.C. 25, or the terms of the certificate holder's certificate of necessity, including all decisions and orders issued by the Director to the certificate holder;
 - b. Failure to ensure that an ambulance attendant complies with A.R.S. Title 36, Chapter 21.1, Articles 1 and 2, or 9 A.A.C. 25, for the level of ground ambulance service provided by the certificate holder; or
 - c. Failure to meet the requirements in 9 A.A.C. 25, Article 10.
47. "Suburban area" means a geographic region within a 10-mile radius of an urban area that has a population density equal to or greater than 1,000 residents per square mile.
48. "Third-party payor" means a person, other than a patient, who is financially responsible for the payment of a patient's assessed general public rates and charges for EMS or transport provided to the patient by a ground ambulance service.
49. "Transfer" means:
 - a. A change of ownership or type of business entity; or
 - b. To move a patient from a ground ambulance vehicle to an air ambulance.
50. "Transport" means the conveyance of one or more patients in a ground ambulance vehicle from the point of patient pick-up to the patient's initial destination.
51. "Type of ground ambulance service" means an interfacility transport, a convalescent transport, or a transport that requires an immediate response.
52. "Urban area" means a geographic region delineated as an urbanized area by the United States Department of Commerce, Bureau of the Census.
53. "Wilderness area" means a geographic region that has a population density of less than one resident per square mile.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-902. Application for an Initial Certificate of Necessity; Provision of ALS Services; Transfer of a Certificate of Necessity (Authorized by A.R.S. §§ 36-2204, 36-2232, 36-2233(B), 36-2236(A) and (B), 36-2240)

- A. An applicant for an initial certificate of necessity shall submit to the Department an application packet, in a Department-provided format, that includes:
 1. An application form that contains:
 - a. The legal business or corporate name, address, telephone number, and facsimile number of the ground ambulance service;
 - b. The name, title, address, e-mail address, and telephone number of the following:
 - i. Each applicant and individual responsible for managing the ground ambulance service;
 - ii. The business representative or designated manager;
 - iii. The individual to contact to access the ground ambulance service's records required in R9-25-910; and
 - iv. The statutory agent for the ground ambulance service, if applicable;
 - c. The name, address, and telephone number of the base hospital or centralized medical direction communications center for the ground ambulance service;
 - d. The address and telephone number of the ground ambulance service's dispatch center;
 - e. The address and telephone number of each suboperation station located within the proposed service area;
 - f. Whether the ground ambulance service is a corporation, partnership, sole proprietorship, limited liability corporation, or other;
 - g. Whether the business entity is proprietary, non-profit, or governmental;

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- h. A description of the communication equipment to be used in each ground ambulance vehicle and suboperation station;
 - i. The make and year of each ground ambulance vehicle to be used by the ground ambulance service;
 - j. The number of ambulance attendants and the type of licensure, certification, or registration for each attendant;
 - k. The proposed hours of operation for the ground ambulance service;
 - l. The type of ground ambulance service;
 - m. The level of ground ambulance service;
 - n. Acknowledgment that the applicant:
 - i. Is requesting to operate ground ambulance vehicles and a ground ambulance service in this state;
 - ii. Has received a copy of 9 A.A.C. 25 and A.R.S. Title 36, Chapter 21.1; and
 - iii. Will comply with the Department's statutes and rules in any matter relating to or affecting the ground ambulance service;
 - o. A statement that any information or documents submitted to the Department are true and correct; and
 - p. The signature of the applicant or the applicant's designated representative and the date signed;
2. The following information:
- a. Where the ground ambulance vehicles in subsection (A)(1)(i) are located within the applicant's proposed service area;
 - b. A statement of the proposed general public rates;
 - c. A statement of the proposed charges;
 - d. The applicant's proposed response times, response codes, and response-time tolerances for each scene locality in the proposed service area, based on the following:
 - i. The population demographics within the proposed service area;
 - ii. The square miles within the proposed service area;
 - iii. The medical needs of the population within the proposed service area;
 - iv. The number of anticipated requests for each type and level of ground ambulance service in the proposed service area;
 - v. The available routes of travel within the proposed service area;
 - vi. The geographic features and environmental conditions within the proposed service area; and
 - vii. The available medical and emergency medical resources within the proposed service area;
 - e. A plan to provide temporary ground ambulance service to the proposed service area for a limited time when the applicant is unable to provide ground ambulance service to the proposed service area;
 - f. Whether a ground ambulance service currently operates in all or part of the proposed service area and if so, where; and
 - g. Whether an applicant or a designated manager:
 - i. Has ever been convicted of a felony or a misdemeanor involving moral turpitude,
 - ii. Has ever had a license or certificate of necessity for a ground ambulance service suspended or revoked by any state or political subdivision, or
 - iii. Has ever operated a ground ambulance service without the required certification or licensure in this or any other state;
3. The following documents:
- a. A description of the proposed service area by any method specified in A.R.S. § 36-2233(E) and a map that illustrates the proposed service area;
 - b. A projected Ambulance Revenue and Cost Report;
 - c. The financing agreement for all capital acquisitions exceeding \$5,000;
 - d. The source and amount of funding for cash flow from the date the ground ambulance service commences operation until the date cash flow covers monthly expenses;
 - e. Any proposed ground ambulance service contract under A.R.S. §§ 36-2232(A)(1) and 36-2234(K);
 - f. The information and documents specified in R9-25-1101, if the applicant is requesting to establish general public rates;
 - g. Any subscription service contract under A.R.S. §§ 36-2232(A)(1) and 36-2237(B);
 - h. A certificate of insurance or documentation of self-insurance required in A.R.S. § 36-2237(A) and R9-25-909;
 - i. A surety bond if required under A.R.S. § 36-2237(B); and
 - j. The applicant's and designated manager's resume or other description of experience and qualification to operate a ground ambulance service; and
4. Any documents, exhibits, or statements that may assist the Director in evaluating the application or any other information or documents needed by the Director to clarify incomplete or ambiguous information or documents.
- B.** Before an applicant provides ALS, the applicant shall submit to the Department the application packet required in subsection (A) and the following:
- 1. A current written contract for ALS medical direction; and
 - 2. Proof of professional liability insurance for ALS personnel required in R9-25-909(A)(1)(b).
- C.** When requesting a transfer of a certificate of necessity:
- 1. The person wanting to transfer the certificate of necessity shall submit a letter to the Department that contains:
 - a. A request that the certificate of necessity be transferred, and
 - b. The name of the person to whom the certificate of necessity is to be transferred; and
 - 2. The person identified in subsection (C)(1)(b) shall submit:
 - a. The application packet in subsection (A); and
 - b. The information in subsection (B), if ALS is provided.
- D.** An applicant shall submit the following fees:
- 1. \$100 application filing fee for an initial certificate of necessity, or
 - 2. \$50 application filing fee for a transfer of a certificate of necessity.
- E.** The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-903. Determining Public Necessity (A.R.S. § 36-2233(B)(2))

- A.** In determining public necessity for an initial or amended certificate of necessity, the Director shall consider the following:
- 1. The response times, response codes, and response-time tolerances proposed by the applicant for the service area;
 - 2. The population demographics within the proposed service area;

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3. The geographic distribution of health care institutions within and surrounding the service area;
 4. Whether issuing a certificate of necessity to more than one ambulance service within the same service area is in the public's best interest, based on:
 - a. The existence of ground ambulance service to all or part of the service area;
 - b. The response times of and response-time tolerances for ground ambulance service to all or part of the service area;
 - c. The availability of certificate holders in all or part of the service area; and
 - d. The availability of emergency medical services in all or part of the service area;
 5. The information in R9-25-902(A)(1) and (A)(2); and
 6. Other matters determined by the Director or the applicant to be relevant to the determination of public necessity.
- B.** In deciding whether to issue a certificate of necessity to more than one ground ambulance service for convalescent or inter-facility transport for the same service area or overlapping service areas, the Director shall consider the following:
1. The factors in subsections (A)(2), (A)(3), (A)(4)(a), (A)(4)(c), (A)(4)(d), (A)(5), and (A)(6);
 2. The financial impact on certificate holders whose service area includes all or part of the service area in the requested certificate of necessity;
 3. The need for additional convalescent or interfacility transport; and
 4. Whether a certificate holder for the service area has demonstrated substandard performance.
- C.** In deciding whether to issue a certificate of necessity to more than one ground ambulance service for a 9-1-1 or similarly dispatched transport within the same service area or overlapping service areas, the Director shall consider the following:
1. The factors in subsections (A), (B)(2), and (B)(4);
 2. The difference between the response times in the service area and proposed response times by the applicant;
 3. A needs assessment adopted by a political subdivision, if any; and
 4. A needs assessment, referenced in A.R.S. § 36-2210, adopted by a local emergency medical services coordinating system, if any.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.
1098, effective February 13, 2001 (Supp. 01-1).

R9-25-904. Application for Renewal of a Certificate of Necessity (A.R.S. §§ 36-2233, 36-2235, 36-2240)

- A.** An applicant for a renewal of a certificate of necessity shall submit to the Department, not less than 60 days before the expiration date of the certificate of necessity, an application packet that includes:
1. An application form that contains the information in R9-25-902(A)(1)(a) through (A)(1)(m) and the signature of the applicant;
 2. Proof of continuous insurance coverage or a statement of continuing self-insurance, including a copy of the current certificate of insurance or current statement of self-insurance required in R9-25-909;
 3. Proof of continued coverage by a surety bond if required under A.R.S. §§ 36-2237(B);
 4. A copy of the list of current charges required in R9-25-1109;
 5. An affirmation that the certificate holder has and is continuing to meet the conditions of the certificate of necessity, including assessing only those rates and charges approved and set by the Director; and
 6. \$50 application filing fee.
- B.** A certificate holder who fails to file a timely application for renewal of the certificate of necessity according to A.R.S. §

36-2235 and this Section, shall cease operations at 12:01 a.m. on the date the certificate of necessity expires.

- C.** To commence operations after failing to file a timely renewal application, a person shall file an initial certificate of necessity application according to R9-25-902 and meet all the requirements for an initial certificate of necessity.
- D.** The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.
1098, effective February 13, 2001 (Supp. 01-1).

R9-25-905. Application for Amendment of a Certificate of Necessity (A.R.S. §§ 36-2232(A)(4), 36-2240)

- A.** A certificate holder that wants to amend its certificate of necessity shall submit to the Department the application form in R9-25-902(A)(1) and an application filing fee of \$50 for changes in:
1. The legal name of the ground ambulance service;
 2. The legal address of the ground ambulance service;
 3. The level of ground ambulance service;
 4. The type of ground ambulance service;
 5. The service area; or
 6. The response times, response codes, or response-time tolerances.
- B.** In addition to the application form in subsection (A), an amending certificate holder shall submit:
1. For the addition of ALS ground ambulance service, the information required in R9-25-902(B)(1) and (B)(2).
 2. For a change in the service area, the information required in R9-25-902(A)(3)(a);
 3. For a change in response times, the information required in subsection R9-25-902(A)(2)(d);
 4. A statement explaining the financial impact and impact on patient care anticipated by the proposed amendment;
 5. Any other information or documents requested by the Director to clarify incomplete or ambiguous information or documents; and
 6. Any documents, exhibits, or statements that the amending certificate holder wishes to submit to assist the Director in evaluating the proposed amendment.
- C.** The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.
1098, effective February 13, 2001 (Supp. 01-1).

R9-25-906. Determining Response Times, Response Codes, and Response-Time Tolerances for Certificates of Necessity and Provision of ALS Services (A.R.S. §§ 36-2232, 36-2233)

In determining response times, response codes, and response-time tolerances for all or part of a service area, the Director may consider the following:

1. Differences in scene locality, if applicable;
2. Requirements of a 9-1-1 or similar dispatch system for all or part of the service area;
3. Requirements in a contract approved by the Department between a ground ambulance service and a political subdivision;
4. Medical prioritization for the dispatch of a ground ambulance vehicle according to procedures established by the certificate holder's medical direction authority; and
5. Other matters determined by the Director to be relevant to the measurement of response times, response codes, and response-time tolerances.

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Historical Note

New Section adopted by final rulemaking at 7 A.A.R.
1098, effective February 13, 2001 (Supp. 01-1).

R9-25-907. Observance of Service Area; Exceptions (A.R.S. § 36-2232)

A certificate holder shall not provide EMS or transport within an area other than the service area identified in the certificate holder's certificate of necessity except:

1. When authorized by a service area's dispatch, before the service area's ground ambulance vehicle arrives at the scene; or
2. According to a back-up agreement.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.
1098, effective February 13, 2001 (Supp. 01-1).

R9-25-908. Transport Requirements; Exceptions (A.R.S. §§ 36-2224, 36-2232)

A certificate holder shall transport a patient except:

1. As limited by A.R.S. § 36-2224;
2. If the patient is in a health care institution and the patient's medical condition requires a level of care or monitoring during transport that exceeds the scope of practice of the ambulance attendants' certification;
3. If the transport may result in an immediate threat to the ambulance attendant's safety, as determined by the ambulance attendant, certificate holder, or medical direction authority;
4. If the patient is more than 17 years old and refuses to be transported; or
5. If the patient is in a health care institution and does not meet the federal requirements for medically necessary ground vehicle ambulance transport as identified in 42 CFR 410.40.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.
1098, effective February 13, 2001 (Supp. 01-1).

R9-25-909. Certificate of Insurance or Self-Insurance (A.R.S. §§ 36-2232, 36-2233, 36-2237)

A. A certificate holder shall:

1. Maintain with an insurance company authorized to transact business in this state:
 - a. A minimum single occurrence automobile liability insurance coverage of \$500,000 for ground ambulance vehicles; and
 - b. A minimum single occurrence malpractice or professional liability insurance coverage of \$500,000; or
2. Be self-insured for the amounts in subsection (A)(1).

B. A certificate holder shall submit to the Department:

1. A copy of the certificate of insurance; or
2. Documentation of self-insurance.

C. A certificate holder shall submit a copy of the certificate of insurance to the Department no later than five days after the date of issuance of:

1. A renewal of the insurance policy; or
2. A change in insurance coverage or insurance company.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.
1098, effective February 13, 2001 (Supp. 01-1).

R9-25-910. Record and Reporting Requirements (A.R.S. §§ 36-2232, 36-2241, 36-2246)

A. A certificate holder shall submit to the Department, no later than 180 days after the certificate holder's fiscal year end, the appropriate Ambulance Revenue and Cost Report.

B. According to A.R.S. § 36-2241, a certificate holder shall maintain the following records for the Department's review and inspection:

1. The certificate holder's financial statements;
2. All federal and state income tax records;
3. All employee-related expense reports and payroll records;
4. All bank statements and documents verifying reconciliation;
5. All documents establishing the depreciation of assets, such as schedules or accounting records on ground ambulance vehicles, equipment, office furniture, and other plant and equipment assets subject to depreciation;
6. All first care forms required in R9-25-514 and R9-25-615;
7. All patient billing and reimbursement records;
8. All dispatch records, including the following:
 - a. The name of the ground ambulance service;
 - b. The month of the record;
 - c. The date of each transport;
 - d. The number assigned to the ground ambulance vehicle by the certificate holder;
 - e. Names of the ambulance attendants;
 - f. The scene;
 - g. The actual response time;
 - h. The response code;
 - i. The scene locality;
 - j. Whether the scene to which the ground ambulance vehicle is dispatched is outside of the certificate holder's service area; and
 - k. Whether the dispatch is a scheduled transport;
9. All ground ambulance service back-up agreements, contracts, grants, and financial assistance records related to ground ambulance vehicles, EMS, and transport;
10. All written ground ambulance service complaints; and
11. Information about destroyed or otherwise irretrievable records in a file including:
 - a. A list of each record destroyed or otherwise irretrievable;
 - b. A description of the circumstances under which each record became destroyed or otherwise irretrievable; and
 - c. The date each record was destroyed or became otherwise irretrievable.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.
1098, effective February 13, 2001 (Supp. 01-1).

R9-25-911. Ground Ambulance Service Advertising (A.R.S. § 36-2232)

A. A certificate holder shall not advertise that it provides a type or level of ground ambulance service or operates in a service area different from that granted in the certificate of necessity.

B. When advertising, a certificate holder shall not direct the circumvention of the use of 9-1-1 or another similarly designated emergency telephone number.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.
1098, effective February 13, 2001 (Supp. 01-1).

R9-25-912. Disciplinary Action (A.R.S. §§ 36-2244, 36-2245)

A. After notice and opportunity to be heard is given according to the procedures in A.R.S. Title 41, Chapter 6, Article 10, a certificate of necessity may be suspended, revoked, or other disciplinary action taken for the following reasons:

1. The certificate holder has:
 - a. Demonstrated substandard performance; or
 - b. Been determined not to be fit and proper by the Director;

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2. The certificate holder has provided false information or documents:
 - a. On an application for a certificate of necessity;
 - b. Regarding any matter relating to its ground ambulance vehicles or ground ambulance service; or
 - c. To a patient, third-party payor, or other person billed for service; or
3. The certificate holder has failed to:
 - a. Comply with the applicable requirements of A.R.S. Title 36, Chapter 21.1, Articles 1 and 2 or 9 A.A.C. 25; or
 - b. Comply with any term of its certificate of necessity or any rates and charges schedule filed by the certificate holder and approved by the Department.
- B.** In determining the type of disciplinary action to impose under A.R.S. § 36-2245, the Director shall consider:
 1. The severity of the violation relative to public health and safety;
 2. The number of violations relative to the annual transport volume of the certificate holder;
 3. The nature and circumstances of the violation;
 4. Whether the violation was corrected, the manner of correction, and the time-frame involved; and
 5. The impact of the penalty or assessment on the provision of ground ambulance service in the certificate holder's service area.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

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Exhibit 9A. Ambulance Revenue and Cost Report, General Information and Certification

Legal Name of Company: _____ CON No. _____
 D.B.A. (Doing Business As): _____ Business Phone: () _____
 Financial Records Address: _____ City: _____ Zip Code _____
 Mailing Address (If Different): _____ City: _____ Zip Code _____
 Owner/Manager: _____
 Report Contact Person: _____ Phone: () _____ Ext. _____
 Report for Period From: _____ To: _____
 Method of Valuing Inventory: LIFO: () FIFO: () Other (Explain): _____

Please attach a list of all affiliated organizations (parents/subsidiaries) that exhibit at least 5% ownership/ vesting.

CERTIFICATION

I hereby certify that I have directed the preparation of the Arizona Ambulance Revenue and Cost Report for the facility listed above in accordance with the reporting requirements of the State of Arizona.

I have read this report and hereby certify that the information provided is true and correct to the best of my knowledge.

This report has been prepared using the accrual basis of accounting.

Authorized Signature: _____

Title: _____ *Date:* _____

Mail to:

Department of Health Services
 Bureau of Emergency Medical Services and Trauma System
 Certificate of Necessity and Rates Section
 150 North 18th Avenue, Suite 540, Phoenix, AZ 85007
 Telephone: (602) 364-3150
 Fax: (602) 364-3567

Revised December 2013

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AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

STATISTICAL SUPPORT DATA

Line No.	DESCRIPTION	(1) SUBSCRIPTION SERVICE TRANSPORTS	(2)** TRANSPORTS UNDER CONTRACT	(3) TRANSPORTS NOT UNDER CONTRACT	(4) TOTALS
01	Number of ALS Billable Runs.	_____	_____	_____	_____
02	Number of BLS Billable Runs.	_____	_____	_____	_____
03	Number of Loaded Billable Miles.	_____	_____	_____	_____
04	Waiting Time (Hr. & Min.)	_____	_____	_____	_____
05	Total Canceled (Non-Billable) Runs	_____	_____	_____	Number _____
Volunteer Services: (OPTIONAL)					Donated Hours
06	Paramedic, EMT-I(99) and AEMT	_____	_____	_____	_____
07	Emergency Medical Technician (EMT)	_____	_____	_____	_____
08	Other Ambulance Attendants	_____	_____	_____	_____
09	Total Volunteer Hours	_____	_____	_____	_____

**This column reports only those runs where a contracted discount rate was applied. See Page 7 to provide additional information regarding discounted contract runs.

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AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

STATISTICAL SUPPORT DATA

Line No.	TYPE OF SERVICE	(1) SUBSIDIZED PATIENTS	(2) NON- SUBSIDIZED PATIENTS	(3) TOTALS
01	Number of Advanced Life Support Billable Runs.	_____	_____	_____
02	Number of Basic Life Support Billable Runs	_____	_____	_____
03	Number of Loaded Billable Miles	_____	_____	_____
04	Waiting Time (Hours and Minutes)	_____	_____	_____
05	Total Canceled (Non-Billable) Runs	_____	_____	_____
				Number

Volunteer Services: (OPTIONAL)

06	Paramedic, EMT-I(99), and AEMT	_____	_____	Donated Hours
07	Emergency Medical Technician (EMT)	_____	_____	_____
08	Other Ambulance Attendants	_____	_____	_____
09	Total Volunteer Hours	_____	_____	_____

Note: This page and page 3.1, Routine Operating Revenue, are only for those governmental agencies that apply subsidy to patient billings.

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AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

STATEMENT OF INCOME**Line****No. DESCRIPTION****FROM****Operating Revenue:**

01 Ambulance Service Routine Operating Revenue Page 3 Line 10 \$ _____

Less:

02 AHCCCS Settlement

03 Medicare Settlement.

04 Contractual Discounts. Page 7 Line 22

05 Subscription Service Settlement. Page 8 Line 4

06 Other (Attach Schedule).

07 Total \$ _____

08 Net Revenue from Ambulance Runs \$ _____

09 Sales of Subscription Service Contracts. Page 8 Line 8

10 Total Operating Revenue \$ _____

Ambulance Operating Expenses:

11 Bad Debt (Includes Subscription Services Bad Debt) ... \$ _____

12 Wages, Payroll Taxes, and Employee Benefits. Page 4 Line 22

13 General and Administrative Expenses Page 5 Line 20

14 Cost of Goods Sold. Page 3 Line 15

15 Other Operating Expenses Page 6 Line 28

16 Interest Expense (Attach Schedule IV) Page 14 CI 4 & 5 Line 28

17 Subscription Service Direct Selling Page 8 Line 23

18 Total Operating Expenses \$ _____

19 Ambulance Service Income (Loss) (Line 10 minus Line 18) \$ _____

Other Revenue/Expenses:

20 Other Operating Revenue and Expenses Page 9 Line 17 \$ _____

21 Non-Operating Revenue and Expense \$ _____

22 Non-Deductible Expenses (Attach Schedule). \$ _____

23 Total Other Revenues/Expenses \$ _____

24 Ambulance Service Income (Loss) - Before Income Taxes \$ _____

Provision for Income Taxes:

25 Federal Income Tax. \$ _____

26 State Income Tax. \$ _____

27 Total Income Tax \$ _____

28 Ambulance Service - Net Income (Loss) \$ _____

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

ROUTINE OPERATING REVENUE

Line

No. DESCRIPTION

Ambulance Service Routine Operating Revenue:		
01	ALS Base Rate	\$ _____
02	BLS Base Rate	_____
03	Mileage Charge	_____
04	Waiting Charge	_____
05	Medical Supplies (Gross Charges)	_____
06	Nurses Charges	_____
07	Total	\$ _____
08	Standby Revenue (Attach Schedule)	_____
09	Other Ambulance Service Revenue (Attach Schedule)	_____
10	Total Ambulance Service Routine Operating Revenue (To Page 2, Line 01)	\$ _____

COST OF GOODS SOLD: (MEDICAL SUPPLIES)

11	Inventory at Beginning of Year	_____
12	Plus Purchases	_____
13	Plus Other Costs	_____
14	Less Inventory at End of Year	(_____)
15	Cost of Goods Sold (To Page 2, Line 14)	\$ _____

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

ROUTINE OPERATING REVENUE

Line No.	TYPE OF SERVICE	(1) SUBSIDIZED PATIENTS	(2) NON- SUBSIDIZED PATIENTS	(3) TOTALS
AMBULANCE SERVICE OPERATING REVENUE				
01	ALS Base Rate	\$ _____	\$ _____	\$ _____
02	BLS Base Rate	_____	_____	_____
03	Mileage Charge	_____	_____	_____
04	Waiting Charge	_____	_____	_____
05	Medical Supplies (Gross Charges)	_____	_____	_____
06	Nurses' Charges	_____	_____	_____
07	Total	\$ _____	\$ _____	\$ _____
08	Standby Revenue (Attach Schedule)			_____
09	Other Ambulance Service Revenue (Attach Schedule)			_____
10	Total Ambulance Service Routine Operating Revenue (Column 3 to Page 2, Line 01)			\$ _____
Less:				
11	AHCCCS Settlement	\$ _____	\$ _____	\$ _____
12	Medicare Settlement	_____	_____	_____
13	Subsidy	_____	XXXXXXXXXXXXX	_____
14	Other (Attach Schedule)	_____	_____	_____
15	Total Settlements (Column 3 to Page 2, Line 06)	\$ _____	\$ _____	\$ _____
Cost of Goods Sold:				
16	Inventory at Beginning of Year			\$ _____
17	Plus Purchases			_____
18	Plus Other Costs			_____
19	Less Inventory at End of Year			(_____)
20	Cost of Goods Sold (Column 3 to Page 2, Line 14)			\$ _____

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

WAGES, PAYROLL TAXES, AND EMPLOYEE BENEFITS

Line No.	DESCRIPTION	No. of *F.T.E.s	AMOUNT
01	Gross Wages - OFFICERS/OWNERS (Attach Schedule1, Page 10, Line 7)	_____	\$ _____
02	Payroll Taxes	_____	_____
03	Employee Fringe Benefits	_____	_____
04	Total	_____	\$ _____
05	Gross Wages - MANAGEMENT (Attach Schedule II)	_____	\$ _____
06	Payroll Taxes	_____	_____
07	Employee Fringe Benefits	_____	_____
08	Total	_____	\$ _____
Gross Wages - AMBULANCE PERSONNEL (Attach Schedule II)			
	**Casual Labor	Wages	
09	Paramedic, EMT-I(99) and AEMT	_____	\$ _____
10	Emergency Medical Technician (EMT). _____	_____	_____
11	Nurses	_____	_____
12	Payroll Taxes	_____	_____
13	Employee Fringe Benefits	_____	_____
14	Total	_____	\$ _____
Gross Wages - OTHER PERSONNEL (Attach Schedule II)			
15	Dispatch	_____	\$ _____
16	Mechanics	_____	_____
17	Office and Clerical	_____	_____
18	Other	_____	_____
19	Payroll Taxes	_____	_____
20	Employee Fringe Benefits	_____	_____
21	Total	_____	\$ _____
22	Total F.T.E.s' Wages, Payroll Taxes, & Employee Benefits (To Page 2, Line 12)	_____	\$ _____

* Full-time equivalents (F.T.E.) is the sum of all hours for which employee wages were paid during the year divided by 2,080.

** The sum of Casual Labor (wages paid on a per run basis) plus Wages paid is entered in Column 2 by line item. However, when calculating F.T.E.s, do not include casual labor hours worked or expenses incurred.

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

WAGES, PAYROLL TAXES, AND EMPLOYEE BENEFITS

Line No.	DESCRIPTION	(1) No. of *F.T.E.s	(2) Total Expenditure	(3) Allocation Percentage	(4) Ambulance Amount
01	Gross Wages - Management (Attach Schedule II).	_____	\$ _____	_____	_____
02	Payroll Taxes.	_____	_____	_____	_____
03	Employee Fringe Benefits.	_____	_____	_____	_____
04	Total	_____	\$ _____	_____	_____
Gross Wages - Ambulance Personnel (Attach Schedule):					
	**Contractual Wages				
05	Paramedic, EMT-I(99) and AEMT	_____	\$ _____	_____	_____
06	Emergency Medical Technician (EMT) _____	_____	_____	_____	_____
07	Nurses.	_____	_____	_____	_____
08	Drivers.	_____	_____	_____	_____
09	Payroll Taxes.	_____	_____	_____	_____
10	Employee Fringe Benefits.	_____	_____	_____	_____
11	Total.	_____	\$ _____	_____	_____
Gross Wages - Other Personnel (Attach Schedule II):					
12	Dispatch.	_____	\$ _____	_____	_____
13	Mechanics	_____	_____	_____	_____
14	Office and Clerical	_____	_____	_____	_____
15	Other	_____	_____	_____	_____
16	Payroll Taxes.	_____	_____	_____	_____
17	Employee Fringe Benefits	_____	_____	_____	_____
18	Total.	_____	\$ _____	_____	_____
19	Total F.T.E.s' Wages, Payroll Taxes, and Employee Benefits (To Page 2, Line 12) _____	_____	\$ _____	_____	_____

* Full-Time Equivalents (F.T.E.) is the sum of all hours for which employee wages were paid during the year divided by 2,080.

** The sum of Contractual + Wages paid is entered in Column 2 by line item. However, when calculating F.T.E.s, do not include contractual hours worked or expenses incurred.

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

WAGES, PAYROLL TAXES, AND EMPLOYEE BENEFITS

Line No.	DESCRIPTION	Basis of Allocations	
01	Gross Wages - Management	_____	_____
02	Payroll Taxes	_____	_____
03	Employee Fringe Benefits	_____	_____
04	Total	_____	_____
Gross Wages - Ambulance Personnel:			
		<u>Contractual</u>	<u>Wages</u>
05	Paramedic, EMT-I(99) and AEMT	_____	_____
06	Emergency Medical Technician (EMT)	_____	_____
06	Emergency Medical Technician (EMT)	_____	_____
07	Nurses	_____	_____
08	Drivers	_____	_____
09	Payroll Taxes	_____	_____
10	Employee Fringe Benefits	_____	_____
11	Total	_____	_____
Gross Wages - Other Personnel:			
12	Dispatch	_____	_____
13	Mechanics	_____	_____
14	Office and Clerical	_____	_____
15	Other	_____	_____
16	Payroll Taxes	_____	_____
17	Employee Fringe Benefits	_____	_____
18	Total	_____	_____

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

GENERAL AND ADMINISTRATIVE EXPENSES

Line

No. DESCRIPTION**Professional Services:**

01	Legal Fees	\$ _____	
02	Collection Fees	_____	
03	Accounting and Auditing	_____	
04	Data Processing Fees	_____	
05	Other (Attach Schedule)	_____	
06	Total		\$ _____

Travel and Entertainment:

07	Meals and Entertainment	\$ _____	
08	Transportation - Other Company Vehicles	_____	
09	Travel	_____	
10	Other (Attach Schedule)	_____	
11	Total		\$ _____

Other General and Administrative:

12	Office Supplies	\$ _____	
13	Postage	_____	
14	Telephone	_____	
15	Advertising	_____	
16	Professional Liability Insurance	_____	
17	Dues and Subscriptions	_____	
18	Other (Attach Schedule)	_____	
19	Total		\$ _____
20	Total General and Administrative Expenses (To Page 2, Line 13)		\$ _____

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

GENERAL AND ADMINISTRATIVE EXPENSES

Line No.	DESCRIPTION	(1) Total Expenditure	(2) Allocation Percentage	(3) Ambulance Amount
Professional Services:				
01	Legal Fees	\$ _____	_____	\$ _____
02	Collection Fees.	_____	_____	_____
03	Accounting and Auditing	_____	_____	_____
04	Data Processing Fees.	_____	_____	_____
05	Other (Attach Schedule)	_____	_____	_____
06	Total	\$ _____		\$ _____
Travel and Entertainment:				
07	Meals and Entertainment	\$ _____	_____	\$ _____
08	Transportation - Other Company Vehicles	_____	_____	_____
09	Travel	_____	_____	_____
10	Other (Attach Schedule)	_____	_____	_____
11	Total	\$ _____		\$ _____
Other General and Administrative:				
12	Office Supplies	\$ _____	_____	\$ _____
13	Postage	_____	_____	_____
14	Telephone	_____	_____	_____
15	Advertising	_____	_____	_____
16	Professional Liability Insurance	_____	_____	_____
17	Dues and Subscriptions	_____	_____	_____
18	Other (Attach Schedule)	_____	_____	_____
19	Total	\$ _____		\$ _____
20	Total General & Administrative Expenses (to Page 2, Line 13)	\$ _____		\$ _____

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

GENERAL AND ADMINISTRATIVE EXPENSES (cont.)

<u>Line No.</u>	<u>DESCRIPTION</u>	<u>Basis of Allocations</u>
Professional Services:		
01	Legal Fees	_____
02	Collection Fees	_____
03	Accounting and Auditing	_____
04	Data Processing Fees	_____
05	Other (Attach Schedule)	_____
06	Total	_____
Travel and Entertainment:		
07	Meals and Entertainment	_____
08	Transportation - Other Company Vehicles	_____
09	Travel	_____
10	Other (Attach Schedule)	_____
11	Total	_____
Other General and Administrative:		
12	Office Supplies	_____
13	Postage	_____
14	Telephone	_____
15	Advertising	_____
16	Professional Liability Insurance	_____
17	Dues and Subscriptions	_____
18	Other (Attach Schedule)	_____
19	Total	_____

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

OTHER OPERATING EXPENSES

Line

No. OTHER OPERATING EXPENSES**Depreciation and Amortization:**

01	Depreciation (Attach Schedule III) (From Line 20, Col I, Page 13)	\$ _____	
02	Amortization	_____	
03	Total		\$ _____
04	Rent/Lease (Attach Schedule III) (From Line 20, Col K, Page 13)		\$ _____

Building/Station Expense:

05	Building and Cleaning Supplies	\$ _____	
06	Utilities	_____	
07	Property Taxes	_____	
08	Property Insurance	_____	
09	Repairs and Maintenance	_____	
10	Other (Attach Schedule)	_____	
11	Total		\$ _____

Vehicle Expense - Ambulance Units:

12	License/Registration	\$ _____	
13	Fuel.	_____	
14	General Vehicle Service and Maintenance.	_____	
15	Major Repairs	_____	
16	Insurance - Service Vehicles.	_____	
17	Other (Attach Schedule).	_____	
18	Total		\$ _____

Other Expenses:

19	Dispatch	_____	
20	Education/Training	_____	
21	Uniforms and Uniform Cleaning	_____	
22	Meals and Travel for Ambulance Personnel	_____	
23	Maintenance Contracts	_____	
24	Minor Equipment - Not Capitalized	_____	
25	Ambulance Supplies - Nonchargeable	_____	
26	Other (Attach Schedule)	_____	
27	Total		\$ _____
28	Total Other Operating Expenses (To Page 2, Line 15)		\$ _____

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

OTHER OPERATING EXPENSES

<u>OTHER OPERATING EXPENSES</u>	(1) Total Expenditure	(2) Allocation Percentage	(3) Ambulance Amount
Depreciation and Amortization:			
Depreciation (Attach Schedule III) (From Line 20, Col I, Page 12) .	\$ _____	_____	_____
Amortization	_____	_____	_____
Total	\$ _____	_____	_____
Rent/Lease (Attach Schedule III) Line 20, Col K, Page 12	\$ _____	_____	_____
Building/Station Expense:			
Building and Cleaning Supplies	\$ _____	_____	_____
Utilities	_____	_____	_____
Property Taxes	_____	_____	_____
Property Insurance	_____	_____	_____
Repairs and Maintenance	_____	_____	_____
Other (Attach Schedule)	_____	_____	_____
Total	\$ _____	_____	_____
Vehicle Expense - Ambulance Units:			
License/Registration	\$ _____	_____	_____
Fuel.	_____	_____	_____
General Vehicle Service and Maintenance.	_____	_____	_____
Major Repairs	_____	_____	_____
Insurance - Service Vehicles.	_____	_____	_____
Other (Attach Schedule).	_____	_____	_____
Total	\$ _____	_____	_____
Other Expenses:			
Dispatch	\$ _____	_____	_____
Education/Training	_____	_____	_____
Uniforms and Uniform Cleaning	_____	_____	_____
Meals and Travel for Ambulance Personnel	_____	_____	_____
Maintenance Contracts.	_____	_____	_____
Minor Equipment - Not Capitalized.	_____	_____	_____
Ambulance Supplies - Nonchargeable	_____	_____	_____
Other (Attach Schedule).	_____	_____	_____
Total.	\$ _____	_____	_____
Total Other Operating Expenses (To Page 2, Line 15)	\$ _____	_____	_____

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

OTHER OPERATING EXPENSES

Line No.	<u>OTHER OPERATING EXPENSES</u>	<u>Basis of Allocations</u>
	Depreciation and Amortization:	
01	Depreciation	_____
02	Amortization	_____
03	Total	_____
04	Rent/Lease	_____
	Building/Station Expense:	
05	Building and Cleaning Supplies	_____
06	Utilities	_____
07	Property Taxes	_____
08	Property Insurance	_____
09	Repairs and Maintenance	_____
10	Other (Attach Schedule)	_____
11	Total	_____
	Vehicle Expense - Ambulance Units:	
12	License/Registration	_____
13	Fuel	_____
14	General Vehicle Service and Maintenance.	_____
15	Major Repairs	_____
16	Insurance - Service Vehicles.	_____
17	Other (Attach Schedule).	_____
18	Total	_____
	Other Expenses:	
19	Dispatch	_____
20	Education/Training	_____
21	Uniforms and Uniform Cleaning	_____
22	Meals and Travel for Ambulance Personnel	_____
23	Maintenance Contracts	_____
24	Minor Equipment - Not Capitalized	_____
25	Ambulance Supplies - Nonchargeable	_____
26	Other (Attach Schedule)	_____
27	Total	_____

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

DETAIL OF CONTRACTUAL ALLOWANCES

Line No.	Name of Contracting Entity	Total Billable Runs	Gross Billing	Percent Discount	Allowance
01	_____	_____	_____	_____	_____
02	_____	_____	_____	_____	_____
03	_____	_____	_____	_____	_____
04	_____	_____	_____	_____	_____
05	_____	_____	_____	_____	_____
06	_____	_____	_____	_____	_____
07	_____	_____	_____	_____	_____
08	_____	_____	_____	_____	_____
09	_____	_____	_____	_____	_____
10	_____	_____	_____	_____	_____
11	_____	_____	_____	_____	_____
12	_____	_____	_____	_____	_____
13	_____	_____	_____	_____	_____
14	_____	_____	_____	_____	_____
15	_____	_____	_____	_____	_____
16	_____	_____	_____	_____	_____
17	_____	_____	_____	_____	_____
18	_____	_____	_____	_____	_____
19	_____	_____	_____	_____	_____
20	_____	_____	_____	_____	_____
21	_____	_____	_____	_____	_____
22	Total (To Page 2, Line 4)				_____

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

**SUBSCRIPTION SERVICE REVENUE AND
DIRECT SELLING EXPENSES**

Line

No. Description**To**

01 Billings at Fully Established Rate \$ _____

Less:

02 AHCCCS Settlement _____

03 Medicare Settlement _____

04 Subscription Service Settlements (To Page 2, Line 5) _____

05 Subscription Service Bad Debt _____

06 Total \$ _____

07 Net Revenue from Subscription Service Runs _____

08 Sales of Subscription Service (To Page 2, Line 9) _____

09 Other Revenue (Attach Schedule) _____

10 Total Subscription Service Revenue \$ _____

Direct Expenses Incurred Selling Subscription Contracts:

11 Salaries/Wages \$ _____

12 Payroll Taxes _____

13 Employee Fringe Benefits _____

14 Professional Services _____

15 Contract Labor _____

16 Travel _____

17 Other General and Administrative Expenses _____

18 Depreciation/Amortization _____

19 Rent/Lease _____

20 Building/Station Expense _____

21 Transportation/Vehicles _____

22 Other (Attach Schedule) _____

23 Total Subscription Service Expenses (To Page 2, Line 17). \$ _____

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

OTHER OPERATING REVENUES AND EXPENSES

Line

No. DESCRIPTION**Other Operating Revenues:**

01	Supportive Funding - Local (Attach Schedule)	\$ _____
02	Grant Funds - State (Attach Schedule)	_____
03	Grant Funds - Federal (Attach Schedule)	_____
04	Grant Funds - Other (Attach Schedule)	_____
05	Patient Finance Charges	_____
06	Patient Late Payment Charges	_____
07	Interest Earned - Related Person/Organization	_____
08	Interest Earned - Other	_____
09	Gain on Sale of Operating Property	_____
10	Other: _____	_____
11	Other: _____	_____
12	Total Operating Revenue	\$ _____

Other Operating Expenses:

13	Loss on Sale of Operating Property	\$ _____
14	Other: _____	_____
15	Other: _____	_____
16	Total Other Operating Expenses	\$ _____
17	Net Other Operating Revenues and Expenses (To Page 2, Line 20)	\$ _____

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

**DETAIL OF SALARIES/WAGES
OFFICERS/OWNERS
SCHEDULE 1**

Wages Paid by Category

Line No.	Name	Title	% of Owner- ship	Manage- ment	*FTE	EMCT		Office	*FTE	Other	*FTE	<u>Totals</u>	
						*FTE						Wages Paid To Owners	*FTE
01	_____	_____	_____	\$_____	_____	\$_____	_____	\$_____	_____	\$_____	_____	\$_____	_____
02	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
03	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
04	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
05	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
06	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____1	_____
07	TOTAL	=====	=====	\$=====	=====	\$=====	=====	\$=====	=====	\$=====	=====	\$=====	=====

*Full-time equivalents (F.T.E.) Is the sum of all hours for which employee wages were paid during the year divided by 2080.

1 Total wages paid to owners to Page 4 Col 2 Line 01

2 Total FTEs to Page 4 Col 1 Line 01

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

**OPERATING EXPENSES
DETAIL OF SALARIES/WAGES
SCHEDULE II**LineNo. Detail of Salaries/Wages - Other Than Officers/Owners**01 MANAGEMENT:****METHOD OF COMPENSATION:**

Certification and/or Title	Scheduled Shifts (i.e. 40 or 60 hours a week)	Hourly Wage	Annual Salary	\$s Per Run or Shift
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

02 AMBULANCE PERSONNEL:

_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

03 OTHER PERSONNEL:

_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

DEPRECIATION AND/OR RENT/LEASE EXPENSE
SCHEDULE IIIAMBULANCE VEHICLES AND
ACCESSORIAL EQUIPMENT ONLY

	A	B	C	D	E	F	G	H	I	J	K
Line No.	Description of Property	Date Placed in Service	Cost or Other Basis	Business Use Percent	Basis for Depreciation	Method	Recovery Period	Depreciation Prior Years	Current Year Depreciation	Remaining Basis	Rent/Lease Amount*
01											
02											
03											
04											
05											
06											
07											
08											
09											
10											
11											
12											
13											
14											
15											
16											
17											
18											
19											
20	SUBTOTAL	XXX	XXX	XXX	XXX	XXX	XXX	XXX	1	XXX	2

* Complete Description of property, date placed in service, and rent/lease amount only.

1 To Page 13, Line 19, Column I

2 To Page 13, Line 19, Column K

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

**DEPRECIATION AND/OR RENT/LEASE EXPENSE
SCHEDULE III****ALL OTHER ITEMS**

	A	B	C	D	E	F	G	H	I	J	K
Line No.	Description of Property	Date Placed in Service	Cost or Other Basis	Business Use Percent	Basis for Depreciation	Method	Recovery Period	Depreciation Prior Years	Current Year Depreciation	Remaining Basis	Rent/Lease Amount*
01											
02											
03											
04											
05											
06											
07											
08											
09											
10											
11											
12											
13											
14											
15											
16											
17											
18	SUBTOTAL	XXX	XXX	XXX	XXX	XXX	XXX	XXX		XXX	
19	SUBTOTAL from Page 12, Line 20	XXX	XXX	XXX	XXX	XXX	XXX	XXX		XXX	
20	SUM of Line 18 and 19	XXX	XXX	XXX	XXX	XXX	XXX	XXX	3	XXX	4

* Complete Description of property, date placed in service, and rent/lease amount only.

3 To Page 6, Line 01

4 To Page 6, Line 04

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

DETAIL OF INTEREST - Schedule IV

Line No.	Description	(1) Interest Rate	(2) Principal Balance Beginning of Period	(3) End of Period	(4) Interest Expense Related Persons or Organizations	(5) Other
	Service Vehicles & Accessorial Equipment Name of Payee:					
01	_____	_____ %	\$ _____	\$ _____	\$ _____	\$ _____
02	_____	_____	_____	_____	_____	_____
03	_____	_____	_____	_____	_____	_____
04	_____	_____	_____	_____	_____	_____
	Communication Equipment Name of Payee:					
05	_____	_____ %	\$ _____	\$ _____	\$ _____	\$ _____
06	_____	_____	_____	_____	_____	_____
07	_____	_____	_____	_____	_____	_____
	Other Property and Equipment Name of Payee:					
08	_____	_____ %	\$ _____	\$ _____	\$ _____	\$ _____
09	_____	_____	_____	_____	_____	_____
10	_____	_____	_____	_____	_____	_____
	Working Capital Name of Payee:					
11	_____	_____ %	\$ _____	\$ _____	\$ _____	\$ _____
12	_____	_____	_____	_____	_____	_____
13	_____	_____	_____	_____	_____	_____
	Other Name of Payee:					
14	_____	_____ %	\$ _____	\$ _____	\$ _____	\$ _____
15	TOTAL		\$ _____	\$ _____	\$ _____	\$ _____

----- (To Page 2, Column 2, Line 16) -----

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

BALANCE SHEET**ASSETS**

CURRENT ASSETS

01	Cash	\$	_____	
02	Accounts Receivable		_____	
03	Less: Allowance for Doubtful Accounts		_____	
04	Inventory		_____	
05	Prepaid Expenses		_____	
06	Other Current Assets		_____	

07	TOTAL CURRENT ASSETS			\$	_____
----	----------------------	--	--	----	-------

PROPERTY & EQUIPMENT

08	Less: Accumulated Depreciation			\$	_____
----	--------------------------------	--	--	----	-------

09	OTHER NONCURRENT ASSETS			\$	_____
----	-------------------------	--	--	----	-------

10	TOTAL ASSETS			\$	_____
----	--------------	--	--	----	-------

LIABILITIES AND EQUITY

CURRENT LIABILITIES

11	Accounts Payable	\$	_____	
12	Current Portion of Notes Payable		_____	
13	Current Portion of Long Term Debt		_____	
14	Deferred Subscription Income		_____	
15	Accrued Expenses and Other		_____	
16	_____		_____	
17	_____		_____	

18	TOTAL CURRENT LIABILITIES			\$	_____
----	---------------------------	--	--	----	-------

19	NOTES PAYABLE		_____	
----	---------------	--	-------	--

20	LONG TERM DEBT OTHER		_____	
----	----------------------	--	-------	--

21	TOTAL LONG-TERM DEBT			\$	_____
----	----------------------	--	--	----	-------

EQUITY AND OTHER CREDITS

Paid-in Capital:

22	Common Stock	\$	_____	
23	Paid-In Capital in Excess of Par Value		_____	
24	Contributed Capital		_____	
25	Retained Earnings		_____	
26	Fund Balances		_____	

27	TOTAL EQUITY			\$	_____
----	--------------	--	--	----	-------

28	TOTAL LIABILITIES & EQUITY			\$	_____
----	----------------------------	--	--	----	-------

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

STATEMENT OF CASH FLOWS**OPERATING ACTIVITIES:**

01	<u>Net (loss) Income</u>	\$ _____	
	Adjustments to reconcile net income to net cash provided by operating activities:		
02	Depreciation Expense	_____	
03	Deferred Income Tax	_____	
04	Loss (gain) on Disposal of Property and Equipment	_____	
	<u>(Increase) Decrease in:</u>		
05	Accounts Receivable	_____	
06	Inventories	_____	
07	Prepaid Expenses	_____	
	<u>(Increase) Decrease in:</u>		
08	Accounts Payable	_____	
09	Accrued Expenses	_____	
10	Deferred Subscription Income	_____	
11	Net Cash Provided (Used) by Operating Activities	\$ _____	

INVESTING ACTIVITIES:

12	Purchases of Property and Equipment	\$ _____	
13	Proceeds from Disposal of Property and Equipment	_____	
14	Purchases of Investments	_____	
15	Proceeds from Disposal of Investments	_____	
16	Loans Made	_____	
17	Collections on Loans	_____	
18	Other _____	_____	
19	Net Cash Provided (Used) by Investing Activities	\$ _____	

FINANCING ACTIVITIES:New Borrowings:

20	Long-Term	\$ _____	
21	Short-Term	_____	

Debt Reduction:

22	Long-Term	_____	
23	Short-Term	_____	

24	Capital Contributions	_____	
25	Dividends paid	_____	
26	Net Cash Provided (Used) by Financing Activities	\$ _____	
27	Net Increase (Decrease) in Cash	\$ _____	
28	Cash at Beginning of Year	\$ _____	
29	Cash at End of Year	\$ _____	

SUPPLEMENTAL DISCLOSURES:Non-cash Investing and Financing Transactions:

30	_____	\$ _____	
31	_____	_____	
32	_____	_____	
33	Interest Paid (Net of Amounts Capitalized)	_____	
34	Income Taxes Paid	_____	

Historical Note

Exhibit 9A renumbered from Exhibit A and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). The Department requested (file number R22-134) that two corrections be made to page 1 of Exhibit 9(A) as amended at 19 A.A.R. 4032 (December 13, 2013); missing form fields have also been added due to clerical errors when formatting this Exhibit (Supp. 22-3).

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

Exhibit A. Renumbered**Historical Note**

New Exhibit adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). New Exhibit A recodified from Article 12 at 12 A.A.R. 2243, effective June 2, 2006 (Supp. 06-2). Exhibit A renumbered to Exhibit 9A by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit 9B. Ambulance Revenue and Cost Report, Fire District and Small Rural Company**Department of Health Services****Annual Ambulance Financial Report****Reporting Ambulance Service**

Report Fiscal Year
From: / / **To:** / /
 Mo. Day Year Mo. Day Year

CERTIFICATION

I hereby certify that I have directed the preparation of the enclosed annual report in accordance with the reporting requirements of the State of Arizona.

I have read this report and hereby certify that the information provided is true and correct to the best of my knowledge.

This report has been prepared using the accrual basis of accounting.

Authorized Signature: _____ *Date:* _____

Print Name and Title: _____

Mail to:

Department of Health Services
 Bureau of Emergency Medical Services and Trauma System
 Certificate of Necessity and Rates Section
 150 North 18th Avenue, Suite 540
 Phoenix, AZ 85007
 Telephone: (602) 364-3150
 Fax: (602) 364-3567

Revised December 2013

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

STATISTICAL SUPPORT DATA

Line No.	DESCRIPTION	(1) SUBSCRIPTION SERVICE TRANSPORTS	*(2) TRANSPORTS UNDER CONTRACT	(3) TRANSPORTS NOT UNDER CONTRACT	(4) TOTALS
01	Number of ALS Billable Transports:	_____	_____	_____	_____
02	Number of BLS Billable Transports:	_____	_____	_____	_____
03	Number of Loaded Billable Miles:	_____	_____	_____	_____
04	Waiting Time (Hr. & Min.):	_____	_____	_____	_____
05	Canceled (Non-Billable) Runs:	_____	_____	_____	_____

AMBULANCE SERVICE ROUTINE OPERATING REVENUE

06	ALS Base Rate Revenue				\$ _____
07	BLS Base Rate Revenue				_____
08	Mileage Charge Revenue				_____
09	Waiting Charge Revenue				_____
10	Medical Supplies Charge Revenue				_____
11	Nurses Charge Revenue				_____
12	Standby Charge Revenue (Attach Schedule).....				_____
13	TOTAL AMBULANCE SERVICE ROUTINE OPERATING REVENUE				\$ _____

SALARY AND WAGE EXPENSE DETAIL

GROSS WAGES:

****No. of F.T.E.s**

14	Management	\$ _____	\$ _____
15	Paramedics, EMT-I(99)s, and AEMTs.....	\$ _____	\$ _____
16	Emergency Medical Technician (EMT).....	\$ _____	\$ _____
17	Other Personnel	\$ _____	\$ _____
18	Payroll Taxes and Fringe Benefits - All Personnel	\$ _____	\$ _____

*This column reports only those runs where a contracted discount rate was applied.

**Full-time equivalents (F.T.E.) is the sum of all hours for which employees' wages were paid during the year divided by 2080.

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

SCHEDULE OF REVENUES AND EXPENSES

Line

No. DESCRIPTION**FROM****Operating Revenues:**

01 Total Ambulance Service Operating RevenuePage 2, Line 13 \$ _____

Settlement Amounts:

02 AHCCCS ()

03 Medicare ()

04 Subscription Service ()

05 Contractual ()

06 Other ()

07 Total (Sum of Lines 02 through 06)..... ()

08 Total Operating Revenue (Line 01 minus Line 07) \$ _____

Operating Expenses:

09 Bad Debt

10 Total Salaries, Wages, and Employee- Related Expenses \$ _____

11 Professional Services _____

12 Travel and Entertainment _____

13 Other General Administrative _____

14 Depreciation..... _____

15 Rent/Leasing _____

16 Building/Station _____

17 Vehicle Expense _____

18 Other Operating Expense..... _____

19 Cost of Medical Supplies Charged to Patients..... _____

20 Interest _____

21 Subscription Service Sales Expense _____

22 Total Operating Expense (Sum of Lines 09 through 21) _____

23 Total Operating Income or Loss (Line 08 minus Line 22) \$ _____

24 Subscription Contract Sales _____

25 Other Operating Revenue _____

26 Local Supportive Funding _____

27 Other Non-Operating Income (Attach Schedule) _____

28 Other Non-Operating Expense (Attach Schedule)..... _____

29 NET INCOME/(LOSS) (Line 23 plus Sum of Lines 24 through 28)..... \$ _____

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

BALANCE SHEET**ASSETS**

CURRENT ASSETS

01	Cash	\$ _____	
02	Accounts Receivable.....	_____	
03	Less: Allowance for Doubtful Accounts	_____	
04	Inventory	_____	
05	Prepaid Expenses	_____	
06	Other Current Assets.....	_____	
07	TOTAL CURRENT ASSETS	\$ _____	

PROPERTY & EQUIPMENT

08	Less: Accumulated Depreciation	\$ _____	
----	--------------------------------------	----------	--

09	OTHER NONCURRENT ASSETS.....	\$ _____	
----	------------------------------	----------	--

10	TOTAL ASSETS.....	\$ _____	
----	-------------------	----------	--

LIABILITIES AND EQUITY

CURRENT LIABILITIES

11	Accounts Payable.....	\$ _____	
12	Current Portion of Notes Payable	_____	
13	Current Portion of Long term Debt.....	_____	
14	Deferred Subscription Income	_____	
15	Accrued Expenses and Other	_____	
16	_____	_____	
17	_____	_____	
18	TOTAL CURRENT LIABILITIES	\$ _____	

19	NOTES PAYABLE	_____	
----	---------------------	-------	--

20	LONG TERM DEBT OTHER.....	_____	
----	---------------------------	-------	--

21	TOTAL LONG-TERM DEBT	\$ _____	
----	----------------------------	----------	--

EQUITY AND OTHER CREDITS

Paid-in Capital:

22	Common Stock	\$ _____	
23	Paid-In Capital in Excess of Par Value	_____	
24	Contributed Capital.....	_____	
25	Retained Earnings	_____	
26	Fund Balances.....	_____	

27	TOTAL EQUITY	\$ _____	
----	--------------------	----------	--

28	TOTAL LIABILITIES & EQUITY	\$ _____	
----	----------------------------------	----------	--

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

STATEMENT OF CASH FLOWS

OPERATING ACTIVITIES:		
01	Net (loss) Income	\$ _____
	Adjustments to reconcile net income to net cash provided by operating activities:	
02	Depreciation Expense	_____
03	Deferred Income Tax	_____
04	Loss (gain) on Disposal of Property and Equipment	_____
	(Increase) Decrease in:	
05	Accounts Receivable	_____
06	Inventories	_____
07	Prepaid Expenses	_____
	(Increase) Decrease in:	
08	Accounts Payable	_____
09	Accrued Expenses	_____
10	Deferred Subscription Income	_____
11	Net Cash Provided (Used) by Operating Activities	\$ _____
INVESTING ACTIVITIES:		
12	Purchases of Property and Equipment	_____
13	Proceeds from Disposal of Property and Equipment	_____
14	Purchases of Investments	_____
15	Proceeds from Disposal of Investments	_____
16	Loans Made	_____
17	Collections on Loans	_____
18	Other _____	_____
19	Net Cash Provided (Used) by Investing Activities	\$ _____
FINANCING ACTIVITIES:		
	New Borrowings:	
20	Long-Term	_____
21	Short-Term	_____
	Debt Reduction:	
22	Long-Term	_____
23	Short-Term	_____
24	Capital Contributions	_____
25	Dividends paid	_____
26	Net Cash Provided (Used) by Financing Activities	\$ _____
27	Net Increase (Decrease) in Cash	\$ _____
28	Cash at Beginning of Year	\$ _____
29	Cash at End of Year	\$ _____
30 SUPPLEMENTAL DISCLOSURES:		
	Non-cash Investing and Financing Transactions:	
31	_____	\$ _____
32	_____	_____
33	Interest Paid (Net of Amounts Capitalized)	_____
34	Income Taxes Paid	_____

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

INSTRUCTIONS

Page 1: COVER

1. Enter the name of the ambulance service on the line "Reporting Ambulance Service."
2. Print the name and title of the ambulance service's authorized representative on the lines indicated; enter the date of signature; authorized representative must sign the report.

Page 2: STATISTICAL SUPPORT DATA and ROUTINE OPERATING REVENUE

Enter the ambulance service's business name and the appropriate reporting period.

Statistical Support Data:

- Lines 01-02: Enter the number of billable ALS and BLS transports for each of the three categories. Subscription Service Transports should not be included with Transports Under Contract.
- Lines 03-04: Enter the total of patient loaded transport miles and waiting times for each of the transport categories.
- Line 05: List TOTAL of canceled/non-billable runs.

Ambulance Service Routine Operating Revenue:

- Line 06: Enter the total amount of all ALS Base Rate gross billings.
- Line 07: Enter the total amount of all BLS Base Rate gross billings.
- Line 08: Enter the total of Mileage Charge gross billings.
- Line 09: Enter the total Waiting Time gross billings.
- Line 10: Enter the total of all gross billings of Medical Supplies to patients.
- Line 11: RESERVED FOR FUTURE USE - Charges for Nurses currently are not allowed.
- Line 12: Enter the total of all Standby Time charges. (Attach a schedule showing sources.)
- Line 13: Add the totals from Line 06 through Line 12. Enter sum on Line 13.

Salary and Wage Expense Detail:

- Line 14: Enter the total salary amount allocated and paid to Management of the ambulance service.
- Line 15: Enter the total salary amount allocated and paid to Paramedics, EMT-I(99)s, and AEMTs.
- Line 16: Enter the total salary amount allocated and paid to Emergency Medical Technicians (EMTs).
- Line 17: Enter the total salary amount allocated and paid to Other Personnel involved with the ambulance service. (Examples: Dispatch, Mechanics, Office)
- Line 18: Enter the total allocated amount of Payroll Taxes and Fringe Benefits paid to employees included in lines 14 through 17.

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

ANNUAL AMBULANCE FINANCIAL REPORT

EXPENSE CATEGORIES FOR USE ON PAGE 3

- Line 09 Bad Debt
- Line 10 Total Salaries, Wages, and Employee-Related Expenses
 - Salaries, Wages, Payroll Taxes, and Employee Benefits
- Line 11 Professional Services
 - Legal/Management Fees
 - Collection Fees
 - Accounting/Auditing
 - Data Processing Fees
- Line 12 Travel and Entertainment (Administrative)
 - Meals and Entertainment
 - Travel/Transportation
- Line 13 Other General and Administrative
 - Office Related (Supplies, Phone, Postage, Advertising)
 - Professional Liability Insurance
 - Dues, Subscriptions, Miscellaneous
- Line 14 Depreciation
- Line 15 Rent/Leasing
- Line 16 Building/Station
 - Utilities, Property Taxes/Insurance, Cleaning/Maintenance
- Line 17 Vehicle Expenses
 - License/Registration
 - Repairs/Maintenance
 - Insurance
- Line 18 Other Operating Expenses
 - Dispatch Contracts
 - Employee Education/Training, Uniforms, Travel/Meals
 - Maintenance Contracts
 - Minor Equipment, Non-Chargeable Ambulance Supplies
- Line 19 Cost of Medical Supplies Charged to Patients
- Line 20 Interest Expense
 - Interest on: Bank Loans/Lines of Credit
- Line 21 Subscription Service Sales Expenses
 - Sales Commissions, Printing

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

INSTRUCTIONS (cont'd)

Page 3: SCHEDULE OF REVENUES AND EXPENSES**Operating Revenues:**

- Line 01: Transfer appropriate total from Page 2 as indicated.
 Line 02: Enter settlement amounts from AHCCCS transports. (DO NOT include settlement amounts resulting from a transport made under a SUBSCRIPTION SERVICE CONTRACT)
 Line 03: Enter settlement amounts from Medicare transports. (DO NOT include settlement amounts resulting from a transport made under a SUBSCRIPTION SERVICE CONTRACT)
 Line 04: Enter total of ALL settlement amounts from Subscription Service Contract transports.
 Line 05: Enter total of ALL settlement amounts from Contractual transports only.
 Line 06: Enter total from any other settlement sources.
 Line 07: Enter sum of lines 02 through 06.
 Line 08: Total Operating Revenue (The amount from Line 01 minus Line 07).

Operating Expenses:

- Lines 09-21: Report as either actual or allocated from expenses shared with Fire or other departments.
 Line 22: Enter the total sum of lines 09 through 21.
 Line 23: Enter the difference of line 08 minus line 22.
 Line 24: Enter the gross amount of sales from Subscription Service Contracts.
 Line 25: Enter the amount of Other Operating Revenues.
 Ex: Federal, State or Local Grants, Interest Earned, Patient Finance Charges.
 Line 26: Enter the total of Local Supportive Funding.
 Line 27: List other non-operating revenues (Ex: Donations, sales of assets, fund raisers).
 Line 28: List other non-operating expenses (Ex: Civil fines or penalties, loss on sale of assets).
 Line 29: Net Income (Line 23 plus Lines 24 through 27, minus Line 28).

Page 4: BALANCE SHEET

Current audited financial statements may be submitted in lieu of this page.

Page 5: STATEMENT OF CASH FLOWS

Current audited financial statements may be submitted in lieu of this page.

Questions regarding this reporting form can be submitted to:

Arizona Department of Health Services
 Bureau of Emergency Medical Services and Trauma System
 Certificate of Necessity and Rates Section

150 North 18th Avenue, Suite 540
 Phoenix, AZ 85007
 Telephone: (602) 364-3150
 Fax: (602) 364-3567

Page 8**Historical Note**

Exhibit 9B renumbered from Exhibit B and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit B. Renumbered**Historical Note**

New Table adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). New Exhibit B recodified from Article 12 at 12 A.A.R. 2243, effective June 2, 2006 (Supp. 06-2). Exhibit B renumbered to Exhibit 9B by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

ARTICLE 10. GROUND AMBULANCE VEHICLE REGISTRATION**R9-25-1001. Initial and Renewal Application for a Certificate****of Registration (A.R.S. §§ 36-2212, 36-2232, 36-2240)**

- A. A person applying for an initial or renewal certificate of registration of a ground ambulance vehicle shall submit an application form to the Department that contains:
1. The applicant's legal business or corporate name;
 2. The applicant's mailing address, physical address of the business, and business, facsimile, and emergency telephone numbers;
 3. The identifying information of the ground ambulance vehicle, including:
 - a. The make of the ground ambulance vehicle;
 - b. The ground ambulance vehicle manufacture year;
 - c. The ground ambulance vehicle identification number;

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

- d. The unit number of the ground ambulance vehicle;
 - e. The ground ambulance vehicle's state license number; and
 - f. The location at which the ground ambulance vehicle will be available for inspection;
 4. The identification number of the certificate of necessity to which the ground ambulance vehicle is registered;
 5. The name and telephone number of the person to contact to arrange for inspection, if the inspection is pre-announced; and
 6. The signature of the applicant or applicant's designated representative.
 - B. Under A.R.S. § 36-2232(A)(11), the Department shall inspect each ambulance before an initial certificate of registration is issued by the Department.
 - C. Under A.R.S. § 36-2232(A)(11), the Department shall either inspect an ambulance or receive an inspection report that meets the requirements in this Article by a Department-approved inspection facility before a renewal certificate of registration is issued by the Department.
 - D. An applicant shall submit the following fees:
 1. \$50 application filing fee for an initial certificate of registration;
 2. \$200 annual regulatory fee for each ground ambulance vehicle issued a certificate of registration; and
 3. \$50 application filing fee for the renewal of a certificate of registration.
 - E. The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.
- Historical Note**
- New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).
- R9-25-1002. Minimum Standards for Ground Ambulance Vehicles (Authorized by A.R.S. § 36-2202(A)(5))**
- An applicant for a certificate of registration or certificate holder shall ensure a ground ambulance vehicle is equipped with the following:
1. An engine intake air cleaner that meets the ground ambulance vehicle manufacturer's engine specifications;
 2. A brake system that meets the requirements in A.R.S. § 28-952;
 3. A cooling system in the engine compartment that maintains the engine temperature operating range required to prevent damage to the ground ambulance vehicle engine;
 4. A battery:
 - a. With no leaks, corrosion, or other visible defects; and
 - b. As measured by a voltage meter, capable of generating:
 - i. 12.6 volts at rest, and
 - ii. 13.2 to 14.2 volts on high idle with all electrical equipment turned on;
 5. A wiring system in the engine compartment designed to prevent the wire from being cut by or tangled in the engine or hood;
 6. Hoses, belts, and wiring with no visible defects;
 7. An electrical system capable of maintaining a positive amperage charge while the ground ambulance vehicle is stationary and operating at high idle with headlights, running lights, patient compartment lights, environmental systems, and all warning devices turned on;
 8. An exhaust pipe, muffler, and tailpipe under the ground ambulance vehicle and securely attached to the chassis;
 9. A frame capable of supporting the gross vehicle weight of the ground ambulance vehicle;
 10. A horn that meets the requirements in A.R.S. § 28-954(A);
 11. A siren that meets the requirements in A.R.S. § 28-954(E);
 12. A front bumper that is positioned at the forward-most part of the ground ambulance vehicle extending to the ground ambulance vehicle's outer edges;
 13. A fuel cap of a type specified by the manufacturer for each fuel tank;
 14. A steering system to include:
 - a. Power-steering belts free from frays, cracks, or slippage;
 - b. Power-steering that is free from leaks;
 - c. Fluid in the power-steering system that fills the reservoir between the full level and the add level indicator on the dipstick; and
 - d. Bracing extending from the center of the steering wheel to the steering wheel ring that is not cracked;
 15. Front and rear shock absorbers that are free from leaks;
 16. Tires on each axle that:
 - a. Are properly inflated;
 - b. Are of equal size, equal ply ratings, and equal type;
 - c. Are free of bumps, knots, or bulges;
 - d. Have no exposed ply or belting; and
 - e. Have tread groove depth equal to or more than 4/32 inch;
 17. An air cooling system capable of achieving and maintaining a 20° F difference between the air intake and the cool air outlet;
 18. Air cooling and heater hoses secured in all areas of the ground ambulance vehicle and chassis to prevent wear due to vibration;
 19. Body free of damage or rust that interferes with the physical operation of the ground ambulance vehicle or creates a hole in the driver's compartment or the patient compartment;
 20. Windshield defrosting and defogging equipment;
 21. Emergency warning lights that provide 360° conspicuity;
 22. At least one 5-lb. ABC dry, chemical, multi-purpose fire extinguisher in a quick release bracket with a current inspection tag;
 23. A heating system capable of achieving and maintaining a temperature of not less than 68° F in the patient compartment within 30 minutes;
 24. Sides of the ground ambulance vehicle insulated and sealed to prevent dust, dirt, water, carbon monoxide, and gas fumes from entering the interior of the patient compartment and to reduce noise;
 25. Interior patient compartment wall and floor coverings that are:
 - a. In good repair and capable of being disinfected, and
 - b. Maintained in a sanitary manner;
 26. Padding over exit areas from the patient compartment and over sharp edges in the patient compartment;
 27. Secured interior equipment and other objects;
 28. When present, hangers or supports for equipment mounted not to protrude more than 2 inches when not in use;
 29. Functional lamps and signals, including:
 - a. Bright and dim headlights,
 - b. Brake lamps,
 - c. Parking lamps,
 - d. Backup lamps,
 - e. Tail lamps,
 - f. Turn signal lamps,
 - g. Side marker lamps,
 - h. Hazard lamps,
 - i. Patient loading door lamps and side spot lamps,
 - j. Spot lamp in the driver's compartment and within reach of the ambulance attendant, and
 - k. Patient compartment interior lamps;
 30. Side-mounted rear vision mirrors and wide vision mirror mounted on, or attached to, the side-mounted rear vision mirrors;

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31. A patient loading door that permits the safe loading and unloading of a patient occupying a stretcher in a supine position;
 32. At least two means of egress from the patient compartment to the outside through a window or door;
 33. Functional open door securing devices on a patient loading door;
 34. Patient compartment upholstery free of cuts or tears and capable of being disinfected;
 35. A seat belt installed for each seat in the driver's compartment;
 36. Belts or devices installed on a stretcher to be used to secure a patient;
 37. A seat belt installed for each seat in the patient compartment;
 38. A crash stable side or center mounting fastener of the quick release type to secure a stretcher to a ground ambulance vehicle;
 39. Windshield and windows free of obstruction;
 40. A windshield free from unrepaired starred cracks and line cracks that extend more than 1 inch from the bottom and sides of the windshield or that extend more than 2 inches from the top of the windshield;
 41. A windshield-washer system that applies enough cleaning solution to clear the windshield;
 42. Operable windshield wipers with a minimum of two speeds;
 43. Functional hood latch for the engine compartment;
 44. Fuel system with fuel tanks and lines that meets manufacturer's specifications;
 45. Suspension system that meets the ground ambulance vehicle manufacturer's specifications;
 46. Instrument panel that meets the ground ambulance vehicle manufacturer's specifications; and
 47. Wheels that meet and are mounted according to manufacturer's specifications.
9. Two large-size, two medium-size, and two small-size cervical immobilization devices;
 10. Two small-size, two medium-size, and two large size upper extremities splints;
 11. Two small-size, two medium-size, and two large size lower extremities splints;
 12. One child-size and one adult-size lower extremity traction splints;
 13. Two full-length spine boards;
 14. Supplies to secure a patient to a spine board;
 15. One cervical-thoracic spinal immobilization device for extrication;
 16. Two sterile burn sheets;
 17. Two triangular bandages;
 18. Three sterile multi-trauma dressings, 10" x 30" or larger;
 19. Fifty non-sterile 4" x 4" gauze sponges;
 20. Ten non-sterile soft roller bandages, 4" or larger;
 21. Four sterile occlusive dressings, 3" x 8" or larger;
 22. Two 2" or 3" adhesive tape rolls;
 23. Containers for biohazardous medical waste that comply with requirements in 18 A.A.C. 13, Article 14;
 24. A sterile obstetrical kit containing towels, 4" x 4" dressing, scissors, bulb suction, and clamps or tape for cord;
 25. One blood glucose testing kit;
 26. A meconium aspirator adapter;
 27. A length/weight-based pediatric reference guide to determine the appropriate size of medical equipment and drug dosing;
 28. A pulse oximeter with both pediatric and adult probes;
 29. One child-size, one adult-size, and one large adult-size sphygmomanometer;
 30. One stethoscope;
 31. One heavy duty scissors capable of cutting clothing, belts, or boots;
 32. Two blankets;
 33. One thermal absorbent blanket with head cover or blanket of other appropriate heat-reflective material;
 34. Two sheets;
 35. Body substance isolation equipment, including:
 - a. Two pairs of non-sterile disposable gloves;
 - b. Two gowns;
 - c. Two masks that are at least as protective as a National Institute for Occupational Safety and Health-approved N-95 respirator, which may be of universal size;
 - d. Two pairs of shoe coverings; and
 - e. Two sets of protective eye wear;
 36. At least three pairs of non-latex gloves; and
 37. A wheeled, multi-level stretcher that is:
 - a. Suitable for supporting a patient at each level,
 - b. At least 69 inches long and 20 inches wide,
 - c. Rated for use with a patient weighing up to or more than 350 pounds,
 - d. Adjustable to allow a patient to recline and to elevate the patient's head and upper torso to an angle at least 70° from the horizontal plane,
 - e. Equipped with a mattress that has a protective cover,
 - f. Equipped with at least two attached straps to secure a patient during transport, and
 - g. Equipped to secure the stretcher to the interior of the vehicle during transport using the fastener required under R9-25-1002(38).

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).
 Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-1003. Minimum Equipment and Supplies for Ground Ambulance Vehicles (Authorized by A.R.S. § 36-2202(A)(5))

- A.** A ground ambulance vehicle used for either BLS or ALS level of service shall contain the following operational equipment and supplies:
1. A portable and a fixed suction apparatus;
 2. Wide-bore tubing, a rigid pharyngeal curved suction tip, and a flexible suction catheter in the following French sizes:
 - a. Two in 6, 8, or 10; and
 - b. Two in 12, 14, or 16;
 3. One fixed oxygen cylinder or equivalent with a minimum capacity of 106 cubic feet, a minimum pressure of 500 p.s.i., and a variable flow regulator;
 4. One portable oxygen cylinder with a minimum capacity of 13 cubic feet, a minimum pressure of 500 p.s.i., and a variable flow regulator;
 5. Oxygen administration equipment including: tubing, two adult-size and two pediatric-size non-rebreather masks, and two adult-size and two pediatric-size nasal cannula;
 6. One adult-size, one child-size, one infant-size, and one neonate-size hand-operated, disposable, self-expanding bag-valve with one of each size bag-valve mask;
 7. Nasal airways in the following French sizes:
 - a. One in 16, 18, 20, 22, or 24; and
 - b. One in 26, 28, 30, 32, or 34;
 8. Two adult-size, two child-size, and two infant-size oropharyngeal airways;
- B.** In addition to the equipment and supplies in subsection (A), a ground ambulance vehicle equipped to provide BLS shall contain at least:
1. The minimum supply of agents required in a table of agents, established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references, that an administrative medical director may authorize for an EMT;

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2. The capability of providing automated external defibrillation;
 3. Two 3 mL syringes; and
 4. Two 10-12 mL syringes.
- C. In addition to the equipment and supplies in subsection (A), a ground ambulance vehicle equipped to provide ALS shall contain at least the minimum supply of agents required in a table of agents, established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references, that an administrative medical director may authorize for the highest level of service to be provided by the ambulance's crew and at least the following:
1. Four intravenous solution administration sets capable of delivering 10 drops per cc;
 2. Four intravenous solution administration sets capable of delivering 60 drops per cc;
 3. Intravenous catheters in:
 - a. Three different sizes from 14 gauge to 20 gauge, and
 - b. Either 22 or 24 gauge;
 4. One child-size and one adult-size intraosseous needle;
 5. Venous tourniquet;
 6. Two endotracheal tubes in each of the following sizes: 2.5 mm, 3.0 mm, 3.5 mm, 4.0 mm, 4.5 mm, 5.0 mm, 5.5 mm, 6.0 mm, 7.0 mm, 8.0 mm, and 9.0 mm;
 7. One pediatric-size and one adult-size stylette for endotracheal tubes;
 8. End tidal CO₂ monitoring/capnography equipment with capability for pediatric and adult patients;
 9. One laryngoscope with blades in sizes 0-4, straight or curved or both;
 10. One pediatric-size and one adult-size Magill forceps;
 11. One scalpel;
 12. One portable, battery-operated cardiac monitor-defibrillator with strip chart recorder and adult and pediatric EKG electrodes and defibrillation capabilities;
 13. Electrocardiogram leads;
 14. The following syringes:
 - a. Two 1 mL tuberculin,
 - b. Four 3 mL,
 - c. Four 5 mL,
 - d. Four 10-12 mL,
 - e. Two 20 mL, and
 - f. Two 50-60 mL;
 15. Three 5 micron filter needles; and
 16. Assorted sizes of non-filter needles.
- D. A ground ambulance vehicle shall be equipped to provide, and capable of providing, voice communication between:

1. The ambulance attendant and the dispatch center;
2. The ambulance attendant and the ground ambulance service's assigned medical direction authority, if any; and
3. The ambulance attendant in the patient compartment and the ground ambulance service's assigned medical direction authority, if any.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 3487, with an immediate effective date of December 4, 2018 (Supp. 18-4).

R9-25-1004. Minimum Staffing Requirements for Ground Ambulance Vehicles (Authorized by A.R.S. §§ 36-2201(4), 36-2202(A)(5))

When transporting a patient, a ground ambulance service shall staff a ground ambulance vehicle according to A.R.S. § 36-2202(J).

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-1005. Ground Ambulance Vehicle Inspection; Major and Minor Defects (A.R.S. §§ 36-2202(A)(5), 36-2212, 36-2232, 36-2234)

- A. A certificate holder shall make the ground ambulance vehicle, equipment, and supplies available for inspection at the request of the Director or the Director's authorized representative.
- B. If inspected by the Department, a certificate holder shall allow the Director or the Director's authorized representative to ride in or operate the ground ambulance vehicle being inspected.
- C. A certificate holder may request the Department to inspect all of the certificate holder's ground ambulance vehicles at the same date and location.
- D. A Department-approved inspection facility may inspect a ground ambulance vehicle under A.R.S. § 36-2232(A)(11).
- E. The Department classifies defects on a ground ambulance vehicle as major or minor as follows:

INSPECTION ITEM	MAJOR DEFECT	MINOR DEFECT
LAMPS:		
Emergency warning lights	Lack of 360° of conspicuity	Cracked, broken, or missing lens Inoperative lamps
Back-up lamps		Inoperative Cracked, broken, or missing lens
Brake lamps	Both inoperative	1 inoperative
Hazard lamps		Inoperative
Head lamps	Inoperative	High beam inoperative Low beam inoperative Inoperative dimmer switch
Loading lamps		Inoperative Cracked, broken, or missing lens
Parking lamps		Inoperative
Patient Compartment interior lamps	All lamps inoperative	Inoperative individual lamps Missing lens
Side marker lamps		Inoperative Cracked, broken, or missing lens
Spot lamp in driver's compartment		Inoperative

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Tail lamps	Both inoperative	1 inoperative Cracked, broken, or missing lens
Turn signal lamps		Any turn signal lamp inoperative Cracked, broken, or missing lens
MECHANICAL, STRUCTURAL, ELECTRICAL:		
Bumpers		Loose or missing bumper
Defroster		Inoperative Ventilation system openings partially blocked
Electrical system	Does not comply with R9-25-1002(6)	
Engine compartment		Inoperative hood latch Deterioration of hoses, belts, or wiring Deterioration of battery hold-down clamps Corrosive acid buildup on battery terminals Incapable of generating voltage in compliance with R9-25-1002(4)(b)
Engine compartment wiring system		Does not comply with R9-25-1002(5)
Engine cooling system	Does not comply with R9-25-1002(3)	Leaks in system
Engine intake air cleaner		Does not comply with R9-25-1002(1)
Exhaust	Exhaust fumes in the patient or driver compartment	Exhaust pipe brackets not securely attached to the chassis and tailpipe End of tailpipe pinched or bent
Frame	Cracks in frame	
Fuel system	Fuel tank not mounted according to manufacturer's specifications Fuel tank brackets cracked or broken Leaking fuel tanks or fuel lines Fuel caps missing or of a type not specified by the manufacturer	
Ground ambulance vehicle body	Damage or rust to the exterior of the ground ambulance vehicle, which interferes with the operation of the ground ambulance vehicle Damage resulting in a hole in the driver's compartment or the patient compartment Holes that may allow exhaust or dust to enter the patient compartment Bolts attaching body to chassis loose, broken, or missing	Damage resulting in cuts or rips to the exterior of the ground ambulance vehicle
Heating and air conditioning systems		Unsecured hoses Does not maintain minimum temperature required in R9-25-1002(23) and 1002(17)
Horn		Inoperative
Parking brake		Inoperative
Siren	Inoperative	
Steering	Steering wheel bracing cracked Inoperative	Power steering belts slipping Power steering belts cracked or frayed Fluid leaks Fluid does not fill the reservoir between the full level and the add level indicator on the dipstick
Suspension	Broken suspension parts U-bolts loose or missing	Bent suspension parts Leaking shock absorbers Cracks or breaks in shock absorber mounting brackets
Vehicle brakes	Inoperative	Fluid leaks
INTERIOR:		
Communication equipment	Lack of operative communication equipment	Inoperative communication equipment in the patient compartment
Edges		Presence of exposed sharp edges
Equipment	Inability to secure oxygen tanks	Inability to secure other equipment
Fire extinguisher	Absent	Not at full charge Expired inspection tag
Hangers		Supports or hangers protruding more than 2" when not in use

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Instrument panel		Inoperative gauges, switches, or illumination
Padding		Missing padding over exits in the patient compartment
Patient compartment	Visible blood, body fluids, or tissue	Unrepaired cuts or holes in seats Missing pieces of floor covering
Seat belts and securing belts	Absence of seat belt or inoperative seat belt in the driver's compartment More than one inoperative seat belt in the patient compartment Absence of securing belts on a stretcher	Frayed seat belt or securing belt material One inoperative seat belt in the patient compartment
Stretcher fastener	Does not comply with R9-25-1002(36)	
EXTERIOR:		
Patient compartment doors	Completely or partially missing window panel	Inoperative open door securing devices Cracked window panels
Marking		Missing company identification Incorrect size or location
Mirrors	Exterior rear vision or wide vision mirrors missing	Cracked mirror glass Loose mounting bracket bolts or screws Broken mirrors Loose or broken mounting brackets Missing mounting bracket bolts or screws
Tires	Tires on each axle are not of equal size, equal ply ratings, and equal type Bumps, knots, or bulges on any tire Exposed ply or belting on any tire Flat tire on any wheel	Tread groove depth less than 4/32" measured in a tread groove on any tire
Wheels	Loose or missing lug nuts Broken lugs Cracked or bent rims	
Windows		Placement of nontransparent materials which obstruct view Cracked or broken
Windshield	Windshield that is obstructed Placement of nontransparent materials which obstruct view	Unrepaired starred cracks or line cracks extending more than 1 inch from the bottom or side of the windshield Unrepaired starred cracks or line cracks extending more than 2 inches from the top of the windshield
Windshield- washer system		Does not comply with R9-25-1002(39)
Windshield wipers	Inoperative wiper on driver's side	Inoperative speed control Split or cracked wiper blade Inoperative wiper on passenger's side

- F.** If the Department determines that there is a major defect on the ground ambulance vehicle after inspection, the certificate holder shall take the ground ambulance vehicle out-of-service until the defect is corrected.
- G.** If the Department finds a minor defect on the ground ambulance vehicle after inspection, the ground ambulance vehicle may be operated to transport patients for up to 15 days until the minor defect is corrected.
1. The Department may grant an extension of time to repair the minor defect upon a written request from the certificate holder detailing the reasons for the need of an extension of time.
 2. If the minor defect is not repaired within the time prescribed by the Department, and an extension has not been granted, the certificate holder shall take the ground ambulance vehicle out-of-service until the minor defect is corrected.
- H.** Within 15 days of the date of repair of the major or minor defect, the certificate holder shall submit written notice of the repair to the Department.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.
1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1006. Ground Ambulance Vehicle Identification (A.R.S. §§ 36-2212, 36-2232)

- A.** A ground ambulance vehicle shall be marked on its sides with the certificate of registration applicant's legal business or corporate name with letters not less than 6 inches in height.
- B.** A ground ambulance vehicle marked with a level of ground ambulance service shall be equipped and staffed to provide the level of ground ambulance service identified while in service.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.
1098, effective February 13, 2001 (Supp. 01-1).

ARTICLE 11. GROUND AMBULANCE SERVICE RATES AND CHARGES; CONTRACTS**R9-25-1101. Application for Establishment of Initial General Public Rates (A.R.S. §§ 36-2232, 36-2239)**

- A.** An applicant for a certificate of necessity or a certificate holder applying for initial general public rates shall submit an application packet to the Department that includes:

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1. The applicant's name;
 2. The requested general public rates;
 3. A copy of the applicant's most recent financial statements or an Ambulance Revenue and Cost Report;
 4. For a consecutive 12-month period:
 - a. A projected income statement; and
 - b. A projected cash-flow statement;
 5. A list of all purchase agreements or lease agreements for real estate, ground ambulance vehicles, and equipment exceeding \$5,000 used in connection with the ground ambulance service, that includes the monetary amount and duration of each agreement;
 6. The identification of:
 - a. Each of the applicant's affiliations, such as a parent company or subsidiary owned or operated by the applicant; and
 - b. The methodology and calculations used in allocating costs among the applicant and government entities or profit or not-for-profit businesses;
 7. A copy of the applicant's contract with each federal or tribal entity for ground ambulance service, if applicable;
 8. Other documents, exhibits, or statements that may assist the Department in setting the general public rates;
 9. An attestation signed by the applicant that the information and documents provided by the applicant are true and correct; and
 10. Any other information or documents requested by the Director to clarify or complete the application.
- B.** The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1102. Application for Adjustment of General Public Rates (A.R.S. §§ 36-2234, 36-2239)

- A.** A certificate of necessity holder applying for an adjustment of general public rates not exceeding the monetary amount calculated according to A.R.S. § 36-2234(E) shall submit an application form to the Department that includes:
1. The name of the applicant;
 2. A statement that the applicant is making the request according to A.R.S. § 36-2234(E);
 3. A statement that the applicant has not applied for an adjustment to its general public rates within the last six months;
 4. The effective date of the proposed general public rate adjustment; and
 5. An attestation signed by the applicant that the information and documents provided by the applicant are true and correct.
- B.** An applicant requesting an adjustment of general public rates exceeding the monetary amount calculated according to A.R.S. § 36-2234(E) shall submit an application packet to the Department that includes:
1. The name of the applicant;
 2. A statement that the applicant is making the request according to A.R.S. § 36-2234(A);
 3. The reason for the general public rate adjustment request;
 4. A statement that the applicant has not applied for an adjustment to its general public rates within the last six months;
 5. The effective date of the proposed general public rate adjustment;
 6. A copy of the applicant's most recent financial statements;
 7. A copy of the Ambulance Revenue and Cost Report;
 8. For a consecutive 12-month period:
 - a. A projected income statement; and
 - b. A projected cash-flow statement;

9. A list of all purchase agreements or lease agreements for real estate, ground ambulance vehicle, and equipment exceeding \$5,000 used in connection with the ground ambulance service, that includes the monetary amount and duration of each agreement;
 10. The identification of:
 - a. Each of the applicant's affiliations, such as a parent company or subsidiary owned or operated by the applicant; and
 - b. The methodology and calculations used in allocating costs among the applicant and government entities or profit or not for profit businesses;
 11. A copy of the applicant's contract with each federal or tribal entity for a ground ambulance service, if applicable;
 12. Other documents, exhibits, or statements that may assist the Department in setting the general public rates;
 13. An attestation signed by the applicant that the information and documents provided by the applicant are true and correct; and
 14. Any other information or documents requested by the Director to clarify or complete the application.
- C.** The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1103. Application for a Contract Rate or Range of Rates Less than General Public Rates (A.R.S. §§ 36-2234(G) and (I), 36-2239)

- A.** Before providing interfacility transports or convalescent transports, a certificate holder shall apply to the Department for approval of a contract rate or range of contract rates under A.R.S. § 36-2234(G).
1. For a contract rate or range of rates under A.R.S. § 36-2234(G), the certificate holder shall submit an application form to the Department that contains:
 - a. The name of the certificate holder;
 - b. A statement that the certificate holder is making the request under A.R.S. § 36-2234(G);
 - c. The contract rate or range of rates being requested; and
 - d. Information demonstrating the cost and economics of providing the transports for the requested contract rate or range of rates.
 2. For a contract rate or range of rates under A.R.S. § 36-2234(I), the certificate holder shall submit the information required in R9-25-1102(B)(1) and (B)(6) through (B)(14).
- B.** The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1104. Ground Ambulance Service Contracts (A.R.S. §§ 36-2232, 36-2234(K))

- A.** Before implementing a ground ambulance service contract, a certificate holder shall submit to the Department for approval a copy of the contract with a cover letter that indicates the total number of pages in the contract. The contract shall:
1. Include the certificate holder's legal name and any other name listed on the certificate holder's initial application required in R9-25-902(A)(1)(a);
 2. List the contract rate or range of rates approved by the Director according to R9-25-1101, R9-25-1102, or R9-25-1103;
 3. Comply with A.R.S. §§ 36-2201 through 36-2246 and 9 A.A.C. 25; and

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4. Not preclude use of the 9-1-1 system or a similarly designated emergency telephone number.
- B. The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1105. Application for Provision of Subscription Service or to Establish a Subscription Service Rate (A.R.S. § 36-2232(A)(1))

- A. A certificate holder applying to provide subscription service, establish a subscription service rate, or request approval of a subscription service contract shall submit an application packet to the Department that includes:
- The following information:
 - The number of estimated subscription service contracts and documents supporting the estimate, such as a survey of the service area;
 - An estimate of the number of annual subscription service transports for the service area;
 - The proposed subscription service rate;
 - An estimate of the cost of providing subscription service to the service area; and
 - Any other information or documents that the certificate holder believes may assist the Department in setting a subscription service rate; and
 - A copy of the proposed subscription service contract.
- B. The Department shall approve or deny a subscription service rate under this Section according to 9 A.A.C. 25, Article 12.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Section heading corrected at request of the Department, Office File No. M11-313, filed September 12, 2011 (Supp. 10-4).

R9-25-1106. Rate of Return Setting Considerations (A.R.S. §§ 36-2232, 36-2239)

- A. In determining the rate of return on gross revenue in A.R.S. § 36-2239(I)(4), the Director shall consider a ground ambulance service's:
- Direct and indirect costs for operating the ground ambulance service within its service area;
 - Balance sheet;
 - Income statement;
 - Cash flow statement;
 - Ratio between variable and fixed costs on the financial statements;
 - Method of indirect costs allocation to specific cost-center areas;
 - Return on equity;
 - Reimbursable and non-reimbursable charges;
 - Type of business entity;
 - Monetary amount and type of debt financing;
 - Replacement and expansion costs;
 - Number of calls, transports, and billable miles;
 - Costs associated with rules, inspections, and audits;
 - Substantiated prior reported losses;
 - Medicare and AHCCCS settlements; and
 - Any other information or documents needed by the Director to clarify incomplete or ambiguous information or documents.
- B. In determining the rate of return on gross revenue in A.R.S. § 36-2239(I)(4), the Director shall not consider:
- Depreciation of the portion of ground ambulance vehicles and equipment obtained through Department funding,

- The certificate holder's travel and entertainment expenses that do not directly relate to providing the ground ambulance service;
 - The monetary value of any goodwill accumulated by the certificate holder;
 - Any penalties or fines imposed on the certificate holder by a court or government agency; and
 - Any financial contributions received by the certificate holder.
- C. In determining just, reasonable, and sufficient rates in A.R.S. § 36-2232(A)(1) the director shall establish rates to provide for a rate of return that is at least 7% of gross revenue, calculated using the accrual method of accounting according to generally accepted accounting principles, unless the certificate holder requests a lower rate of return.
- D. Rate of return on gross revenue is calculated by dividing Ambulance Revenue and Cost Report Exhibit A or Exhibit B net income or loss by gross revenue.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1107. Rate Calculation Factors (A.R.S. § 36-2232)

- A. When evaluating a proposed mileage rate, the Department shall consider the following factors:
- The cost of licensure and registration of each ground ambulance vehicle;
 - The cost of fuel;
 - The cost of ground ambulance vehicle maintenance;
 - The cost of ground ambulance vehicle repair;
 - The cost of tires;
 - The cost of ground ambulance vehicle insurance;
 - The cost of mechanic wages, benefits, and payroll taxes;
 - The cost of loan interest related to the ground ambulance vehicles;
 - The cost of the weighted allocation of overhead;
 - The cost of ground ambulance vehicle depreciation;
 - The cost of reserves for replacement of ground ambulance vehicles and equipment; and
 - Mileage reimbursement as established by Medicare guidelines for ground ambulance service.
- B. When evaluating a proposed BLS base rate, the Department shall consider the costs associated with providing EMS and transport.
- C. When evaluating a proposed ALS base rate, the Department shall consider the factors in subsection (B) and the additional costs of ALS ambulance equipment and ALS personnel.
- D. In evaluating rates, the Director shall make adjustments to a certificate holder's rates to maximize Medicare reimbursements.
- E. The Department shall determine the standby waiting rate by dividing the BLS base rate by 4.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1108. Implementation of Rates and Charges (A.R.S. §§ 36-2232, 36-2239)

- A. A certificate holder shall assess rates and charges as follows:
- When calculating a rate or charge, the certificate holder shall:
 - Omit fractions of less than 1/2 of 1 cent; or
 - Increase to the next whole cent, fractions of 1/2 of 1 cent or greater.
 - The certificate holder shall calculate the number of miles for a transport by using:
 - The ground ambulance vehicle's odometer reading; or
 - A regional map.

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3. The certificate holder shall calculate the reimbursement amount for mileage of a transport by multiplying the number of miles for the transport by the mileage rate.
4. When transporting two or more patients in the same ground ambulance vehicle, the certificate holder shall assess each patient:
 - a. Fifty percent of the mileage rate and one hundred percent of the ALS or BLS base rate; and
 - b. One hundred percent of:
 - i. The charge for each disposable supply, medical supply, medication, and oxygen-related cost used on the patient; and
 - ii. Waiting time assessed according to subsection (C).
5. When agreed upon by prior arrangement to transport a patient to one destination and return to the point of pick-up or to one destination and then to a subsequent destination, assess only the ALS or BLS base rate, mileage rate, and standby waiting rate for the transport.
- B.** When a certificate holder transfers a patient to an air ambulance, the certificate holder shall assess the patient the rates and charges for EMS and transport provided to the patient before the transfer.
- C.** A certificate holder shall assess a standby waiting rate in quarter-hour increments, except for:
 1. The first 15 minutes after arrival to load the patient at the point of pick-up;
 2. The time, exceeding the first 15 minutes, required by ambulance attendants to provide necessary medical treatment and stabilization of the patient at the point of pick-up; and
 3. The first 15 minutes to unload the patient at the point of destination.
- D.** When a certificate holder responds to a request outside the certificate holder's service area, the certificate holder shall assess its own rates and charges for EMS or transport provided to the patient.
- E.** When the Department or the certificate holder determines that a refund of a rate or a charge is required, the certificate holder shall refund the rate or charge within 90 days from the date of the determination.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1109. Charges (A.R.S. §§ 36-2232, 36-2239(D))

- A.** A certificate holder that charges patients for disposable supplies, medical supplies, medications, and oxygen-related costs shall submit to the Department a list of the items and the proposed charges. The list shall include a non-retroactive effective date.
- B.** A certificate holder shall submit to the Department a new list each time the certificate holder proposes a change in the items or the amount charged. The list shall contain the information required in subsection (A), including a non-retroactive effective date.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1110. Invoices (A.R.S. §§ 36-2234, 36-2239)

- A.** Each invoice for rates and charges shall contain the following:
 1. The patient's name;
 2. The certificate holder's name, address, and telephone number;
 3. The date of service;
 4. An itemized list of the rates and charges assessed;
 5. The total monetary amount owed the certificate holder; and
 6. The payment due date.

- B.** Any subsequent invoice to the same patient for the same EMS or transport shall contain all the information in subsection (A) except the information in subsection (A)(4).
- C.** Charges may be combined into one line item if the supplies are used for a specific purpose and the name of the combined item is included in the certificate holder's disposable medical supply listing provided to the Department under R9-25-1109.
- D.** A certificate holder may combine rates and charges into one line item if required by a third-party payor.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

ARTICLE 12. TIME-FRAMES FOR DEPARTMENT APPROVALS**R9-25-1201. Time-frames (Authorized by A.R.S. §§ 41-1072 through 41-1079)**

- A.** The overall time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Department is listed in Table 12.1. The applicant and the Director may agree in writing to extend the overall time-frame. The substantive review time-frame shall not be extended by more than 25% of the overall time-frame.
- B.** The administrative completeness review time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Department is listed in Table 12.1. The administrative completeness review time-frame begins on the date that the Department receives an application form or an application packet.
 1. If the application packet is incomplete, the Department shall send to the applicant a written notice specifying the missing document or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the postmark date of the written request until the date the Department receives a complete application packet from the applicant.
 2. When an application packet is complete, the Department shall send a written notice of administrative completeness.
 3. If the Department grants an approval during the time provided to assess administrative completeness, the Department shall not issue a separate written notice of administrative completeness.
- C.** The substantive review time-frame described in A.R.S. § 41-1072 is listed in Table 12.1 and begins on the postmark date of the notice of administrative completeness.
 1. As part of the substantive review time-frame for an application for an approval other than renewal of an ambulance registration, the Department shall conduct inspections, conduct investigations, or hold hearings required by law.
 2. If required under R9-25-402, the Department shall fix the period and terms of probation as part of the substantive review.
 3. During the substantive review time-frame, the Department may make one comprehensive written request for additional documents or information and may make supplemental requests for additional information with the applicant's written consent.
 4. The substantive review time-frame and the overall time-frame are suspended from the postmark date of the written request for additional information or documents until the Department receives the additional information or documents.
 5. The Department shall send a written notice of approval to an applicant who:
 - a. Meets the qualifications in A.R.S. Title 36, Chapter 21.1 and this Chapter for the type of application submitted; or

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- b. Is not in compliance with requirements in A.R.S. Title 36, Chapter 21.1 and this Chapter, for the type of application submitted, that do not directly affect the health or safety of a patient and submits to the Department a corrective action plan that is acceptable to the Department to address issues of compliance.
6. The Department shall send a written notice of denial to an applicant who fails to meet the qualifications in A.R.S. Title 36, Chapter 21.1, and this Chapter for the type of application submitted.
- D. If an applicant fails to supply the documents or information under subsections (B)(1) and (C)(3) within the number of days specified in Table 12.1 from the postmark date of the written notice or comprehensive written request, the Department shall consider the application withdrawn.
- E. An applicant that does not wish an application to be considered withdrawn may request a denial in writing within the number of days specified in Table 12.1 from the postmark date

of the written notice or comprehensive written request for documents or information under subsections (B)(1) and (C)(3).

- F. If a time-frame's last day falls on a Saturday, Sunday, or an official state holiday, the Department shall consider the next business day as the time-frame's last day.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 2352, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

Table 12.1. Time-frames (in days)

Type of Application	Statutory Authority	Overall Time-frame	Administrative Completeness Time-frame	Time to Respond to Written Notice	Substantive Review Time-frame	Time to Respond to Comprehensive Written Request
ALS Base Hospital Certification (R9-25-204)	A.R.S. §§ 36-2201, 36-2202(A)(3), and 36-2204(5)	45	15	60	30	60
Training Program Certification (R9-25-301)	A.R.S. §§ 36-2202(A)(3) and 36-2204(1) and (3)	120	30	60	90	60
Addition of a Course (R9-25-303)	A.R.S. §§ 36-2202(A)(3) and 36-2204(1) and (3)	90	30	60	60	60
EMCT Certification (R9-25-403)	A.R.S. §§ 36-2202(A)(2), (3), and (4), 36-2202(G), and 36-2204(1)	120	30	90	90	270
EMCT Recertification (R9-25-404)	A.R.S. §§ 36-2202(A)(2), (3), (4), and (6), 36-2202(G), and 36-2204(1) and (4)	120	30	60	90	60
Extension to File for EMCT Recertification (R9-25-405)	A.R.S. §§ 36-2202(A)(2), (3), (4), and (6), 36-2202(G), and 36-2204(1) and (7)	30	15	60	15	60
Downgrading of Certification (R9-25-406)	A.R.S. §§ 36-2202(A)(2), (3), and (4), 36-2202(G), and 36-2204(1) and (6)	30	15	60	15	60
Initial Air Ambulance Service License (R9-25-704)	A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2213, 36-2214, and 36-2215	150	30	60	120	60
Renewal of an Air Ambulance Service License (R9-25-704)	A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2213, 36-2214, and 36-2215	90	30	60	60	60
Initial Certificate of Registration for an Air Ambulance (R9-25-801)	A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2240(4)	90	30	60	60	60
Renewal of a Certificate of Registration for an Air Ambulance (R9-25-801)	A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2240(4)	90	30	60	60	60
Initial Certificate of Necessity (R9-25-902)	A.R.S. §§ 36-2204, 36-2232, 36-2233, 36-2240	450	30	60	420	60
Provision of ALS Services (R9-25-902)	A.R.S. §§ 36-2232, 36-2233, 36-2240	450	30	60	420	60

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Transfer of a Certificate of Necessity (R9-25-902)	A.R.S. §§ 36-2236(A) and (B), 36-2240	450	30	60	420	60
Renewal of a Certificate of Necessity (R9-25-904)	A.R.S. §§ 36-2233, 36-2235, 36-2240	90	30	60	60	60
Amendment of a Certificate of Necessity (R9-25-905)	A.R.S. §§ 36-2232(A)(4), 36-2240	450	30	60	420	60
Initial Registration of a Ground Ambulance Vehicle (R9-25-1001)	A.R.S. §§ 36-2212, 36-2232, 36-2240	90	30	60	60	60
Renewal of a Ground Ambulance Vehicle Registration (R9-25-1001)	A.R.S. §§ 36-2212, 36-2232, 36-2240	90	30	60	60	60
Establishment of Initial General Public Rates (R9-25-1101)	A.R.S. §§ 36-2232, 36-2239	450	30	60	420	60
Adjustment of General Public Rates (R9-25-1102)	A.R.S. §§ 36-2234, 36-2239	450	30	60	420	60
Contract Rate or Range of Rates Less than General Public Rates (R9-25-1103)	A.R.S. §§ 36-2234, 36-2239	450	30	60	420	60
Ground Ambulance Service Contracts (R9-25-1104)	A.R.S. § 36-2232	450	30	60	420	60
Ground Ambulance Service Contracts with Political Subdivisions (R9-25-1104)	A.R.S. §§ 36-2232, 36-2234(K)	30	15	15	15	Not Applicable
Subscription Service Rate (R9-25-1105)	A.R.S. § 36-2232(A)(1)	450	30	60	420	60

Historical Note

Table 12.1 renumbered from Table 1 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1). Amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

Table 1. Renumbered

Historical Note

New Table adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 2352, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Table 1 renumbered to Table 12.1 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit A. Recodified

Historical Note

New Exhibit adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Exhibit A recodified to Article 9 at 12 A.A.R. 2243, effective June 2, 2006 (Supp. 06-2).

Exhibit B. Recodified

Historical Note

New Table adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Exhibit B recodified to Article 9 at 12 A.A.R. 2243, effective June 2, 2006 (Supp. 06-2).

ARTICLE 13. TRAUMA CENTERS AND TRAUMA REGISTRIES

R9-25-1301. Definitions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

In addition to the definitions in A.R.S. § 36-2201 and R9-25-101, the following definitions apply in this Article, unless otherwise specified:

1. "Admitted" means when a patient is either:
 - a. Held for observation of a trauma-related injury; or
 - b. Considered an inpatient, as defined in A.A.C. R9-10-201.
2. "Business day" means a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday.
3. "Designation" means a formal determination by the Department that a health care institution complies with requirements in A.R.S. § 36-2225 and this Article for providing a particular Level of trauma service.

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4. "Emergency department" means a designated area of a hospital that provides emergency services, as defined in A.A.C. R9-10-201, as an organized service, 24 hours per day, seven days per week, to individuals who present for immediate medical services.
5. "ICD-code" means an International Classification of Diseases code, a set of numbers or letters or a combination of letters and numbers that specify a disease, condition, or injury; the location of the disease, condition, or injury; or the circumstances under which a patient may have incurred the disease, condition, or injury, which is used by a health care institution for billing purposes.
6. "Level I Pediatric trauma center" means a Level I trauma center that has a trauma service specifically intended to meet the needs of children requiring trauma care.
7. "Level II Pediatric trauma center" means a Level II trauma center that has a trauma service specifically intended to meet the needs of children requiring trauma care.
8. "Medical services" means the services pertaining to the "practice of medicine," as defined in A.R.S. § 32-1401, or "medicine," as defined in A.R.S. § 32-1800, performed at the direction of a physician.
9. "National verification organization" has the same meaning as in A.R.S. § 36-2225.
10. "Nursing services" means services that pertain to the curative, restorative, and preventive aspects of "registered nursing," as defined in A.R.S. § 32-1601, performed:
 - a. At the direction of a physician; and
 - b. By or under the supervision of a registered nurse licensed:
 - i. According to Title 32, Chapter 15; or
 - ii. When performed in a health care institution operating under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation, by a similar licensing board in another state.
11. "On-call" means assigned to respond and, if necessary, come to a health care institution when notified by a personnel member of the health care institution.
12. "Organized service" has the same meaning as in A.A.C. R9-10-201.
13. "Owner" means one of the following:
 - a. For a health care institution licensed under 9 A.A.C. 10, the licensee;
 - b. For a health care institution operated under federal or tribal laws, the administrative unit of the U.S. government or sovereign tribal nation operating the health care institution.
14. "Personnel member" means an individual providing medical services, nursing services, or health-related services, as defined in A.R.S. § 36-401, to a patient.
15. "Physician" means an individual licensed:
 - a. According to A.R.S. Title 32, Chapter 13 or 17; or
 - b. When working in a health care institution operating under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation, by a similar licensing board in another state.
16. "Signature" means:
 - a. A handwritten or stamped representation of an individual's name or a symbol intended to represent an individual's name, or
 - b. An "electronic signature" as defined in A.R.S. § 44-7002.
17. "Substantial compliance" has the same meaning as in A.R.S. § 36-401.
18. "Transport" means the conveyance of a patient by ground ambulance or air ambulance from one location to another location.
19. "Trauma care" means medical services and nursing services provided to a patient suffering from a sudden physical injury.
20. "Trauma center" has the same meaning as in A.R.S. § 36-2225.
21. "Trauma critical care course" means a multidisciplinary class or series of classes consisting of interactive tutorials, skills teaching, and simulated patient management scenarios of trauma care, consistent with training recognized by the American College of Surgeons.
22. "Trauma facility" means a health care institution that provides trauma care to a patient as an organized trauma service.
23. "Trauma service" means designated personnel members, equipment, and area within a health care institution and the associated policies and procedures for the personnel members to follow when providing trauma care to a patient.
24. "Trauma team" means a group of personnel members with defined roles and responsibilities in providing trauma care to a patient.
25. "Trauma team activation" means a notification to respond that is sent to trauma team personnel members in reaction to triage information received concerning a patient with injury or suspected injury.
26. "Verification" means formal confirmation by a national verification organization that a health care institution meets the national verification organization's standards for providing trauma care at a specific Level of trauma service.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1302. Eligibility for Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

- A. A health care institution is eligible for designation as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, Level II Pediatric trauma center, or Level III trauma center if the health care institution:
 1. Is either:
 - a. Licensed by the Department under 9 A.A.C. 10 to operate as a hospital; or
 - b. Operating as a hospital under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation; and
 2. For designation as a:
 - a. Level I trauma center:
 - i. Holds verification, issued within the six months before the date of designation, as a Level I trauma facility;
 - ii. Has documentation issued by a national verification organization, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level I trauma center; or
 - iii. Meets the requirements in subsection (C);
 - b. Level I Pediatric trauma center:
 - i. Holds verification, issued within the six months before the date of designation, as a Level I Pediatric trauma facility;
 - ii. Has documentation issued by a national verification organization, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level I Pediatric trauma center; or

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- iii. Meets the requirements in subsection (C);
 - c. Level II trauma center:
 - i. Holds verification, issued within the six months before the date of designation, as a Level II trauma facility; or
 - ii. Has documentation issued by a national verification organization, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level II trauma center; or
 - iii. Meets the requirements in subsection (C);
 - d. Level II Pediatric trauma center:
 - i. Holds verification, issued within the six months before the date of designation, as a Level II Pediatric trauma facility;
 - ii. Has documentation issued by a national verification organization, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level II Pediatric trauma center; or
 - iii. Meets the requirements in subsection (C); or
 - e. Level III trauma center:
 - i. Holds verification, issued within the six months before the date of designation, as a Level III trauma facility; or
 - ii. Has documentation issued by a national verification organization or the Department, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level III trauma center.
- B. A health care institution is eligible for designation as a Level IV trauma center if the health care institution:
 - 1. Is either:
 - a. Licensed by the Department under 9 A.A.C. 10 to operate as:
 - i. A hospital; or
 - ii. An outpatient treatment center authorized to provide emergency room services, as defined in A.A.C. R9-10-1001, according to A.A.C. R9-10-1019; or
 - b. Operating as a hospital or an outpatient treatment center providing emergency services under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation; and
 - 2. Either:
 - a. Holds verification, issued within the six months before the date of designation, as a Level IV trauma facility; or
 - b. Has documentation issued by a national verification organization or the Department, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level IV trauma center.
- C. A health care institution is eligible for designation as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center based on assessment by the Department that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for the Level of trauma center for which designation is requested if the health care institution:
 - 1. Applies for verification from a national verification organization;
 - 2. Informs the Department, at least 30 calendar days before, of the dates the national verification organization will be on the premises of the health care institution to assess the health care institution for compliance with the national verification organization's standards for verification;
 - 3. Invites the Department to review the facility and documentation of capabilities of the health care institution during the national verification organization's assessment in subsection (C)(2);
 - 4. Is not issued verification from the national verification organization at the Level of designation sought;
 - 5. Does not receive the documentation required in subsection (A)(2)(a)(ii), (b)(ii), (c)(ii), or (d)(ii), as applicable; and
 - 6. Receives the documentation specified in R9-25-1306(G) and, if applicable, submits to the Department a written plan in R9-25-1306(H), acceptable to the Department, to correct instances of non-compliance.
- D. A health care institution is eligible to retain designation as a specific Level of trauma center if the health care institution complies with the applicable requirements in this Article for the specific Level of trauma center.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1303. Application and Designation Process (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

- A. An owner applying for initial designation or to renew designation for a health care institution shall submit to the Department an application including:
 - 1. The following information, in a Department-provided format:
 - a. The name, address, and telephone number of the health care institution for which the owner is requesting designation;
 - b. The owner's name, address, e-mail address, telephone number, and, if available, fax number;
 - c. The name, e-mail address, telephone number, and, if available, fax number of the chief administrative officer, as defined in A.A.C. R9-10-101, for the health care institution for which the owner is requesting designation;
 - d. The designation Level for which the owner is applying;
 - e. Whether the owner is requesting designation for the health care institution based on:
 - i. Verification, or
 - ii. Meeting the applicable standards specified in R9-25-1308 and Table 13.1;
 - f. If the owner is requesting designation for the health care institution based on verification:
 - i. The name of the national verification organization;
 - ii. The name, telephone number, and e-mail address for a representative of the national verification organization;
 - iii. The Level of verification held;
 - iv. The effective date of the verification, and
 - v. The expiration date of the verification;
 - g. If the owner is requesting designation for the health care institution based on the health care institution meeting the applicable standards specified in R9-25-1308 and Table 13.1:
 - i. Whether:
 - (1) A national verification organization has assessed the health care institution, or
 - (2) The Department will be assessing the health care institution;
 - ii. If a national verification organization has assessed the health care institution:
 - (1) The name of the national verification organization;

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- (2) The name, telephone number, and e-mail address for a representative of the national verification organization; and
 - (3) The date the national verification organization assessed the health care institution; and
 - iii. If the Department will be assessing the health care institution, the date the health care institution will be ready for the Department to assess the health care institution;
 - h. Unless the owner is an administrative unit of the U.S. government or a sovereign tribal nation, the license number, issued by the Department, for the health care institution for which designation is being requested;
 - i. The name, e-mail address, telephone number, and, if available, fax number of the health care institution's trauma program manager;
 - j. Whether the health care institution's trauma registry will be located at the health care institution or be part of a centralized trauma registry;
 - k. The name, e-mail address, telephone number, and, if available, fax number of the health care institution's trauma registrar;
 - l. If applying for designation as a Level IV trauma center, whether the health care institution plans to submit, in addition to the information required in R9-25-1309(A), the information specified in R9-25-1309(B);
 - m. If not already submitting trauma registry information to the Department, the time period for which the health care institution plans to begin submitting trauma registry information;
 - n. Except for a health care institution applying for designation as a Level IV trauma center, the name, e-mail address, telephone number, and, if available, fax number of the health care institution's trauma medical director;
 - o. The name, title, address, and telephone number of the owner's statutory agent or the individual designated by the owner to accept service of process and subpoenas;
 - p. Attestation that:
 - i. The owner will comply with all applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article; and
 - ii. The information and documents provided as part of the application are accurate and complete; and
 - q. The dated signature of the applicable individual according to R9-25-102;
2. If applicable, documentation demonstrating that the health care institution is operating as a hospital or an outpatient treatment center providing emergency services under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation; and
3. One of the following:
 - a. Documentation from the national verification organization, identified according to subsection (A)(1)(f)(i), establishing that the owner holds verification for the health care institution at the Level of designation being requested and showing the effective date and expiration date of the verification;
 - b. Documentation from the national verification organization, identified according to subsection (A)(1)(g)(ii)(1), demonstrating that the health care institution meets the applicable standards specified in R9-25-1308 and Table 13.1; or
 - c. The information and documents required in R9-25-1307(C), (D), or (F), as applicable.
- B. An owner applying to renew designation for a health care institution shall submit the application in subsection (A) to the Department at least 60 calendar days and no more than 90 calendar days before the expiration of the current designation.
- C. Within 30 calendar days after receiving an application submitted according to subsection (A), the Department shall review the application submitted for completeness, and, if the application is:
 1. Incomplete, provide to the owner a written notice listing each missing item and the information or items needed to complete the application; and
 2. Complete and based on:
 - a. Verification, comply with R9-25-1307(A);
 - b. A national verification organization assessing the health care institution's meeting the applicable standards specified in R9-25-1308 and Table 13.1, comply with R9-25-1307(B); or
 - c. The Department assessing the health care institution's meeting the applicable standards specified in R9-25-1308 and Table 13.1, assess compliance with applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article according to R9-25-1307(E) or (G).
- D. The Department shall consider an application withdrawn if an owner:
 1. Fails to submit to the Department all of the information or items listed in a notice of missing items within 60 calendar days after the date on the notice of missing items, unless the Department and the owner agree to an extension of this time; or
 2. Submits a written request withdrawing the application.
- E. If an owner submits an application for renewal of designation for a health care institution according to subsection (A) before the expiration date of the current designation, the designation of the health care institution remains in effect until the:
 1. Department has determined whether or not to issue a renewal of the designation, or
 2. Application is withdrawn.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (Supp. 12-3). New Section R9-25-1303 renumbered from R9-25-1304 and amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1303.01. Expired**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. 41-1056(J) at 29 A.A.R. 421 (January 27, 2023), with an immediate effective date of January 4, 2023 (Supp. 23-1).

R9-25-1304. Changes Affecting Designation Status (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

- A. An owner of a trauma center shall:
 1. Notify the Department, in writing or in a Department-provided format, no later than 60 calendar days after the date of a change in the health care institution's:
 - a. Name,
 - b. Trauma program manager, or
 - c. If applicable, trauma medical director; and
 2. Provide the effective date of the change and, as applicable, the:
 - a. Current and new name of the health care institution, or

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- b. Name of the new trauma program manager or trauma medical director.
- B. An owner of a trauma center shall notify the Department in writing within three business days after:
 - 1. The trauma center's health care institution license expires or is suspended or revoked;
 - 2. The trauma center's health care institution license is changed to a provisional license under A.R.S. § 36-425;
 - 3. The trauma center no longer holds verification; or
 - 4. A change, which is expected to last for more than seven consecutive calendar days, in the trauma center's ability to meet:
 - a. The applicable standards specified in R9-25-1308 and Table 13.1, or
 - b. If designation is based on verification, the national verification organization's standards for verification.
- C. At least 90 calendar days before a trauma center ceases to provide a trauma service, the owner of the trauma center shall notify the Department, in writing or in a Department-provided format, of the owner's intention to cease providing the trauma service and to relinquish designation, including the effective date.
- D. The Department shall, upon receiving a notice described in:
 - 1. Subsection (A), issue an amended designation that incorporates the name change but retains the expiration date of the current designation;
 - 2. Subsection (B)(1), send the owner a written notice stating that the health care institution no longer meets the definition of a trauma center and that the Department intends to dedesignate the health care institution, according to R9-25-1307(J)(2);
 - 3. Subsection (B)(2), evaluate the restrictions on the provisional license to determine if the trauma service was affected and may send the owner a written notice of the Department's intention to:
 - a. Dedesignate the health care institution, according to R9-25-1307(J) through (M);
 - b. Require a modification of the health care institution's designation within 15 calendar days after the date of the notice, according to R9-25-1305; or
 - c. Require a corrective action plan to address issues of compliance with the applicable standards specified in R9-25-1308 and Table 13.1, according to R9-25-1306(E);
 - 4. Subsection (B)(3), send the owner written notice that the owner is required, within 15 calendar days after the date of the notice, to submit to the Department:
 - a. An application for designation at a specific Level of trauma center, according to R9-25-1303, based on meeting the applicable standards specified in R9-25-1308 and Table 13.1; or
 - b. Written notification of the owner's intention to relinquish designation;
 - 5. Subsection (B)(4), send the owner written notice that the owner is required, within 15 calendar days after the date of the notice, to submit to the Department:
 - a. An application for modification of the health care institution's designation, according to R9-25-1305;
 - b. A corrective action plan to address issues of compliance with the applicable standards specified in R9-25-1308 and Table 13.1, according to R9-25-1306(E); or
 - c. Written notification of the owner's intention to relinquish designation; or
 - 6. Subsection (C), (D)(4)(b), or (D)(5)(c), send the owner written confirmation of the voluntary relinquishment of designation.
- E. An owner of a trauma center, who obtains verification for the trauma center during a term of designation that was based on the trauma center meeting the applicable standards specified in R9-25-1308 and Table 13.1, may obtain a new initial designa-

tion based on verification, with a designation term based on the dates of the verification, by submitting an application according to R9-25-1303.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1304 renumbered to R9-25-1303; new Section R9-25-1304 renumbered from R9-25-1308 and amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1305. Modification of Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

- A. Except as provided in R9-25-1304(D)(3)(b) and (5)(a), at least 30 calendar days before ceasing to provide a trauma service consistent with a trauma center's current designation, an owner of a trauma center may request a designation that requires fewer resources and capabilities than the trauma center's current designation by submitting to the Department an application for modification of the trauma center's designation, in a Department-provided format, that includes:
 - 1. The name and address of the trauma center for which the owner is requesting modification of designation;
 - 2. A list of the criteria for the current designation with which the owner no longer intends to comply;
 - 3. An explanation of the changes being made in the trauma center's resources or operations, related to each criterion specified according to subsection (A)(2), to ensure the health and safety of a patient;
 - 4. The Level of designation being requested;
 - 5. An attestation that:
 - a. The owner will be in compliance with all applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article for the Level of designation requested if modified designation is issued; and
 - b. The information provided in the application is accurate and complete; and
 - 6. The dated signature of the applicable individual according to R9-25-102.
- B. The Department shall review the application submitted according to R9-25-1307(I) to determine whether, with the changes being made in the trauma center's resources and operations, the trauma center will be in substantial compliance based the applicable standards specified in R9-25-1308 and Table 13.1 for the Level of designation requested.
- C. To retain trauma center designation for a health care institution, an owner who holds modified designation shall, before the expiration date of the modified designation:
 - 1. Apply for renewal of designation according to R9-25-1303, based on the health care institution's meeting the applicable standards specified in R9-25-1308 and Table 13.1, for the Level of the modified designation; or
 - 2. Apply for initial designation according to R9-25-1303, based on the health care institution meeting the applicable standards specified in R9-25-1308 and Table 13.1, for a Level other than the Level of the modified designation.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1305 repealed; new Section R9-25-1305 renumbered from R9-25-1309 and amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1306. Inspections (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

- A. When the Department inspects a health care institution applying for a trauma center designation or a health care institution designated as a trauma center to determine compliance with the applicable requirements in this Article, the Department:

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1. Shall use criteria for assessing compliance developed using recommendations from the State Trauma Advisory Board, according to A.R.S. § 36-2222(E)(1); and
2. May:
 - a. Evaluate the health care institution's equipment and physical plant;
 - b. Interview the health care institution's personnel members, including any individuals providing trauma care; and
 - c. Review any of the following:
 - i. Medical records;
 - ii. Patient discharge summaries;
 - iii. Patient care logs;
 - iv. Rosters and schedules of personnel members and individuals who provide trauma care as part of the trauma service;
 - v. Performance-improvement-related documents, including quality management program documents required in A.A.C. R9-10-204 or R9-10-1004 as applicable; and
 - vi. Other documents relevant to the provision of trauma care as part of the trauma service.
- B. The Department shall determine whether there is a need for an inspection of a health care institution and which components in subsection (A)(2) to include in an inspection, based on the health care institution's application; previous inspections, if applicable; and the operating history of the health care institution and may conduct an announced inspection of the identified components:
 1. Before issuing an initial, renewal, or modified designation to an owner applying for designation of a health care institution as a trauma center;
 2. If an owner of a health care institution designated as a trauma center has submitted a corrective action plan under subsection (E); or
 3. A health care institution designated as a trauma center is randomly selected to receive an inspection.
- C. If the Department has reason to believe that a trauma center is not complying with applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article, the Department may conduct an announced or unannounced inspection of the trauma center according to subsection (A).
- D. Within 30 calendar days after completing an inspection, the Department shall send to an owner a written report of the Department's findings, including, if applicable, a list of any instances of non-compliance identified during the inspection and a request for a written corrective action plan.
- E. Within 15 calendar days after receiving a request for a written corrective action plan, an owner shall submit to the Department a written corrective action plan that includes for each identified instance of non-compliance:
 1. A description of how the instance of non-compliance will be corrected and reoccurrence prevented, and
 2. A date of correction for the instance of non-compliance.
- F. The Department shall accept a written corrective action plan if the corrective action plan:
 1. Describes how each identified instance of non-compliance will be corrected and reoccurrence prevented, and
 2. Includes a date for correcting each instance of non-compliance that is appropriate to the actions necessary to correct the instance of non-compliance.
- G. If the Department reviews a health care institution's facility and documentation of capabilities during a national verification organization's assessment according to R9-25-1302(C)(3) and the health care institution is not issued verification from the national verification organization at the Level of designation sought, the Department shall send to an owner of the health care institution, within 30 calendar days after the review, a written report of the Department's findings, including, if applicable, a list of any instances of non-compliance with requirements in R9-25-1308 and Table 13.1 identified during the review.
- H. A health care institution receiving a written report in subsection (G) containing a list of instances of non-compliance with requirements in R9-25-1308 and Table 13.1 identified during a review of the health care institution's facility and documentation of capabilities may submit to the Department a written plan to correct instances of non-compliance that includes:
 1. A description of how the health care institution will correct each instance of non-compliance and prevent the reoccurrence, and
 2. A date by which the health care institution plans to correct each instance of non-compliance.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1306 repealed; new Section R9-25-1306 made by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1307. Designation and Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

- A. For designation of a health care institution based on verification, the Department shall, within 45 calendar days after receiving a complete application from an owner:
 1. If the application complies with the applicable requirements in this Article, issue a designation for the health care institution that is valid for the duration of the verification; or
 2. If the application does not comply with the applicable requirements in this Article, provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10 that the Department intends to decline to issue a designation for the health care institution.
- B. Except as provided in subsection (F), for designation of a health care institution based on an assessment by a national verification organization, the Department shall, within 60 calendar days after receiving a complete application from an owner, review the application and, if the Department determines that:
 1. The application and the health care institution comply with the applicable requirements in this Article, issue a designation for the health care institution that is valid for three years from the issue date;
 2. The application complies with the applicable requirements in this Article, the health care institution is in substantial compliance with the applicable requirements in this Article, and the Department has accepted a written corrective action plan submitted according to R9-25-1306(E), issue a designation for the health care institution that is valid for one year from the issue date; or
 3. The application or the health care institution does not comply with the applicable requirements in this Article, provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10 that the Department intends to decline to issue a designation for the health care institution.
- C. Except as provided in subsection (F) for renewal of a one-year designation, for designation of a health care institution as a Level III trauma center or a Level IV trauma center based on an assessment by the Department, an owner shall include as part of the application required in R9-25-1303(A):
 1. The following information in a Department-provided format:
 - a. The name of the health care institution for which the owner is requesting designation;
 - b. The services the health care institution is providing or plans to provide as part of the trauma service;

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- c. The name and title of the liaison to the trauma service from each of the services listed according to subsection (C)(1)(b);
 - d. If applicable, the name, e-mail address, telephone number, and, if available, fax number of the health care institution's emergency department physician director;
 - e. If applicable, the name, e-mail address, telephone number, and, if available, fax number of the health care institution's surgical director or co-director;
 - f. If a multidisciplinary peer review committee is required according to Table 13.1 for the Level of the trauma center, the name and title of each member of the multidisciplinary peer review committee;
 - g. If the health care institution's trauma registry will be part of a centralized trauma registry, a description of the training provided to the trauma program manager to enable the trauma program manager to comply with R9-25-1308(D)(2);
 - h. If applicable, for an application for initial designation, a description of the health care institution's plans for the continuing education activities related to trauma care, required in R9-25-1308(G)(4);
 - i. For renewal of designation, a description of the continuing education activities conducted during the term of the designation;
 - j. If applicable, the name, e-mail address, telephone number, and, if available, fax number of the health care institution's injury prevention coordinator;
 - k. A description of the methods by which trauma team personnel members communicate with EMS personnel;
 - l. A description of the trauma-related training received by registered nurses in the intensive care unit;
 - m. An attestation that the owner of the health care institution will prohibit:
 - i. The trauma medical director from serving as trauma medical director for another health care institution; and
 - ii. A physician on-call for general surgery, neurosurgery, or orthopedic surgery to be on-call or on a back-up call list at another health care institution; and
 - n. The dated signature of the applicable individual according to R9-25-102;
2. A copy of the policies and procedures required in R9-25-1308(B)(6) for the health care institution's trauma registry;
 3. A copy of the policies and procedures required in R9-25-1308(B)(7) for the health care institution's performance improvement program;
 4. A copy of the policies and procedures required in R9-25-1308(F)(2) for the health care institution's trauma service;
 5. If applicable, a copy of the policies and procedures required in R9-25-1308(F)(9) for operating rooms;
 6. A copy of the applicable policies and procedures required in R9-25-1308(H)(4);
 7. A copy of the health care institution's clinical practice guidelines, describing the health care institution's capability to resuscitate, stabilize, and transfer pediatric patients;
 8. If applicable, a copy of the bylaws of the health care institution's multidisciplinary peer review committee;
 9. Copies of the job descriptions for the health care institution's:
 - a. Trauma program manager;
 - b. Trauma registrar; and
 - c. If applicable, injury prevention coordinator;
10. A list of the trauma care parameters the health care institution is or will be monitoring as part of the performance improvement program;
 11. A list of trauma team members, including:
 - a. Name,
 - b. Title, and
 - c. Role on the trauma team;
 12. If required for an individual listed according to subsection (C)(11), a copy of documentation of the individual's:
 - a. Board certification or board eligibility,
 - b. Most recent certification in a trauma critical care course,
 - c. Pediatric-specific credentials, and
 - d. Other trauma-related training; and
 13. If the trauma medical director is not a member of the trauma team, the applicable documentation required in subsection (C)(12) for the trauma medical director.
- D.** Except as provided in subsection (F) for renewal of a one-year designation, for designation of a health care institution as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center based on an assessment by the Department under R9-25-1302(C), an owner shall include as part of the application required in R9-25-1303(A):
1. A copy of the documentation submitted to the national verification organization as part of an application for verification;
 2. If not included in the documentation in subsection (D)(1):
 - a. Any information or documents required in subsection (C);
 - b. For an application for initial designation, a description of the health care institution's plans for:
 - i. Injury prevention activities, required in R9-25-1308(G)(5)(a); and
 - ii. Educational outreach activities, required in R9-25-1308(G)(5)(b); and
 - c. For an application for renewal of designation, a description of the injury prevention activities and educational outreach activities conducted during the term of the designation;
 3. A copy of the national verification's organization's written report to the health care institution describing the results of the national verification organization's assessment of the health care organization;
 4. A copy of the written report in R9-25-1306(G); and
 5. If applicable, the written plan to correct instances of non-compliance in R9-25-1306(H).
- E.** Except as provided in subsection (G) for renewal of a one-year designation, for designation of a health care institution based on an assessment by the Department, the Department shall, within 90 calendar days after receiving a complete application from an owner, review the application, inspect the health care institution, if applicable, and, if the Department determines that:
1. The application and the health care institution comply with the applicable requirements in this Article, issue a designation for the health care institution that is valid for three years from the issue date;
 2. The application complies with the applicable requirements in this Article, the health care institution is in substantial compliance with the applicable requirements in this Article, and the Department has accepted the document submitted according to R9-25-1306(E) or subsection (D)(5), issue a designation for the health care institution that is valid for one year from the issue date; or
 3. The application or the health care institution does not comply with the applicable requirements in this Article, provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10 that the Department intends to decline to issue a designation for the health care institution.

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- F. For renewal, at the same Level of trauma center, of a one-year designation issued according to subsection (B)(2) or (E)(2), an owner shall include, as part of the application required in R9-25-1303(A), documentation related to the completion of the plan specified in the document accepted by the Department in subsection (B)(2) or (E)(2).
- G. Except as specified in subsection (H), the Department shall, within 60 calendar days after receiving from an owner an application submitted according to subsection (F), review the information and documentation, inspect the health care institution if applicable, and:
1. Issue a designation for the health care institution that is valid for two years from the issue date if the Department determines that:
 - a. The application and the health care institution comply with the applicable requirements in this Article; and
 - b. The owner has completed the plan specified in the document accepted by the Department in subsection (B)(2) or (E)(2), as applicable; or
 2. Provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10 that the Department intends to decline to issue a designation for the health care institution if the Department determines that:
 - a. The application or the health care institution do not comply with the applicable requirements in this Article; or
 - b. The owner has not completed all of the components of the plan specified in the document accepted by the Department in subsection (B)(2) or (E)(2), as applicable.
- H. The Department shall review according to R9-25-1303(C) and subsection (A), (B), or (E), as applicable, an application for renewal of designation submitted by the owner of a trauma center that:
1. Had been issued a one-year designation according to subsection (B)(2) or (E)(2); and
 2. Has not completed all of the components of the plan specified in the document accepted by the Department in subsection (B)(2) or (E)(2), as applicable.
- I. For modification of a designation according to R9-25-1305, the Department shall, within 30 calendar days after receiving a complete application for modification in R9-25-1305(A) from an owner, review the application, inspect the health care institution, if applicable, and:
1. Issue a modified designation for the Level of designation requested for the health care institution that is valid for the duration of the original designation or one year from the issue date, whichever is longer, if the Department determines that:
 - a. The application and the health care institution comply with the applicable requirements in this Article for the Level of designation requested; or
 - b. The application complies with the applicable requirements in this Article, the health care institution is in substantial compliance with the applicable requirements in this Article for the Level of designation requested, and the Department has accepted a written corrective action plan submitted according to R9-25-1306(E);
 2. Issue a modified designation for a lower Level of designation than the Level of designation requested for the health care institution that is valid for the duration of the original designation or one year from the issue date, whichever is longer, if the Department determines that:
 - a. The application and the health care institution comply with the applicable requirements in this Article for the lower Level of designation and the health care institution:
 - i. Does not comply with the applicable requirements in this Article for the Level of designation requested; or
 - ii. Is in substantial compliance with the applicable requirements in this Article for the Level of designation requested, and the Department has not accepted a written corrective action plan submitted according to R9-25-1306(E); or
 - b. The application complies with the applicable requirements in this Article, the health care institution is in substantial compliance with the applicable requirements in this Article for the lower Level of designation, and the Department has accepted a written corrective action plan according to R9-25-1306(E); or
 3. Provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10 that the Department intends to decline to issue a modified designation for the health care institution if the Department determines that the application or the health care institution does not comply with the applicable requirements in this Article.
- J. The Department may dedesignate a health care institution as a trauma center if an owner:
1. Has provided false or misleading information to the Department;
 2. Is not eligible for designation under R9-25-1302(A) or (B); or
 3. Fails to comply with an applicable requirement in A.R.S. Title 36, Chapter 21.1 or this Article.
- K. In determining whether to dedesignate a health care institution as a trauma center, the Department shall consider:
1. The severity of each instance relative to public health and safety;
 2. The number of instances;
 3. The nature and circumstances of each instance;
 4. Whether each instance was corrected, the manner of correction, and the duration of the instance; and
 5. Whether the instances indicate a lack of commitment to having the trauma center meet the verification standards of a national verification organization or, if applicable, the standards specified in R9-25-1308 and Table 13.1.
- L. If the Department intends to dedesignate a health care institution, the Department shall send to the owner a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10.
- M. An owner who receives a written notice in subsection (A)(2), (B)(3), (E)(3), (G)(2), (I)(3), or (J) may file a written notice of appeal with the Department that complies with A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1307 repealed; new Section R9-25-1307 renumbered from R9-25-1312 and amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1308. Trauma Center Responsibilities (A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(4), (5), and (6))

- A. The owner of a trauma center shall ensure that:
1. If designation is based on:
 - a. Verification, the trauma center meets the applicable standards of the verifying national verification organization; or
 - b. Meeting the applicable standards specified in this Section and Table 13.1, the trauma center meets the applicable standards for the Level of trauma center for which designation has been issued;
 2. The trauma center complies with a written corrective action plan accepted by the Department according to R9-25-1306(F); and

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3. The Department has access to:
 - a. The trauma center and to personnel members present in the trauma center; and
 - b. Documents that are requested by the Department and not confidential under A.R.S. Title 36, Chapter 4, Article 4 or 5, within two hours after the Department's request.
- B. The owner of a trauma center shall ensure that the trauma center:
 1. Except as provided in subsection (D), establishes a trauma registry of patients receiving trauma care who meet the criteria specified in subsection (C)(1) that contains the information required in R9-25-1309, as applicable for the specific Level of the trauma center;
 2. Appoint an individual to act as trauma registrar to coordinate trauma registry activities;
 3. If necessary to comply with subsections (C)(2) and (3), provides sufficient additional individuals to assist with trauma registry activities;
 4. Establishes a performance improvement program for the trauma service to develop and implement processes to improve trauma care parameters;
 5. If required according to Table 13.1 for the Level of the trauma center, establishes as part of the performance improvement program, established according to subsection (B)(4), a multidisciplinary peer review committee to review the quality of trauma care provided by the trauma center, including information from the trauma registry, and suggest methods to improve the quality of trauma care;
 6. Establishes, documents, and implements policies and procedures for the trauma registry established according to subsection (B)(1) that include:
 - a. Ensuring that individuals responsible for collecting, entering, or reviewing information in the trauma registry have received training in gaining access to, and retrieving information from, the trauma registry;
 - b. Collection of the information required in R9-25-1309 about the patients specified in subsection (C)(1) receiving trauma care;
 - c. Submission to the Department of the information required in subsection (C)(2);
 - d. Review of information in the trauma center's trauma registry; and
 - e. Performance improvement activities required in R9-25-1310; and
 7. Establishes, documents, and implements policies and procedures for the performance improvement program established according to subsection (B)(4), including:
 - a. A list of the positions of personnel members who have defined roles in the performance improvement program and, if applicable, a list of positions that are dedicated to performance improvement activities for patients receiving trauma care from the trauma center;
 - b. The qualifications, skills, and knowledge required of the personnel members in the positions specified according to subsection (B)(6)(a);
 - c. The role each personnel member specified according to subsection (B)(6)(a) plays in the performance improvement program;
 - d. The trauma care parameters to be reviewed as part of the performance improvement program;
 - e. The frequency of review of trauma care parameters;
 - f. If an issue related to trauma care or to trauma care parameters is identified:
 - i. How a plan to address the issue is developed to reduce the chance of the issue recurring in the future;
 - ii. How the plan is documented;
 - iii. The mechanism and criteria by which the plan is reviewed and approved;
 - iv. How the plan is implemented; and
 - v. How implementation of the plan and future recurrences are monitored;
 - g. If applicable, the composition, duties, responsibilities, and frequency of meetings of the multidisciplinary peer review committee established according to subsection (B)(5);
 - h. If applicable, how the multidisciplinary peer review committee collaborates with the trauma center's quality management program; and
 - i. How changes proposed by the performance improvement program are reviewed by the trauma center's quality management program.
- C. The owner of a trauma center shall ensure that:
 1. The trauma registry, established according to subsection (B)(1), includes the information required in R9-25-1309 for each patient with whom the trauma center had contact who meets one or more of the following criteria:
 - a. A patient with injury or suspected injury who is:
 - i. Transported from a scene to a trauma center or an emergency department based on the responding emergency medical services provider's or ambulance service's triage protocol required in R9-25-201(E)(2)(b), or
 - ii. Transferred from one health care institution to another health care institution by an emergency medical services provider or ambulance service;
 - b. A patient with injury or suspected injury for whom a trauma team activation occurs; or
 - c. A patient with injury, who is admitted as a result of the injury or who dies as a result of the injury, and whose medical record includes one or more of specific ICD-codes indicating that:
 - i. At the initial encounter with the patient, the patient had:
 - (1) An injury or injuries to specific body parts,
 - (2) Unspecified multiple injuries,
 - (3) Injury of an unspecified body region,
 - (4) A burn or burns to specific body parts,
 - (5) Burns assessed through Total Body Surface Area percentages, or
 - (6) Traumatic Compartment Syndrome; and
 - ii. The patient's injuries or burns were not only:
 - (1) An isolated distal extremity fracture from a same-level fall,
 - (2) An isolated femoral neck fracture from a same-level fall,
 - (3) Effects resulting from an injury or burn that developed after the initial encounter,
 - (4) A superficial injury or contusion, or
 - (5) A foreign body entering through an orifice;
 2. The following information is submitted to the Department, in a Department-provided format, according to subsection (C)(3):
 - a. The name and physical address of the trauma center;
 - b. The date the trauma registry information is being submitted to the Department;
 - c. The total number of patients whose trauma registry information is being submitted;
 - d. The quarter and year for which the trauma registry information is being submitted;
 - e. The range of emergency department or hospital arrival dates for the patients for whom trauma registry information is being submitted;

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- f. The name, title, e-mail address, telephone number, and, if available, fax number of the trauma center's point of contact for the trauma registry information;
 - g. Any special instructions or comments to the Department from the trauma center's point of contact;
 - h. The information from the trauma registry for patients identified during the quarter specified according to subsection (C)(2)(d); and
 - i. Updated information for any patients identified during the previous quarter, including the patient's name, medical record number, and admission date; and
3. The information required in subsection (C)(2) is submitted:
- a. For patients identified between January 1 and March 31, so that the information in subsections (C)(2)(a) through (h) is received by the Department by July 1 of the same calendar year;
 - b. For patients identified between April 1 and June 30, so that the information in subsections (C)(2)(a) through (h) is received by the Department by October 1 of the same calendar year;
 - c. For patients identified between July 1 and September 30, so that the information in subsections (C)(2)(a) through (h) is received by the Department by January 2 of the following calendar year; and
 - d. For patients identified between October 1 and December 31, so that the information in subsections (C)(2)(a) through (h) is received by the Department by April 1 of the following calendar year.
- D.** Trauma centers under the same governing authority, as defined in A.R.S. § 36-401, may establish a single, centralized trauma registry and submit to the Department consolidated information from the trauma registry, according to subsections (C)(2) and (3), if:
- 1. The information submitted to the Department specifies for each patient in the trauma registry the trauma center that had contact with the patient, and
 - 2. Each trauma center contributing information to the centralized trauma registry is able to:
 - a. Access, edit, and update the information contributed by the trauma center to the centralized trauma registry; and
 - b. Use the information contributed by the trauma center to the centralized trauma registry when complying with performance improvement program requirements in this Section.
- E.** As part of the performance improvement program, the owner of a trauma center shall ensure that the trauma program manager and, if applicable, trauma medical director periodically, according to policies and procedures:
- 1. Review the information in the trauma center's trauma registry; and
 - 2. Monitor at least the following trauma care parameters, as applicable, for patients in the trauma registry:
 - a. EMS received by a patient;
 - b. Length of stay longer than two hours in the emergency department before transfer;
 - c. Instances of trauma team activation to determine if trauma team activation was timely and appropriate;
 - d. Instances where trauma care was provided to a patient but trauma team activation did not occur;
 - e. Time from notification of a surgeon on the trauma team that a patient described in subsection (H)(6)(b)(i) is in the emergency department to when the surgeon arrives in the emergency department;
 - f. Documentation of the nursing services provided to a patient;
 - g. Instances and reasons for transfer of a patient;
 - h. Instances and reasons for transfer to a hospital not designated as a trauma center;
- i. For a hospital designated as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, instances and reasons for diversion, as defined in A.A.C. R9-10-201, of a patient requiring trauma care;
 - j. Instances of and circumstances related to the death of a patient;
 - k. Other patient outcomes;
 - l. Trauma care parameters for pediatric patients, including pediatric-specific measures; and
 - m. The completeness and timeliness of trauma data submission.
- F.** In addition to the requirements in subsections (A) through (E), the owner of a trauma center designated based on meeting the applicable standards specified in this Section and Table 13.1 shall:
- 1. Ensure that a trauma service is established if required by Table 13.1;
 - 2. Ensure that policies and procedures for the trauma service are established, documented, and implemented that include:
 - a. The composition of the trauma team;
 - b. The qualifications, skills, and knowledge required of each personnel member of the trauma team;
 - c. Continuing education or continuing medical education requirements for each personnel member of the trauma team;
 - d. The roles and responsibilities of each personnel member of the trauma team;
 - e. Under what circumstances the trauma team is activated; and
 - f. How the trauma team is activated;
 - 3. Ensure that the personnel members on the trauma team have the qualifications, skills, and knowledge required in the policies and procedures;
 - 4. If the trauma center is required according to Table 13.1 to have a trauma medical director, appoint a board-certified or board-eligible surgeon as trauma medical director;
 - 5. Prohibit a physician from serving as trauma medical director for the trauma center if the physician is serving as trauma medical director for another health care institution;
 - 6. Ensure that the trauma medical director completes:
 - a. If the trauma center's designation is for a three-year period, at least 48 hours of external trauma-related continuing medical education during the term of the designation;
 - b. If the trauma center's designation is for a one-year period, at least 16 hours of external trauma-related continuing medical education during the term of the designation; and
 - c. If the trauma center is designated as a Level I Pediatric trauma center or Level II Pediatric trauma center, at least 12 of the 48 hours required in subsection (F)(6)(a) or four of the 16 hours required in subsection (F)(6)(b) in pediatric trauma-related continuing medical education;
 - 7. Appoint an individual to act as trauma program manager to coordinate trauma service activities;
 - 8. If the trauma center is required by Table 13.1 to have a multidisciplinary peer review committee, ensure that each surgeon on the trauma team designated according to subsection (F)(3) attends at least 50% of the meetings of the multidisciplinary peer review committee;
 - 9. If the trauma center provides surgical services, ensure that policies and procedures for operating rooms and an operating room team are established, documented, and implemented that include:
 - a. The availability of an operating room for trauma care;
 - b. The composition of an operating room team;

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- c. The qualifications, skills, and knowledge required of each personnel member of an operating room team;
 - d. The roles and responsibilities of each personnel member of an operating room team;
 - e. If an operating room team is not on the premises of the health care institution 24 hours a day, under what circumstances the operating room team is notified to come to the trauma center; and
 - f. How the operating room team is notified;
 - 10. Ensure that the following personnel members on the trauma team:
 - a. Hold current certification in a trauma critical care course:
 - i. Trauma medical director, if applicable;
 - ii. Each emergency medicine physician who is not board-certified or board-eligible; and
 - iii. Each physician assistant or registered nurse practitioner who is responsible for patients in an emergency department in the absence of an emergency physician; or
 - b. Have held certification in a trauma critical care course:
 - i. Each general surgeon other than the trauma medical director; and
 - ii. Each emergency medicine physician who is board-certified or board-eligible;
 - 11. If the trauma center is designated as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, ensure that each of the trauma team personnel members required in Table 13.1(C)(2) and (C)(3)(a) through (f) are board-certified or board-eligible;
 - 12. If the trauma center is designated as a Level I Pediatric trauma center, ensure that the following trauma team members are fellowship-trained:
 - a. The surgeon credentialed for pediatric trauma care required in Table 13.1(C)(2)(a)(iii),
 - b. The pediatric emergency medicine physician required in Table 13.1(C)(2)(c),
 - c. The pediatric-credentialed orthopedic surgeon required in Table 13.1(C)(3)(b),
 - d. The pediatric-credentialed neurosurgeon required in Table 13.1(C)(3)(d), and
 - e. The pediatric-credentialed critical care medicine physician required in Table 13.1(C)(3)(f);
 - 13. If the trauma center is designated as a Level II Pediatric trauma center, ensure that:
 - a. The pediatric-credentialed critical care medicine physician required in Table 13.1(C)(3)(f) is fellowship-trained; and
 - b. A fellowship-trained pediatric emergency medicine physician provides supervision for pediatric emergency trauma care and is appointed as a liaison to the multidisciplinary peer review committee established according to subsection (B)(5); and
 - 14. If the trauma center is not designated as a Level I Pediatric trauma center or Level II Pediatric trauma center and annually provides trauma care to 100 or more injured children younger than 15 years of age, ensure that the trauma center:
 - a. Complies with subsection (F)(13) and Table 13.1(C)(2)(a)(iii), (3)(b), (3)(d), and (3)(f) and (F)(2); and
 - b. Has a:
 - i. Pediatric emergency department area,
 - ii. Pediatric intensive care area, and
 - iii. Pediatric-specific trauma performance improvement program.
- G.** In addition to the requirements in subsections (A) through (E), the owner of a trauma center designated based on meeting the applicable standards specified in this Section and Table 13.1 shall ensure that the trauma center:
1. Establishes, documents, and implements a patient transfer plan, consistent with A.A.C. R9-10-211, that include:
 - a. The criteria for transferring a patient,
 - b. The health care institution to which a patient meeting specific criteria will be transferred,
 - c. The personnel members who are responsible for coordinating the transfer of a patient, and
 - d. The process for transferring a patient;
 2. Participates in state, local, or regional trauma-related activities such as:
 - a. The State Trauma Advisory Board, established by A.R.S. § 36-2222;
 - b. A regional emergency medical services coordinating council described in A.R.S. § 36-2222(A)(3);
 - c. Trauma Registry Users Group, established by the Department;
 - d. Trauma Managers Workgroup, established by the Department; or
 - e. Injury Prevention Council;
 3. Participates in injury prevention programs specific to the trauma center's patient population at the national, regional, state, or local levels;
 4. Except for a Level IV trauma center, conducts trauma care continuing education activities for physicians, trauma center personnel members, and EMCTs;
 5. If the trauma center holds a designation as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, establishes and maintains:
 - a. An injury prevention program:
 - i. Independently or in collaboration with other health care institutions, health advocacy groups, or the Department; and
 - ii. That includes:
 - (1) Designating a prevention coordinator who serves as the trauma center's representative for injury prevention and injury control activities;
 - (2) Carrying out injury prevention and injury control activities, including activities specific to the patient population;
 - (3) Conducting injury control studies;
 - (4) Monitoring the progress and effect of the injury prevention program; and
 - (5) Providing injury prevention and injury control information resources for the public; and
 - b. An educational outreach program:
 - i. Independently or in collaboration with other health care institutions, health advocacy groups, or the Department;
 - ii. That includes providing education to physicians, trauma center personnel members, EMCTs, and the general public; and
 - iii. That may include education about:
 - (1) Injury prevention,
 - (2) Trauma care,
 - (3) Other topics specific to the patient population,
 - (4) Criteria for assessing a patient who may require trauma care,
 - (5) Criteria for the transfer of a patient requiring trauma care; and
 6. If the trauma center holds a designation as a Level I trauma center or Level I Pediatric trauma center:
 - a. Establishes and maintains, either independently or in collaboration with other hospitals, a residency program or fellowship program that provides advanced

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medical training in emergency medicine, general surgery, orthopedic surgery, or neurosurgery;

- b. Participates in the provision of a trauma critical care course;
 - c. Conducts or participates in research related to trauma and trauma care; and
 - d. Maintains an Institutional Review Board, established consistent with 45 CFR Part 46, to review biomedical and behavioral research related to trauma and trauma care involving human subjects, conducted, funded, or sponsored by the trauma center, in order to protect the rights of the human subjects of such research.
- H.** In addition to the requirements in subsections (A) through (E), the owner of a trauma center designated based on meeting the applicable standards specified in this Section and Table 13.1 shall:
1. Ensure the presence of a surgeon at all operative procedures;
 2. If the trauma center provides emergency medicine, neurosurgery, orthopedic surgery, anesthesiology, critical care, or radiology as an organized service, ensure that:
 - a. A physician from the organized service is appointed to act as a liaison between the organized service and the trauma center's trauma service;
 - b. The physician in subsection (H)(2)(a) completes:
 - i. If the trauma center's designation is for a three-year period, at least 48 hours of trauma-related continuing medical education during the term of the designation;
 - ii. If the trauma center's designation is for a one-year period, at least 16 hours of trauma-related continuing medical education during the term of the designation; and
 - iii. If the trauma center is designated as a Level I Pediatric trauma center or Level II Pediatric trauma center, at least 12 of the 48 hours required in subsection (H)(2)(b)(i) or four of the 16 hours required in subsection (H)(2)(b)(ii) in pediatric trauma-related continuing medical education; and
 - c. If the trauma center is required by Table 13.1 to have a multidisciplinary peer review committee, ensure the physician in subsection (H)(2)(a) attends at least 50% of the meetings of the multidisciplinary peer review committee;
 3. Ensure that, when a physician is on-call for general surgery, neurosurgery, or orthopedic surgery, the physician is not on-call or on a back-up call list at another health care institution;
 4. Ensure that policies and procedures are established, documented, and implemented for:
 - a. Except for a Level IV trauma center, the formulation of blood products to be available during an event requiring multiple blood transfusions for a patient or patients; and
 - b. For a Level IV trauma center, the expedited release of blood products during an event requiring multiple blood transfusions for a patient or patients;
 5. Ensure that the patient transfer plan required in subsection (G)(1) includes processes for transferring a patient needing:
 - a. Acute hemodialysis or pediatric trauma care to a hospital providing the required service if the trauma center is designated as a:
 - i. Level III or Level IV trauma center; or
 - ii. Level II trauma center and does not provide, as applicable, acute hemodialysis or pediatric trauma care;
 - b. Burn care as an organized service, acute spinal cord management, microvascular surgery, or replant surgery to a hospital providing the required service if the trauma center is designated as a:
 - i. Level III or Level IV trauma center; or
 - ii. Level I or Level II trauma center and does not provide, as applicable, burn care as an organized service, acute spinal cord management, microvascular surgery, or replant surgery; or
 - c. Another service that the trauma center is not authorized or not able to provide to a hospital providing the required service;
 6. Except for a Level IV trauma center or as provided in subsection (I), require that:
 - a. An emergency medicine physician is present in the emergency department at all times;
 - b. A surgeon on the trauma team is present in the emergency department:
 - i. For a patient:
 - (1) If an adult, with a systolic blood pressure less than 90 mm Hg or, if a child, with confirmed age-specific hypotension;
 - (2) With respiratory compromise, respiratory obstruction, or intubation;
 - (3) Who is transferred from another hospital and is receiving blood to maintain vital signs;
 - (4) Who has a gunshot wound to the abdomen, neck, or chest;
 - (5) Who has a Glasgow Coma Scale score less than 8 associated with an injury attributed to trauma; or
 - (6) Who is determined by an emergency department physician to have an injury that has the potential to cause prolonged disability or death; and
 - ii. No later than the following times:
 - (1) For a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, within 15 minutes after notification or at the time the patient arrives in the emergency department, whichever is later; or
 - (2) For a Level III trauma center, within 30 minutes after notification or at the time the patient arrives in the emergency department, whichever is later; and
 - c. One of the following anesthesia personnel members is available for an operative procedure on a patient at the indicated time point:
 - i. For a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, an anesthesiologist, anesthesiology chief resident, or certified registered nurse anesthetist is present in the emergency department or in an operating room area awaiting the patient no later than 15 minutes after patient arrival in the emergency department; and
 - ii. For a Level III trauma center, an anesthesiologist, anesthesiology chief resident, or certified registered nurse anesthetist is present in the emergency department or in an operating room area awaiting the patient no later than 30 minutes after patient arrival in the emergency department;
 7. For a clinical capability required for the trauma center according to Table 13.1(C)(3), require that the on-call radiologist, critical care medicine physician, or surgical specialist is available to provide medical services, as applicable to the specialist, for a patient requiring trauma care within 45 minutes after notification; and

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8. For personnel members assigned to an operating room team according to subsection (F)(9), require that the personnel members on the operating room team are on the premises of the trauma center while on duty or:
 - a. For a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, Level II Pediatric trauma center:
 - i. Are available to provide operative services for a patient requiring trauma care within 15 minutes after notification or patient arrival at the trauma center, whichever is later; and
 - ii. Have response times and patient outcomes monitored through the performance improvement program; and
 - b. For a Level III trauma center or Level IV trauma center, if the Level IV trauma center provides surgical services:
 - i. Are available to provide operative services for a patient requiring trauma care within 30 minutes after notification or patient arrival at the trauma center, whichever is later; and
 - ii. Have response times and patient outcomes monitored through the performance improvement program.
 - I. The Department shall consider a trauma center designated based on meeting the applicable standards specified in this Section and Table 13.1 to be in compliance with subsection (H)(6)(a), (b), or (c), as applicable, if the trauma center has documentation showing that:
 1. The individual required to be present at the indicated location and within the indicated time period was present 80% or more of the time, and
 2. The trauma center monitors the rate of compliance with subsection (H)(6) and patient outcomes through the performance improvement program.
 - J. The requirement in subsection (H)(6)(b) applies whether or not the owner of a trauma center allows a surgery resident in the fourth or fifth year of residency training to begin treating a patient described in subsection (H)(6)(b)(i) while awaiting the arrival of the surgeon on the trauma team, as required in subsection (H)(6)(b)(ii)(1) or (2).
 - K. An ALS base hospital certificate holder that chooses to submit trauma registry information to the Department, as allowed by A.R.S. § 36-2221(A), shall:
 1. Include in the ALS base hospital's trauma registry at least the information required in R9-25-1309(A) for each patient who meets one or more of the criteria in subsections (C)(1)(a) through (c), and
 2. Comply with the submission requirements in subsections (C)(2) and (3).
- Historical Note**
- New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1308 renumbered to R9-25-1304; new Section R9-25-1308 renumbered from R9-25-1313 and amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3). Incomplete citations to Table 13.1(C)(3)(f) under subsections (F)(12)(e) and (F)(13)(a) corrected at the request of the Department (Supp. 18-4).
- R9-25-1309. Trauma Registry Data (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))**
- A. A trauma registry established according to R9-25-1308(B)(1) includes the following in the record of a patient's episode of care, as defined in A.A.C. R9-11-101, for each patient meeting the criteria in R9-25-1308(C)(1):
 1. An identification code specific to the health care institution that had contact with the patient during the episode of care;
 2. Demographic information about the patient:
 - a. The unique number assigned by the health care institution to the patient;
 - b. A code indicating whether the patient's record will be submitted to the Department as required in R9-25-1308(C)(2);
 - c. The unique number assigned by the health care institution for the episode of care;
 - d. The date the patient arrived at the health care institution for the episode of care;
 - e. For the episode of care, a code indicating whether the patient:
 - i. Was directly admitted to the health care institution,
 - ii. Was admitted to the health care institution through the emergency department,
 - iii. Was seen in the emergency department then transferred to another health care institution by an ambulance service or emergency medical services provider,
 - iv. Was seen in the emergency department and discharged, or
 - v. Died in the emergency department or was dead on arrival;
 - f. The patient's first name, middle initial, and last name;
 - g. The patient's Social Security Number;
 - h. The patient's date of birth and age;
 - i. Codes indicating the patient's gender, race, and ethnicity;
 - j. The zip code of the patient's residence or, if applicable, an indication of why no zip code was reported; and
 - k. The city, state, and county of the patient's residence;
 3. Information about the occurrence of the patient's injury:
 - a. The date and time the injury occurred;
 - b. The ICD-code describing the type of location where the injury occurred;
 - c. The zip code of the location where the injury occurred;
 - d. The city, state, and county where the injury occurred;
 - e. A code indicating whether the patient's injury resulted from blunt force trauma, a penetrating wound, or a burn;
 - f. The ICD-code indicating the primary mechanism or cause of the patient's injury resulting in the episode of care and the manner or intent through which the injury occurred;
 - g. A description of the cause and circumstances leading to the patient's injury;
 - h. Whether the patient was using a protective device or safety equipment at the time of the injury and, if so, the type or types of protective device or safety equipment being used;
 - i. If the patient was subject to the requirements in A.R.S. § 28-907 at the time of the injury, whether the patient was using a child restraint system, as defined in A.R.S. § 28-907, at the time of the injury and, if so, the type of child restraint system being used; and
 - j. If the patient's injury resulted from a motor vehicle crash, a code describing the status of airbag deployment;
 4. Information about the patient's arrival at the health care institution:
 - a. A code identifying the mode of transportation by which the patient arrived at the health care institution; and
 - b. If applicable:

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- i. The ambulance service or emergency medical services provider that transported the patient to the health care institution;
 - ii. The unique identifier given by the ambulance service or emergency medical services provider to the incident during which the patient received EMS;
 - iii. The date the ambulance service or emergency medical services provider transported the patient to the trauma center; and
 - iv. If the patient was transferred from another health care institution, the name of the other health care institution;
5. Information about the health care institution's assessment or treatment of the patient in the emergency department:
 - a. A code indicating which of the criteria in R9-25-1308(C)(1) the patient met;
 - b. A code indicating whether an ambulance service or emergency medical services provider transported the patient to the health care institution and, if so, the criteria used by the transporting ambulance service or emergency medical services provider for transporting the patient to the health care institution;
 - c. The date and time the patient arrived at the emergency department of the health care institution for the episode of care;
 - d. The date and time the patient died or left the emergency department of the health care institution for the episode of care;
 - e. The length of time in hours and in minutes that the patient remained in the emergency department of the health care institution during the episode of care;
 - f. If trauma team activation occurred, the time when the last trauma team personnel member arrived at their assigned location in the health care institution;
 - g. Whether the patient showed signs of life when the patient arrived at the health care institution;
 - h. The values of the following for the patient at the time of their first assessment at the health care institution:
 - i. Pulse rate;
 - ii. Respiratory rate;
 - iii. Oxygen saturation;
 - iv. Systolic blood pressure; and
 - v. Temperature, including the units of temperature and the route used to measure the patient's temperature;
 - i. A code indicating whether the patient was receiving respiratory assistance at the time the patient's respiratory rate was assessed;
 - j. A code indicating whether the patient was receiving supplemental oxygen at the time the patient's oxygen saturation was assessed;
 - k. Codes indicating the Glasgow Coma Score for:
 - i. Eye opening,
 - ii. Verbal response to stimulus, and
 - iii. Motor response to stimulus;
 - l. The patient's total Glasgow Coma Score;
 - m. Whether the patient was intubated at the time of the patient's assessments in subsections (A)(5)(h)(ii), (k)(ii), and (l);
 - n. A code indicating whether a paralytic agent or sedative had been administered to the patient at the time the patient's Glasgow Coma Score was measured;
 - o. A code indicating another factor that may have affected the patient's Glasgow Coma Score;
 - p. A revised trauma score for the patient, auto-calculated based on the patient's systolic blood pressure, respiratory rate, and Glasgow Coma Score;
 - q. A code indicating the status of alcohol use by the patient and, if applicable, the blood alcohol concentration in the patient's blood;
 - r. A code indicating the status of drug use by the patient and, if applicable, the code for each drug class detected in the patient's blood;
 - s. A code indicating the disposition of the patient at the time the patient was discharged from the emergency department; and
 - t. If the patient was transferred to another health care institution upon discharge from the emergency department:
 - i. The name of the health care institution to which the patient was transferred;
 - ii. The name of the ambulance service or emergency medical services provider providing the interfacility transport;
 - iii. A code indicating the reason for transfer; and
 - iv. If there was a delay in transferring the patient to another health care institution, a code indicating the reason for the delay;
6. Information about the patient's discharge from the health care institution:
 - a. The date and time the patient was discharged from the health care institution;
 - b. The length of time the patient remained as an inpatient, as defined in A.A.C. R9-10-201, in the health care institution;
 - c. The length of time the patient remained in the health care institution's intensive care unit;
 - d. A code indicating whether the patient was alive or dead at the time of discharge from the health care institution;
 - e. The ICD-code for each injury identified in the patient, including an indication of whether the ICD-code is for:
 - i. The principle diagnosis, the reason believed by the health care institution to be chiefly responsible for the patient's need for the episode of care; or
 - ii. A secondary diagnosis, another reason believed by the health care institution to have contributed to the patient's need for the episode of care;
 - f. The patient's Injury Severity Score;
 - g. A code indicating the disposition of the patient at the time the patient was discharged from the health care institution;
 - h. Whether a report of suspected physical abuse was reported to law enforcement or as required by A.R.S. § 13-3620 or 46-454, if applicable, and, if so:
 - i. Whether an investigation into the suspected physical abuse was initiated by an entity to which the suspected physical abuse was reported; and
 - ii. If the patient is a child, whether the patient was discharged in the care of a person other than the person responsible for the care of the patient at the time the patient arrived at the health care institution; and
 - i. If the patient was transferred to a hospital upon discharge from the health care institution:
 - i. The name of the hospital to which the patient was transferred,
 - ii. The name of the ambulance service or emergency medical services provider providing the interfacility transport, and
 - iii. A code indicating the reason for transfer; and
 7. Financial information about the episode of care:
 - a. A code for the primary source of payment for the episode of care;

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- b. A code for a secondary source of payment for the episode of care, if applicable;
 - c. The total amount of charges for the episode of care; and
 - d. The total amount collected by the health care institution for the episode of care.
- B.** In addition to the information required in subsection (A), a trauma registry established according to R9-25-1308(B)(1) by a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, Level II Pediatric trauma center, or Level III trauma center includes the following in the record of a patient's episode of care, as defined in A.A.C. R9-11-101, for each patient meeting the criteria in R9-25-1308(C)(1):
1. Demographic information about the patient:
 - a. The country of the patient's residence;
 - b. The country where the patient was found or from which an ambulance service or emergency medical services provider transported the patient; and
 - c. Any pre-existing medical conditions diagnosed for the patient, unrelated to the reason for the episode of care;
 2. Information about the occurrence of the patient's injury:
 - a. Whether the time specified according to subsection (A)(3)(a) is the actual time of occurrence or an estimate;
 - b. The street address of the location where the injury occurred or, if the location at which the injury occurred does not have a street address, another indicator of the location at which the injury occurred;
 - c. Any additional ICD-code describing the mechanism or cause of the patient's injury resulting in the episode of care and the manner or intent through which the injury occurred;
 - d. The ICD-code indicating the activity the patient was engaged in that resulted in the patient's injury;
 - e. If the patient's injury resulted from a crash involving a means of transportation, including a motor vehicle, other motorized means of transportation, watercraft, bicycle, or aircraft, a code describing the type of vehicle in use at the time of the injury and the patient's location in the vehicle;
 - f. A description of any issues related to a protective device or safety equipment in use at the time of the patient's injury; and
 - g. Whether the patient's injury occurred during the patient's paid employment and, if so, a code indicating:
 - i. The type of occupation associated with the patient's employment, and
 - ii. The patient's occupation;
 3. A code indicating whether EMS was provided to the patient and, if applicable, the type of transport provided to the patient;
 4. If EMS was provided to the patient, whether a prehospital incident history report was provided to the trauma center and, if so:
 - a. The date on the prehospital incident history report;
 - b. The identifying number on the prehospital incident history report assigned by the ambulance service or emergency medical services provider;
 - c. The date and time the ambulance service or emergency medical services provider was dispatched, as defined in R9-25-901, to the scene;
 - d. The date and time the ambulance service or emergency medical services provider responded to the dispatch;
 - e. The date and time the ambulance service or emergency medical services provider arrived at the scene;
 5. The amount of time that elapsed from the date and time the ambulance service or emergency medical services provider:
 - a. Was dispatched and the date and time the ambulance service or emergency medical services provider arrived at the scene,
 - b. Arrived at the scene and the date and time the ambulance service or emergency medical services provider left the scene,
 - c. Left the scene and the date and time the ambulance service or emergency medical services provider arrived at the transport destination, and
 - d. Was dispatched and the date and time the ambulance service or emergency medical services provider arrived at the transport destination;
 6. Whether the patient arrived at the trauma center for treatment of the injury resulting in the episode of care through an interfacility transport;
 7. If the patient arrived at the trauma center through an interfacility transport, the following information about the health care institution at which the patient was seen immediately before arriving at the trauma center:
 - a. The name of the health care institution;
 - b. The date and time the patient arrived at the health care institution in subsection (B)(7)(a); and
 - c. The date and time the patient left the health care institution in subsection (B)(7)(a);
 8. If the patient arrived at the health care institution in subsection (B)(7)(a) through an interfacility transport, the information in subsections (B)(7)(a) through (c) about
 - f. The date and time the ambulance service or emergency medical services provider established contact with the patient;
 - g. The date and time the ambulance service or emergency medical services provider left the scene;
 - h. The date and time the ambulance service or emergency medical services provider arrived at the health care institution that was the transport destination;
 - i. The date and time the patient's pulse, respiration, oxygen saturation, and systolic blood pressure were first measured;
 - j. At the date and time the patient's pulse, respiration, oxygen saturation, and systolic blood pressure were first measured, the patient's:
 - i. Pulse rate,
 - ii. Respiratory rate,
 - iii. Oxygen saturation, and
 - iv. Systolic blood pressure;
 - k. Whether the patient was intubated at the date and time the patient's pulse, respiration, and oxygen saturation were first measured;
 - l. Codes indicating the Glasgow Coma Score for:
 - i. Eye opening,
 - ii. Verbal response to stimulus, and
 - iii. Motor response to stimulus;
 - m. The patient's total Glasgow Coma Score;
 - n. A code indicating whether a paralytic agent or sedative had been administered to the patient at the date and time the patient's Glasgow Coma Score was measured;
 - o. A revised trauma score for the patient, auto-calculated based on the patient's systolic blood pressure, respiratory rate, and Glasgow Coma Score;
 - p. Codes indicating all airway management procedures performed on the patient by an ambulance service or emergency medical services provider before the patient's arrival at the first health care institution; and
 - q. Whether the patient experienced cardiac arrest subsequent to the injury before the patient's arrival at the first health care institution;

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- each health care institution at which the patient was seen for the injury resulting in the episode of care before arriving at the health care institution in subsection (B)(7)(a);
9. If the patient arrived at the trauma center through an interfacility transport, for each health care institution at which the patient was seen for the injury resulting in the episode of care before arriving at the trauma center, information for the first instance of assessing the patient's:
 - a. Respiratory rate,
 - b. Systolic blood pressure,
 - c. The patient's total Glasgow Coma Score, and
 - d. Revised trauma score; and
 10. Information about the patient's episode of care at the trauma center and the patient's discharge from the trauma center:
 - a. The patient's height and weight when the patient arrived at the trauma center;
 - b. The number of days the patient spent on a mechanical ventilator;
 - c. If applicable, the identification number assigned by a medical examiner or alternate medical examiner, as defined in A.R.S. § 11-591, to the documentation of the patient's autopsy;
 - d. The total length of time the patient remained at the trauma center before discharge;
 - e. For each ICD-code identified according to subsection (A)(6)(e), a code that reflects the severity of the injury to which the ICD-code refers;
 - f. For each ICD-code identified according to subsection (A)(6)(e) that does not include an indication of the part of the patient's body that was injured, a code supplementing the ICD-code that indicates the part of the body that was injured;
 - g. For each procedure performed on the patient:
 - i. The ICD-code for the procedure,
 - ii. The health care institution at which the procedure was performed,
 - iii. A code indicating the organized service unit within the health care institution in which the procedure was performed, and
 - iv. The date and time the procedure was begun;
 - h. Any complications experienced by the patient while the patient remained at the trauma center;
 - i. The Abbreviated Injury Scale code indicating the severity of each of the patient's injuries;
 - j. The Abbreviated Injury Scale code indicating the body region affected by each of the patient's injuries;
 - k. If the trauma center is designated as a Level I trauma center or Level I Pediatric trauma center, the six-digit Abbreviated Injury Scale code and the software version used to calculate the six-digit Abbreviated Injury Scale code; and
 - l. The patient's probability of survival.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1309 renumbered to R9-25-1305; new Section R9-25-1309 made by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1310. Trauma Registry Data Quality Assurance (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, and 36-2225(A)(5) and (6))

- A. To ensure the completeness and accuracy of trauma registry reporting, a health care institution submitting trauma registry information to the Department shall allow the Department to review the following, upon prior notice from the Department of at least five business days:
 1. The health care institution's trauma registry or other database containing trauma registry information;
 2. Patient medical records; and
 3. Any record, other than those specified in subsections (A)(1) and (2), that may contain information about diagnostic evaluation or treatment provided to a patient receiving trauma care.

- B. Upon prior notice from the Department of at least five business days, a health care institution submitting trauma registry information to the Department shall provide the Department with all patient medical records for a time period specified by the Department, to allow the Department to determine the accuracy and completeness of the information submitted to the trauma registry for patients receiving trauma care during the period.
- C. For purposes of subsection (B), the Department considers a health care institution to be in compliance with R9-25-1308(C)(2) if the health care institution submitted to the Department trauma registry information for 97% of the patients receiving trauma care during the period.
- D. If trauma registry information submitted to the Department by a health care institution according to R9-25-1308(C)(2) and (3) is not in compliance with requirements in R9-25-1308 or R9-25-1309, the Department shall:
 1. Notify the health care institution that the trauma registry information submitted to the Department is not in compliance with requirements in R9-25-1308 or R9-25-1309, and
 2. Identify the revisions or actions that are needed to bring the data into compliance with R9-25-1308 and R9-25-1309.
- E. A health care institution that has trauma registry information returned, as provided in subsection (D), shall:
 1. Revise the trauma registry information as identified by the Department, and
 2. Submit the revised data to the Department within 15 business days after the date the Department notified the health care institution according to subsection (D)(1) or within a longer period agreed upon between the Department and the health care institution.
- F. Within 15 business days after receiving a written request from the Department that includes a simulated patient medical record, a health care institution submitting trauma registry information to the Department shall prepare and submit to the Department the information required in R9-25-1309, applicable to the Level of health care institution, for the patient described in the simulated patient medical record.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1310 repealed; new Section R9-25-1310 renumbered from R9-25-1406 and amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1311. Repealed**Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1311 repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1312. Renumbered**Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1312 renumbered to R9-25-1307 by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1313. Renumbered

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CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1313 renumbered to R9-25-1308 by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1314. Expired

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (Supp. 12-3).

R9-25-1315. Repealed

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section repealed

by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

Table 1. Repealed

Historical Note

New Table made by final rulemaking at 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Table 1 Application Processing Time Periods repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

Exhibit I. Repealed

Historical Note

New Exhibit made by final rulemaking at 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Exhibit 1 Arizona Trauma Center Standards repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

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CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

Table 13.1. Arizona Trauma Center Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**Key:**

E = Essential and required

I(P) = Level I Pediatric trauma center

II(P) = Level II Pediatric trauma center

ICU = Intensive care unit

In-house = On the premises of the health care institution

ISS = Injury severity score, the sum of the squares of the abbreviated injury scale scores of the three most severely injured body regions

Child life = A program of support to injured children and their families to reduce stress and anxiety by:

- a. Explaining medical equipment and procedures to children in a non-threatening and age-appropriate manner,
- b. Explaining a diagnosis to a child in an age-appropriate manner, and
- c. Helping children and their families develop strategies to cope with the diagnosis and expected outcome

Trauma Facilities Criteria	Levels					
	I	I(P)	II	II(P)	III	IV
A. Institutional Organization						
1. Trauma service	E	E	E	E	E	-
2. Trauma program medical director	E	E	E	E	E	-
3. Trauma multidisciplinary peer review committee	E	E	E	E	E	-
B. Hospital Departments/Divisions/Sections						
1. Surgery	E	E	E	E	E	-
2. Neurosurgery	E	E	E	E	-	-
3. Orthopedic surgery	E	E	E	E	E	-
4. Emergency medicine	E	E	E	E	E	-
5. Pediatric emergency department area	-	E	-	E	-	-
6. Anesthesia	E	E	E	E	E	-
C. Clinical Capabilities						
1. Written on-call schedule for each component of the trauma service if a team member is not in-house	E	E	E	E	E	E
2. Physician specialist available 24 hours/day						
a. General surgeon	E	E	E	E	E	-
i. Published back-up schedule	E	E	E	E	-	-
ii. Dedicated to single hospital when on-call	E	E	E	E	-	-
iii. Surgeon credentialed for pediatric trauma care	-	E	-	E	-	-
b. Emergency medicine physician	E	E	E	E	E	-
c. Pediatric emergency medicine physician	-	E	-	-	-	-
3. Specialist on-call and available 24 hours/day						
a. Orthopedic surgeon	E	E	E	E	E	-
b. Pediatric-credentialed orthopedic surgeon	-	E	-	E	-	-
c. Neurosurgeon	E	E	E	E	-	-
d. Pediatric-credentialed neurosurgeon	-	E	-	E	-	-
e. Critical care medicine physician	E	E	E	E	-	-
f. Pediatric-credentialed critical care medicine physician	-	E	-	E	-	-
g. Radiologist	E	E	E	E	E	
h. Hand surgeon	E	E	E	E	-	-
i. Ophthalmic surgeon	E	E	E	E	-	-
j. Plastic surgeon	E	E	E	E	-	-
k. Thoracic surgeon	E	E	E	E	-	-
l. Cardiac surgeon	E	E	-	-	-	-
m. Obstetrics/gynecologic surgeon	E	E	-	-	-	-
n. Oral/maxillofacial surgeon (plastic surgeon, otolaryngologist, or oral/maxillofacial surgeon)	E	E	E	E	-	-

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Table 13.1 Continued, Arizona Trauma Center Standards

Trauma Facilities Criteria	Levels					
	I	I(P)	II	II(P)	III	IV
4. Qualified anesthesia personnel member on-call and available 24 hours/day						
a. Physician or certified nurse anesthetist	E	E	E	E	E	-
b. Physician or certified nurse anesthetist with a pediatric credential	-	E	-	E	-	-
5. Volume performance standards:						
a. 1200 trauma admissions per year,	E	-	-	-	-	-
b. 240 admissions with ISS > 15 per year, or						
c. Average of 35 patients with ISS > 15 for each trauma team surgeon per year						
d. 200 trauma admissions < 15 years of age per year,	-	E	-	-	-	-
D. Facilities/Resources/Capabilities						
1. Emergency department						
a. Designated physician director	E	E	E	E	E	-
b. Personnel members with pediatric-specific trauma-related training	-	E	-	E	-	-
c. Resuscitation equipment for patients of all sizes						
i. Airway control and ventilation equipment	E	E	E	E	E	E
ii. Pulse oximetry	E	E	E	E	E	E
iii. Suction devices	E	E	E	E	E	E
iv. Electrocardiograph-oscilloscope-defibrillator	E	E	E	E	E	E
v. Color-coded, length-based tool to assist with medication dosing and equipment selection for children	E	E	E	E	E	E
vi. Central venous pressure monitoring equipment	E	E	E	E	E	-
vii. Standard intravenous fluids and administration sets	E	E	E	E	E	E
viii. Large-bore intravenous catheters	E	E	E	E	E	E
ix. Sterile surgical sets for:						
(1) Airway control/cricothyrotomy	E	E	E	E	E	E
(2) Thoracostomy	E	E	E	E	E	E
(3) Central line insertion	E	E	E	E	E	-
(4) Thoracotomy	E	E	E	E	E	-
x. Arterial catheters	E	E	E	E	-	-
xi. X-ray availability 24 hours/day	E	E	E	E	E	-
xii. Thermal control equipment						
(1) For patient	E	E	E	E	E	E
(2) For fluids and blood	E	E	E	E	E	E
xiii. Rapid infusion system/capability	E	E	E	E	E	E
xiv. Qualitative end-tidal CO ₂ monitoring	E	E	E	E	E	E
d. Communication with EMS personnel	E	E	E	E	E	E
e. Capability to resuscitate, stabilize, and transfer pediatric patients	E	E	E	E	E	E
2. Operating room						
a. Immediately available 24 hours/day	E	E	E	E	-	-
b. Size-specific equipment						
i. Cardiopulmonary bypass	E	E	-	-	-	-
ii. Operating microscope	E	E	-	-	-	-
c. Thermal control equipment						
i. For patient	E	E	E	E	E	E
ii. For fluids and blood	E	E	E	E	E	E
d. X-ray capability including C-arm image intensifier	E	E	E	E	E	-
e. Endoscopes, bronchoscope	E	E	E	E	E	-
f. Craniotomy instruments	E	E	E	E	-	-
g. Equipment for long bone and pelvic fixation	E	E	E	E	E	-

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CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

Table 13.1 Continued, Arizona Trauma Center Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

Trauma Facilities Criteria	Levels					
	I	I(P)	II	II(P)	III	IV
h. Rapid infusion system/capability	E	E	E	E	E	E
3. Postanesthesia recovery room or surgical ICU						
a. Registered nurses available 24 hours/day	E	E	E	E	E	E
b. Equipment for monitoring and resuscitation	E	E	E	E	E	E
c. Intracranial pressure monitoring equipment	E	E	E	E	-	-
d. Pulse oximetry	E	E	E	E	E	E
e. Thermal control equipment						
i. For patient	E	E	E	E	E	E
ii. For fluids and blood	E	E	E	E	E	E
4. ICU or critical care unit for injured patients						
a. Pediatric ICU	-	E	-	E	-	-
b. Registered nurses with trauma-related training	E	E	E	E	E	-
c. Registered nurses with pediatric-specific trauma-related training	-	E	-	E	-	-
d. Designated surgical director or surgical co-director	E	E	E	E	E	-
e. Physician (fourth year of residency training or higher) assigned to surgical ICU service and in-house 24 hours/day	E	E	-	-	-	-
f. Physician (fourth year of residency training or higher) with a pediatric credential assigned to surgical ICU service and in-house 24 hours/day	-	E	-	-	-	-
g. Surgically directed and staffed ICU service	E	E	E	E	-	-
h. Equipment for monitoring and resuscitation	E	E	E	E	E	-
i. Intracranial pressure monitoring equipment	E	E	E	E	-	-
5. Respiratory therapy services (Available 24 hours/day)						
a. Available in-house	E	E	E	E	-	-
b. On-call and available within 45 minutes after notification	-	-	-	-	E	-
6. Radiological services (Available 24 hours/day)						
a. In-house radiology technologist	E	E	E	E	-E	-
b. Radiology technologist on-call and available within 45 minutes after notification	-	-	-	-	-	E
c. Resuscitation equipment for patients of all sizes, as specified in subsection (D)(1)(c)(i) to (v)	E	E	E	E	E	E
d. Angiography	E	E	E	E	-	-
e. Sonography	E	E	E	E	E	-
f. Computed tomography (CT)	E	E	E	E	E	-
i. In-house CT technician	E	E	E	E	-	-
ii. CT technician on-call and available within 45 minutes after notification	-	-	-	-	E	-
f. Magnetic resonance imaging	E	E	E	E	-	-
7. Clinical laboratory service (Available 24 hours/day)						
a. Standard analyses of blood, urine, and other body fluids	E	E	E	E	E	E
b. Blood typing and cross-matching	E	E	E	E	E	-
c. Coagulation studies	E	E	E	E	E	E
d. Comprehensive blood bank or access to a community central blood bank and adequate storage facilities	E	E	E	E	E	-
e. Blood gases and pH determinations	E	E	E	E	E	E
f. Microbiology	E	E	E	E	E	-
8. Child maltreatment assessment capability	E	E	E	E	E	E
E. Rehabilitation Services Specific to the Patient Population						
1. Physical therapy	E	E	E	E	E	-
2. Occupational therapy	E	E	E	E	-	-
3. Speech therapy	E	E	E	E	-	-

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Table 13.1 Continued, Arizona Trauma Center Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

Trauma Facilities Criteria	Levels					
	I	I(P)	II	II(P)	III	IV
F. Social Services Specific to the Patient Population						
1. Social services	E	E	E	E	E	-
2. Child life program	-	E	-	E	-	-
G. Performance Improvement						
1. Multidisciplinary peer review committee	E	E	E	E	E	-
2. Performance improvement personnel dedicated to the trauma service	E	E	E	E	-	-

(A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

Historical Note

Table 13.1, Arizona Trauma Center Standards, made by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3). Subsections under (D)(2) were incorrectly labeled at 23 A.A.R. 2656; clerical error corrected and labeled as f through h (Supp. 22-2).

ARTICLE 14. REPEALED**R9-25-1401. Repealed****Historical Note**

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Section repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1402. Repealed**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Section repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

Table 1. Repealed**Historical Note**

New Table 1 made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Table 1 Trauma Registry Data Set, repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1403. Repealed**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Section

repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1404. Expired**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (Supp. 12-3).

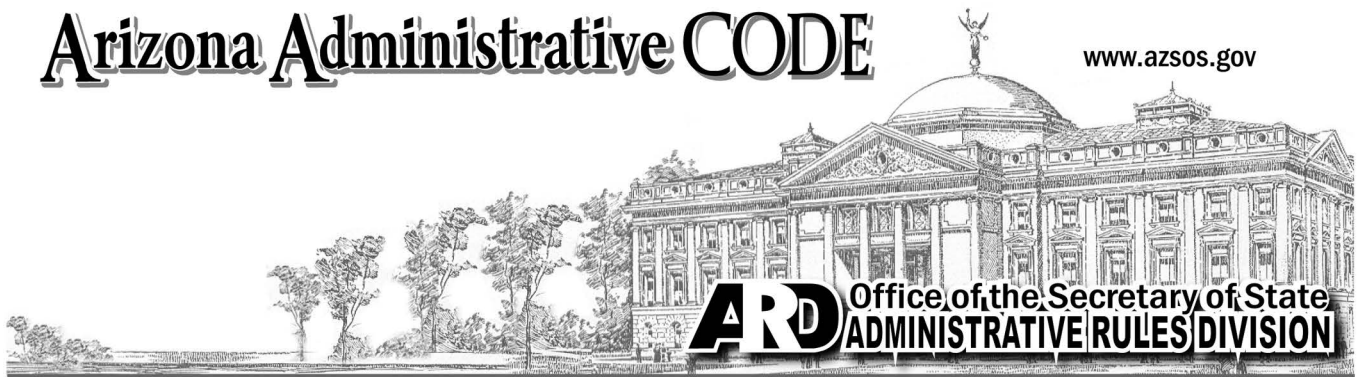
R9-25-1405. Repealed**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Section heading corrected at request of the Department, Office File No. M12-82, filed March 5, 2012 (Supp. 11-4). Section repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1406. Renumbered**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Section R9-25-1406 renumbered to R9-25-1310, effective January 1, 2018 (Supp. 17-3).

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TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY - AIR POLLUTION CONTROL

The table of contents on page one contains links to the referenced page numbers in this Chapter.
Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
April 1, 2023 through June 30, 2023

R18-2-1501.	Definitions	215	R18-2-1509.	Emission Reduction and Smoke Management	
R18-2-1502.	Applicability	216		Techniques	218
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R18-2-1506.	Smoke Dispersion Evaluation	218	R18-2-1513.	Public Notification and Awareness Program;	
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Questions about these rules? Contact:

Department: Department of Environmental Quality
Address: 1110 W. Washington St.
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The release of this Chapter in Supp. 23-2 replaces Supp. 22-2, 1-227 pages.

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

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

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

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HOW TO USE THE CODE

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ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

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

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

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

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

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY - AIR POLLUTION CONTROL

Authority: A.R.S. § 49-104 et seq.

Supp. 23-2

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Article 9, consisting of Sections R18-2-901 through R18-2-905, renumbered to Article 11, Sections R18-2-1101 through R18-2-1105 (Supp. 93-4).

Article 9 consisting of Sections R18-2-901 and R18-2-902 adopted effective February 26, 1988.

Former Article 9 consisting of Sections R9-3-901, R9-3-903 through R9-3-906, R9-3-910, R9-3-913, and R9-3-922 repealed effective February 26, 1988.

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Article 11 consisting of Sections R18-2-1101 and R18-2-1102 repealed effective September 26, 1990 (Supp. 90-3).

Article 11 consisting of Sections R9-3-1101, R9-3-1102, and Appendices 1 through 11 renumbered as Article 11, Sections R18-2-1101, R18-2-1102, and Appendices 1 through 11 (Supp. 87-3).

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Article 17, consisting of Sections R18-2-1701 through R18-2-1709, expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

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ARTICLE 1. GENERAL

R18-2-101. Definitions

The following definitions apply to this Chapter. Where the same term is defined in this Section and in the definitions Section for an Article of this Chapter, the Article-specific definition shall apply.

1. "Act" means the Clean Air Act of 1963 (P.L. 88-206; 42 U.S.C. 7401 through 7671q) as amended through December 31, 2011 (and no future editions).
2. "Actual emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in subsections (2)(a) through (e), except that this definition shall not apply for calculating whether a significant emissions increase as defined in R18-2-401 has occurred, or for establishing a plantwide applicability limitation as defined in R18-2-401. Instead, the definitions of projected actual emissions and baseline actual emissions in R18-2-401 shall apply for those purposes.
 - a. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period that precedes the particular date and that is representative of normal source operation. The Director may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored or combusted during the selected time period.
 - b. The Director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.
 - c. For any emissions unit that is or will be located at a source with a Class I permit and has not begun normal operations on the particular date, actual emissions shall equal the unit's potential to emit on that date.
 - d. For any emissions unit that is or will be located at a source with a Class II permit and has not begun normal operations on the particular date, actual emissions shall be based on applicable control equipment requirements and projected conditions of operation.
 - e. This definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL. Instead, the definitions of projected actual emissions and baseline actual emissions in R18-2-401 shall apply for those purposes.
3. "Administrator" means the Administrator of the United States Environmental Protection Agency.
4. "Affected facility" means, with reference to a stationary source, any apparatus to which a standard is applicable.
5. "Affected source" means a source that includes one or more units which are subject to emission reduction requirements or limitations under Title IV of the Act.
6. "Affected state" means any state whose air quality may be affected by a source applying for a permit, permit revision, or permit renewal and that is contiguous to Arizona or that is within 50 miles of the permitted source.
7. "Afterburner" means an incinerator installed in the secondary combustion chamber or stack for the purpose of incinerating smoke, fumes, gases, unburned carbon, and other combustible material not consumed during primary combustion.
8. "Air contaminants" means smoke, vapors, charred paper, dust, soot, grime, carbon, fumes, gases, sulfuric acid mist aerosols, aerosol droplets, odors, particulate matter, wind-borne matter, radioactive materials, or noxious chemicals, or any other material in the outdoor atmosphere.
9. "Air curtain destructor" means an incineration device designed and used to secure, by means of a fan-generated air curtain, controlled combustion of only wood waste and slash materials in an earthen trench or refractory-lined pit or bin.
10. "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants or combinations thereof in sufficient quantities, which either alone or in connection with other substances by reason of their concentration and duration are or tend to be injurious to human, plant or animal life, or cause damage to property, or unreasonably interfere with the comfortable enjoyment of life or property of a substantial part of a community, or obscure visibility, or which in any way degrade the quality of the ambient air below the standards established by the director. A.R.S. § 49-421(2).
11. "Air pollution control equipment" means equipment used to eliminate, reduce or control the emission of air pollutants into the ambient air.
12. "Air quality control region" (AQCR) means an area so designated by the Administrator pursuant to Section 107 of the Act and includes the following regions in Arizona:
 - a. Maricopa Intrastate Air Quality Control Region which is comprised of the County of Maricopa.
 - b. Pima Intrastate Air Quality Control Region which is comprised of the County of Pima.
 - c. Northern Arizona Intrastate Air Quality Control Region which encompasses the counties of Apache, Coconino, Navajo, and Yavapai.
 - d. Mohave-Yuma Intrastate Air Quality Control Region which encompasses the counties of La Paz, Mohave, and Yuma.
 - e. Central Arizona Intrastate Air Quality Control Region which encompasses the counties of Gila and Pinal.
 - f. Southeast Arizona Intrastate Air Quality Control Region which encompasses the counties of Cochise, Graham, Greenlee, and Santa Cruz.
13. "Allowable emissions" means the emission rate of a stationary source calculated using both the maximum rated capacity of the source, unless the source is subject to federally enforceable limits which restrict the operating rate or hours of operation, and the most stringent of the following:
 - a. The applicable standards as set forth in 40 CFR 60, 61 and 63;
 - b. The applicable emissions limitations approved into the state implementation plan, including those with a future compliance date; or,
 - c. The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.
14. "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.
15. "Applicable implementation plan" means those provisions of the state implementation plan approved by the Administrator or a federal implementation plan promul-

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- gated for Arizona or any portion of Arizona in accordance with Title I of the Act.
16. "Applicable requirement" means any of the following:
 - a. Any federal applicable requirement.
 - b. Any other requirement established pursuant to this Chapter or A.R.S. Title 49, Chapter 3.
 17. "Arizona Testing Manual" means sections 1 and 7 of the Arizona Testing Manual for Air Pollutant Emissions amended as of March 1992 (and no future editions).
 18. "ASTM" means the American Society for Testing and Materials.
 19. "Attainment area" means any area that has been identified in regulations promulgated by the Administrator as being in compliance with national ambient air quality standards.
 20. *"Begin actual construction" means, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. With respect to a change in method of operation this term refers to those onsite activities, other than preparatory activities, which mark the initiation of the change.*
 - a. For purposes of title I, parts C and D and section 112 of the clean air act, and for purposes of applicants that require permits containing limits designed to avoid the application of title I, parts C and D and section 112 of the clean air act, these activities include installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures but do not include any of the following, subject to subsection (20)(c):
 - i. Clearing and grading, including demolition and removal of existing structures and equipment, stripping and stockpiling of topsoil.
 - ii. Installation of access roads, driveways and parking lots.
 - iii. Installation of ancillary structures, including fences, office buildings and temporary storage structures, that are not a necessary component of an emissions unit or associated air pollution control equipment for which the permit is required.
 - iv. Ordering and onsite storage of materials and equipment.
 - b. For purposes other than those identified in subsection (20)(a), these activities do not include any of the following, subject to subsection (20)(c):
 - i. Clearing and grading, including demolition and removal of existing structures and equipment, stripping and stockpiling of topsoil and earthwork cut and fill for foundations.
 - ii. Installation of access roads, parking lots, driveways and storage areas.
 - iii. Installation of ancillary structures, including fences, warehouses, storerooms and office buildings, provided none of these structures impacts the design of any emissions unit or associated air pollution control equipment.
 - iv. Ordering and onsite storage of materials and equipment.
 - v. Installation of underground pipework, including water, sewer, electric and telecommunications utilities.
 - vi. Installation of building and equipment supports, including concrete forms, footers, pilings, foundations, pads and platforms, provided none of these supports impacts the design of any emissions unit or associated air pollution control equipment.
 - c. An applicant's performance of any activities that are excluded from the definition of "begin actual construction" under subsection (20)(a) or (b) shall be at the applicant's risk and shall not reduce the applicant's obligations under this Chapter. The director shall evaluate an application for a permit or permit revision and make a decision on the same basis as if the activities allowed under subsection (20)(a) or (b) had not occurred. A.R.S. § 49-401.01(7).
 21. "Best available control technology" (BACT) means an emission limitation, including a visible emissions standard, based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major source or major modification, taking into account energy, environmental, and economic impact and other costs, determined by the Director in accordance with R18-2-406(A)(4) to be achievable for such source or modification.
 22. "Btu" means British thermal unit, which is the quantity of heat required to raise the temperature of one pound of water 1°F.
 23. "Categorical sources" means the following classes of sources:
 - a. Coal cleaning plants with thermal dryers;
 - b. Kraft pulp mills;
 - c. Portland cement plants;
 - d. Primary zinc smelters;
 - e. Iron and steel mills;
 - f. Primary aluminum ore reduction plants;
 - g. Primary copper smelters;
 - h. Municipal incinerators capable of charging more than 50 tons of refuse per day;
 - i. Hydrofluoric, sulfuric, or nitric acid plants;
 - j. Petroleum refineries;
 - k. Lime plants;
 - l. Phosphate rock processing plants;
 - m. Coke oven batteries;
 - n. Sulfur recovery plants;
 - o. Carbon black plants using the furnace process;
 - p. Primary lead smelters;
 - q. Fuel conversion plants;
 - r. Sintering plants;
 - s. Secondary metal production plants;
 - t. Chemical process plants, which shall not include ethanol production facilities that produce ethanol by natural fermentation included in North American Industry Classification System codes 325193 or 312140;
 - u. Fossil-fuel boilers, combinations thereof, totaling more than 250 million Btus per hour heat input;
 - v. Petroleum storage and transfer units with a total storage capacity more than 300,000 barrels;
 - w. Taconite ore processing plants;
 - x. Glass fiber processing plants;
 - y. Charcoal production plants;
 - z. Fossil-fuel-fired steam electric plants and combined cycle gas turbines of more than 250 million Btus per hour heat input.

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24. "Categorically exempt activities" means any of the following:
- Any combination of diesel-, natural gas- or gasoline-fired engines with cumulative power equal to or less than 145 horsepower.
 - Natural gas-fired engines with cumulative power equal to or less than 155 horsepower.
 - Gasoline-fired engines with cumulative power equal to or less than 200 horsepower.
 - Any of the following emergency or stand-by engines used for less than 500 hours in each calendar year, provided the permittee keeps records documenting the hours of operation of the engines:
 - Any combination of diesel-, natural gas- or gasoline-fired emergency engines with cumulative power equal to or less than 2,500 horsepower.
 - Natural gas-fired emergency engines with cumulative power equal to or less than 2,700 horsepower.
 - Gasoline-fired emergency engines with cumulative power equal to or less than 3,700 horsepower.
 - Any combination of boilers with a cumulative maximum design heat input capacity of less than 10 million Btu/hr.
25. "CFR" means the Code of Federal Regulations, amended as of July 1, 2011, (and no future editions), with standard references in this Chapter by Title and Part, so that "40 CFR 51" means Title 40 of the Code of Federal Regulations, Part 51.
26. "Charge" means the addition of metal bearing materials, scrap, or fluxes to a furnace, converter or refining vessel.
27. "Clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or post-combustion stage, at a new or existing facility that will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam, that was not in widespread use as of November 15, 1990.
28. "Clean coal technology demonstration project" means a project using funds appropriated under the heading "Department of Energy - Clean Coal Technology," up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology or similar projects funded through appropriations for the Environmental Protection Agency. The federal contribution for a qualifying project shall be at least 20% of the total cost of the demonstration project.
29. "Coal" means all solid fossil fuels classified as anthracite, bituminous, subbituminous, or lignite by ASTM D-388-91, (Classification of Coals by Rank).
30. "Combustion" means the burning of matter.
31. "Commence" means, as applied to construction of a source, or a major modification as defined in Article 4 of this Chapter, that the owner or operator has all necessary preconstruction approvals or permits and either has:
- Begun, or caused to begin, a continuous program of actual onsite construction of the source, to be completed within a reasonable time; or
 - Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.
32. "Construction" means any physical change or change in the method of operation, including fabrication, erection, installation, demolition, or modification of an emissions unit, which would result in a change in emissions.
33. "Continuous monitoring system" means a CEMS, CERMS, or CPMS.
34. "Continuous emissions monitoring system" or "CEMS" means the total equipment, required under the emission monitoring provisions in this Chapter, used to sample, condition (if applicable), analyze, and provide, on a continuous basis, a permanent record of emissions.
35. "Continuous emissions rate monitoring system" or "CERMS" means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).
36. "Continuous parameter monitoring system" or "CPMS" means the total equipment, required under the emission monitoring provisions in this Chapter, to monitor process or control device operational parameters (for example, control device secondary voltages and electric currents) or other information (for example, gas flow rate, O₂ or CO₂ concentrations) and to provide, on a continuous basis, a permanent record of monitored values.
37. "Controlled atmosphere incinerator" means one or more refractory-lined chambers in which complete combustion is promoted by recirculation of gases by mechanical means.
38. "*Conventional air pollutant*" means any pollutant for which the Administrator has promulgated a primary or secondary national ambient air quality standard. A.R.S. § 49-401.01(12).
39. "*Department*" means the Department of Environmental Quality. A.R.S. § 49-101(2)
40. "*Director*" means the director of environmental quality who is also the director of the department. A.R.S. § 49-101(3).
41. "Discharge" means the release or escape of an effluent from a source into the atmosphere.
42. "Dust" means finely divided solid particulate matter occurring naturally or created by mechanical processing, handling or storage of materials in the solid state.
43. "Dust suppressant" means a chemical compound or mixture of chemical compounds added with or without water to a dust source for purposes of preventing air entrainment.
44. "Effluent" means any air contaminant which is emitted and subsequently escapes into the atmosphere.
45. "Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.
46. "Emission" means an air contaminant or gas stream, or the act of discharging an air contaminant or a gas stream, visible or invisible.
47. "Emission standard" or "emission limitation" means a requirement established by the state, a local government,

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- or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.
48. "Emissions unit" means any part of a stationary source which emits or would have the potential to emit any regulated air pollutant and includes an electric steam generating unit.
 49. "Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated under R18-2-311(D) to have a consistent and quantitatively known relationship to the reference method, under specified conditions.
 50. "Excess emissions" means emissions of an air pollutant in excess of an emission standard as measured by the compliance test method applicable to such emission standard.
 51. "Federal applicable requirement" means any of the following (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future effective compliance dates):
 - a. Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR 52.
 - b. Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D, of the Act.
 - c. Any standard or other requirement under section 111 of the Act, including 111(d).
 - d. Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act.
 - e. Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder and incorporated pursuant to R18-2-333.
 - f. Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act.
 - g. Any standard or other requirement governing solid waste incineration, under section 129 of the Act.
 - h. Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act.
 - i. Any standard or other requirement for tank vessels under section 183(f) of the Act.
 - j. Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under section 328 of the Act.
 - k. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit.
 - l. Any national ambient air quality standard or maximum increase allowed under R18-2-218 or visibility requirement under Part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(c) of the Act.
 52. "Federal Land Manager" means, with respect to any lands in the United States, the secretary of the department with authority over such lands.
 53. "Federally enforceable" means all limitations and conditions which are enforceable by the Administrator under the Act, including all of the following:
 - a. The requirements of the new source performance standards and national emission standards for hazardous air pollutants.
 - b. The requirements of such other state or county rules or regulations approved by the Administrator, including the requirements of state and county operating and new source review permit and registration programs that have been approved by the Administrator. Notwithstanding this subsection, the condition of any permit or registration designated as being enforceable only by the state is not federally enforceable.
 - c. The requirements of any applicable implementation plan.
 - d. Emissions limitations, controls, and other requirements, and any associated monitoring, recordkeeping, and reporting requirements that are included in a permit pursuant to R18-2-306.01 or R18-2-306.02.
 54. "Federally listed hazardous air pollutant" means a pollutant listed pursuant to R18-2-1701(9).
 55. "Final permit" means the version of a permit issued by the Department after completion of all review required by this Chapter.
 56. "Fixed capital cost" means the capital needed to provide all the depreciable components.
 57. "Fuel" means any material which is burned for the purpose of producing energy.
 58. "Fuel burning equipment" means any machine, equipment, incinerator, device or other Article, except stationary rotating machinery, in which combustion takes place.
 59. "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
 60. "Fume" means solid particulate matter resulting from the condensation and subsequent solidification of vapors of melted solid materials.
 61. "Fume incinerator" means a device similar to an afterburner installed for the purpose of incinerating fumes, gases and other finely divided combustible particulate matter not previously burned.
 62. "Good engineering practice (GEP) stack height" means a stack height meeting the requirements described in R18-2-332.
 63. "Hazardous air pollutant" means any federally listed hazardous air pollutant.
 64. "Heat input" means the quantity of heat in terms of Btus generated by fuels fed into the fuel burning equipment under conditions of complete combustion.
 65. "Incinerator" means any equipment, machine, device, contrivance or other Article, and all appurtenances thereof, used for the combustion of refuse, salvage materials or any other combustible material except fossil fuels, for the purpose of reducing the volume of material.
 66. "Indian governing body" means the governing body of any tribe, band, or group of Indians subject to the juris-

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diction of the United States and recognized by the United States as possessing power of self-government.

67. "Indian reservation" means any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.
68. "Insignificant activity" means any of the following activities:
- a. Liquid Storage and Piping
 - i. Petroleum product storage tanks containing the following substances, provided the applicant lists and identifies the contents of each tank with a volume of 350 gallons or more and provides threshold values for throughput or capacity or both for each such tank: diesel fuels and fuel oil in storage tanks with capacity of 40,000 gallons or less, lubricating oil, transformer oil, and used oil.
 - ii. Gasoline storage tanks with capacity of 10,000 gallons or less.
 - iii. Storage and piping of natural gas, butane, propane, or liquified petroleum gas, provided the applicant lists and identifies the contents of each stationary storage vessel with a volume of 350 gallons or more and provides threshold values for throughput or capacity or both for each such vessel.
 - iv. Piping of fuel oils, used oil and transformer oil, provided the applicant includes a system description.
 - v. Storage and handling of drums or other transportable containers where the containers are sealed during storage, and covered during loading and unloading, including containers of waste and used oil regulated under the federal Resource Conservation and Recovery Act, 42 U.S.C. 6901-6992(k). Permit applicants must provide a description of material in the containers and the approximate amount stored.
 - vi. Storage tanks of any size containing exclusively soaps, detergents, waxes, greases, aqueous salt solutions, aqueous solutions of acids that are not regulated air pollutants, or aqueous caustic solutions, provided the permit applicant specifies the contents of each storage tank with a volume of 350 gallons or more.
 - vii. Electrical transformer oil pumping, cleaning, filtering, drying and the re-installation of oil back into transformers.
 - b. Internal combustion engine-driven compressors, internal combustion engine-driven electrical generator sets, and internal combustion engine-driven water pumps used for less than 500 hours per calendar year for emergency replacement or standby service, provided the permittee keeps records documenting the hours of operation of this equipment.
 - c. Low Emitting Processes
 - i. Batch mixers with rated capacity of 5 cubic feet or less.
 - ii. Wet sand and gravel production facilities that obtain material from subterranean and subaqueous beds, whose production rate is 200 tons/hour or less, and whose permanent in-plant roads are paved and cleaned to control dust.

This does not include activities in emissions units which are used to crush or grind any non-metallic minerals.

- iii. Powder coating operations.
 - iv. Equipment using water, water and soap or detergent, or a suspension of abrasives in water for purposes of cleaning or finishing.
 - v. Blast-cleaning equipment using a suspension of abrasive in water and any exhaust system or collector serving them exclusively.
 - vi. Plastic pipe welding.
 - d. Site Maintenance
 - i. Housekeeping activities and associated products used for cleaning purposes, including collecting spilled and accumulated materials at the source, including operation of fixed vacuum cleaning systems specifically for such purposes.
 - ii. Sanding of streets and roads to abate traffic hazards caused by ice and snow.
 - iii. Street and parking lot striping.
 - iv. Architectural painting and associated surface preparation for maintenance purposes at industrial or commercial facilities.
 - e. Sampling and Testing
 - i. Noncommercial (in-house) experimental, analytical laboratory equipment which is bench scale in nature, including quality control/quality assurance laboratories supporting a stationary source and research and development laboratories.
 - ii. Individual sampling points, analyzers, and process instrumentation, whose operation may result in emissions but that are not regulated as emission units.
 - f. Ancillary Non-Industrial Activities
 - i. General office activities, such as paper shredding, copying, photographic activities, and blueprinting, but not to include incineration.
 - ii. Use of consumer products, including hazardous substances as that term is defined in the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) where the product is used at a source in the same manner as normal consumer use.
 - iii. Activities directly used in the diagnosis and treatment of disease, injury or other medical condition.
 - g. Miscellaneous Activities
 - i. Installation and operation of potable, process and waste water observation wells, including drilling, pumping, filtering apparatus.
 - ii. Transformer vents.
69. "Kraft pulp mill" means any stationary source which produces pulp from wood by cooking or digesting wood chips in a water solution of sodium hydroxide and sodium sulfide at high temperature and pressure. Regeneration of the cooking chemicals through a recovery process is also considered part of the kraft pulp mill.
70. "Lead" means elemental lead or alloys in which the predominant component is lead.
71. "Lime hydrator" means a unit used to produce hydrated lime product.

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72. "Lime plant" includes any plant which produces a lime product from limestone by calcination. Hydration of the lime product is also considered to be part of the source.
73. "Lime product" means any product produced by the calcination of limestone.
74. "Major modification" is defined as follows:
- a. A major modification is any physical change in or change in the method of operation of a major source that would result in both a significant emissions increase of any regulated NSR pollutant and a significant net emissions increase of that pollutant from the stationary source.
 - b. Any emissions increase or net emissions increase that is significant for nitrogen oxides or volatile organic compounds is significant for ozone.
 - c. For the purposes of this definition, none of the following is a physical change or change in the method of operation:
 - i. Routine maintenance, repair, and replacement;
 - ii. Use of an alternative fuel or raw material by reason of an order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, 15 U.S.C. 792, or by reason of a natural gas curtailment plan under the Federal Power Act, 16 U.S.C. 792 - 825r;
 - iii. Use of an alternative fuel by reason of an order or rule under section 125 of the Act;
 - iv. Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;
 - v. For purposes of determining the applicability of R18-2-403 through R18-2-405 or R18-2-411, any of the following:
 - (1) Use of an alternative fuel or raw material by a stationary source that the source was capable of accommodating before December 21, 1976, unless the change would be prohibited under any federally enforceable permit condition established after December 12, 1976 under 40 CFR 52.21 or under Articles 3 or 4 of this Chapter; or
 - (2) Use of an alternative fuel or raw material by a stationary source that the source is approved to use under any permit issued under R18-2-403;
 - (3) An increase in the hours of operation or in the production rate, unless the change would be prohibited under any federally enforceable permit condition established after December 21, 1976, under 40 CFR 52.21, or under Articles 3 or 4 of this Chapter.
 - vi. For purposes of determining the applicability of R18-2-406 through R18-2-408 or R18-2-410, any of the following:
 - (1) Use of an alternative fuel or raw material by a stationary source that the source was capable of accommodating before January 6, 1975, unless the change would be prohibited under any federally enforceable permit condition established after January 6, 1975 under 40 CFR 52.21 or under Articles 3 or 4 of this Chapter;
 - (2) Use of an alternative fuel or raw material by a stationary source that the source is approved to use under any permit issued under 40 CFR 52.21, or under R18-2-406; or
 - (3) An increase in the hours of operation or in the production rate, unless the change would be prohibited under any federally enforceable permit condition established after January 6, 1975, under 40 CFR 52.21, or under Articles 3 or 4 of this Chapter.
 - vii. Any change in ownership at a stationary source;
 - viii. [Reserved.]
 - ix. The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, if the project complies with:
 - (1) The SIP, and
 - (2) Other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated;
 - x. For electric utility steam generating units located in attainment and unclassifiable areas only, the installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, if the project does not result in an increase in the potential to emit any regulated pollutant emitted by the unit. This exemption applies on a pollutant-by-pollutant basis; and
 - xi. For electric utility steam generating units located in attainment and unclassifiable areas only, the reactivation of a very clean coal-fired electric utility steam generating unit.
 - d. This definition shall not apply with respect to a particular regulated NSR pollutant when the major source is complying with the requirements of R18-2-412 for a PAL for that regulated NSR pollutant. Instead, the definition of PAL major modification in R18-2-401(20) shall apply.
75. "Major source" means:
- a. A major source as defined in R18-2-401.
 - b. A major source under section 112 of the Act:
 - i. For pollutants other than radionuclides, any stationary source that emits or has the potential to emit, in the aggregate, including fugitive emission 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as described in Article 11 of this Chapter. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

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- ii. For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.
 - c. A major stationary source, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant including any major source of fugitive emissions of any such pollutant. The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to a section 302(j) category.
76. "Malfunction" means any sudden and unavoidable failure of air pollution control equipment, process equipment or a process to operate in a normal and usual manner, but does not include failures that are caused by poor maintenance, careless operation or any other upset condition or equipment breakdown which could have been prevented by the exercise of reasonable care.
 77. "Minor source" means a source of air pollution which is not a major source for the purposes of Article 4 of this Chapter and over which the Director, acting pursuant to A.R.S. § 49-402(B), has asserted jurisdiction.
 78. "Minor source baseline area" means the air quality control region in which the source is located.
 79. "Mobile source" means any combustion engine, device, machine or equipment that operates during transport and that emits or generates air contaminants whether in motion or at rest. A.R.S. § 49-401.01(23).
 80. "Modification" or "modify" means a physical change in or change in the method of operation of a source that increases the emissions of any regulated air pollutant emitted by such source by more than any relevant de minimis amount or that results in the emission of any regulated air pollutant not previously emitted by more than such de minimis amount. An increase in emissions at a minor source shall be determined by comparing the source's potential to emit before and after the modification. The following exemptions apply:
 - a. A physical or operational change does not include routine maintenance, repair or replacement.
 - b. An increase in the hours of operation or if the production rate is not considered an operational change unless such increase is prohibited under any permit condition that is legally and practically enforceable by the department.
 - c. A change in ownership at a source is not considered a modification. A.R.S. § 49-401.01(24).
 81. "Monitoring device" means the total equipment, required under the applicable provisions of this Chapter, used to measure and record, if applicable, process parameters.
 82. "Motor vehicle" means any self-propelled vehicle designed for transporting persons or property on public highways.
 83. "Multiple chamber incinerator" means three or more refractory-lined combustion chambers in series, physically separated by refractory walls and interconnected by gas passage ports or ducts.
 84. "Natural conditions" includes naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration.
 85. "National ambient air quality standard" means the ambient air pollutant concentration limits established by the Administrator pursuant to section 109 of the Act. A.R.S. § 49-401.01(25).
 86. "National emission standards for hazardous air pollutants" or "NESHAP" means standards adopted by the Administrator under section 112 of the Act.
 87. "Necessary preconstruction approvals or permits" means those permits or approvals required under the Act and those air quality control laws and rules which are part of the SIP.
 88. "Net emissions increase" means:
 - a. The amount by which the sum of subsections (88)(a)(i) and (ii) exceeds zero:
 - i. The increase in emissions of a regulated NSR pollutant from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to R18-2-402(D); and
 - ii. Any other increases and decreases in actual emissions of the regulated NSR pollutant at the source that are contemporaneous with the particular change and are otherwise creditable.
 - iii. For purposes of calculating increases and decreases in actual emissions under subsection (88)(a)(ii), baseline actual emissions shall be determined as provided in the definition of baseline actual emissions in R18-2-401(2), except that R18-2-401(2)(a)(iii) and (b)(iv) shall not apply.
 - b. An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:
 - i. The date five years before a complete application for a permit or permit revision authorizing the particular change is submitted or actual construction of the particular change begins, whichever occurs earlier, and
 - ii. The date that the increase from the particular change occurs.
 - c. For purposes of determining the applicability of R18-2-403 through R18-2-405 or R18-2-411, an increase or decrease in actual emissions is creditable only if the Director has not relied on it in issuing a permit or permit revision under R18-2-403, which permit is in effect when the increase in actual emissions from the particular change occurs. For purposes of determining the applicability of R18-2-406 through R18-2-408 or R18-2-410, an increase or decrease in actual emissions is creditable only if the Director has not relied on it in issuing a permit under R18-2-406, which permit is in effect when the increase in actual emissions from the particular change occurs.
 - d. An increase or decrease in actual emissions of sulfur dioxide, nitrogen oxides, PM₁₀, or PM_{2.5} which occurs before the applicable minor source baseline date, as defined in R18-2-218, is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.
 - e. An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

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- f. A decrease in actual emissions is creditable only to the extent that it satisfies all of the following conditions:
- The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions.
 - It is enforceable as a practical matter at and after the time that actual construction on the particular change begins.
 - It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.
 - The emissions unit was actually operated and emitted the specific pollutant.
 - For purposes of determining the applicability of R18-2-403 through R18-2-405 or R18-2-411, the Director has not relied on it in issuing any permit, permit revision, or registration under Article 4, R18-2-302.01, or R18-2-334, and the state has not relied on it in demonstrating attainment or reasonable further progress.
- g. An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit, as defined in R18-2-401(24), that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.
- h. Subsection (2)(a) shall not apply for determining creditable increases and decreases.
89. "New source" means any stationary source of air pollution which is subject to a new source performance standard.
90. "New source performance standards" or "NSPS" means standards adopted by the Administrator under section 111(b) of the Act.
91. "Nitric acid plant" means any facility producing nitric acid 30% to 70% in strength by either the pressure or atmospheric pressure process.
92. "Nitrogen oxides" means all oxides of nitrogen except nitrous oxide, as measured by test methods set forth in the Appendices to 40 CFR 60.
93. "Nonattainment area" means an area so designated by the Administrator acting pursuant to section 107 of the Act as exceeding national primary or secondary ambient air standards for a particular pollutant or pollutants.
94. "Nonpoint source" means a source of air contaminants which lacks an identifiable plume or emission point.
95. "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.
96. "Operation" means any physical or chemical action resulting in the change in location, form, physical properties, or chemical character of a material.
97. "Owner or operator" means any person who owns, leases, operates, controls, or supervises an affected facility or a stationary source.
98. "Particulate matter" means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.
99. "Particulate matter emissions" means all finely divided solid or liquid materials other than uncombined water, emitted to the ambient air as measured by applicable test methods and procedures described in R18-2-311.
100. "Permitting authority" means the department or a county department, agency or air pollution control district that is charged with enforcing a permit program adopted pursuant to A.R.S. § 49-480(A). A.R.S. § 49-401.01(28).
101. "Permitting exemption thresholds" for a regulated minor NSR pollutant means the following:
- | Regulated Air Pollutant | Emission Rate in tons per year (TPY) |
|---|--------------------------------------|
| PM _{2.5} (primary emissions only; levels for precursors are set below) | 5 |
| PM ₁₀ | 7.5 |
| SO ₂ | 20 |
| NO _x | 20 |
| VOC | 20 |
| CO | 50 |
| Pb | 0.3 |
102. "Person" means any public or private corporation, company, partnership, firm, association or society of persons, the federal government and any of its departments or agencies, the state and any of its agencies, departments or political subdivisions, as well as a natural person.
103. "Planning agency" means an organization designated by the governor pursuant to 42 U.S.C. 7504. A.R.S. § 49-401.01(29).
104. "PM_{2.5}" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR 50 Appendix L, or by an equivalent method designated according to 40 CFR 53.
105. "PM₁₀" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method contained within 40 CFR 50 Appendix J or by an equivalent method designated in accordance with 40 CFR 53.
106. "PM₁₀ emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by applicable test methods and procedures described in R18-2-311.
107. "Plume" means visible effluent.
108. "Pollutant" means an air contaminant the emission or ambient concentration of which is regulated pursuant to this Chapter.
109. "Portable source" means any stationary source that is capable of being operated at more than one location.
110. "Potential to emit" or "potential emission rate" means the maximum capacity of a stationary source to emit a pollutant, excluding secondary emissions, under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is legally and practically enforceable by the Department or a county under A.R.S. Title 49, Chapter 3; any rule, ordinance, order or permit adopted or issued

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- under A.R.S. Title 49, Chapter 3 or the state implementation plan.
111. "Predictive Emissions Monitoring System" or "PEMS" means the total equipment, required under the emission monitoring provisions in this Chapter, to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O₂ or CO₂ concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.
112. "Primary ambient air quality standards" means the ambient air quality standards which define levels of air quality necessary, with an adequate margin of safety, to protect the public health, as specified in Article 2 of this Chapter.
113. "Process" means one or more operations, including equipment and technology, used in the production of goods or services or the control of by-products or waste.
114. "Project" means a physical change in, or change in the method of operation of, an existing major source.
115. "Proposed final permit" means the version of a Class I permit or Class I permit revision that the Department proposes to issue and forwards to the Administrator for review in compliance with R18-2-307(A). A proposed final permit constitutes a final and enforceable authorization to begin actual construction of, but not to operate, a new Class I source or a modification to a Class I source.
116. "Proposed permit" means the version of a permit for which the Director offers public participation under R18-2-330 or affected state review under R18-2-307(D).
117. "Reactivation of a very clean coal-fired electric utility steam generating unit" means any physical change or change in the method of operation associated with commencing commercial operations by a coal-fired utility unit after a period of discontinued operation if the unit:
- Has not been in operation for the two-year period before enactment of the Clean Air Act Amendments of 1990, and the emissions from the unit continue to be carried in the Director's emissions inventory at the time of enactment;
 - Was equipped before shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85% and a removal efficiency for particulates of no less than 98%;
 - Is equipped with low-NO_x burners before commencement of operations following reactivation; and
 - Is otherwise in compliance with the Act.
118. "Reasonable further progress" means the schedule of emission reductions defined within a nonattainment area plan as being necessary to come into compliance with a national ambient air quality standard by the primary standard attainment date.
119. "Reasonably available control technology" (RACT) means devices, systems, process modifications, work practices or other apparatus or techniques that are determined by the Director to be reasonably available taking into account:
- The necessity of imposing the controls in order to attain and maintain a national ambient air quality standard;
 - The social, environmental, energy and economic impact of the controls;
 - Control technology in use by similar sources; and
 - The capital and operating costs and technical feasibility of the controls.
120. "Reclaiming machinery" means any machine, equipment device or other Article used for picking up stored granular material and either depositing this material on a conveyor or reintroducing this material into the process.
121. "Reference method" means the methods of sampling and analyzing for an air pollutant as described in the Arizona Testing Manual; 40 CFR 50, Appendices A through K; 40 CFR 51, Appendix M; 40 CFR 52, Appendices D and E; 40 CFR 60, Appendices A through F; and 40 CFR 61, Appendices B and C, as incorporated by reference in 18 A.A.C. 2, Appendix 2.
122. "Regulated air pollutant" means any of the following:
- Any conventional air pollutant.
 - Nitrogen oxides and volatile organic compounds.
 - Any pollutant that is subject to a new source performance standard.
 - Any pollutant that is subject to a national emission standard for hazardous air pollutants or other requirements established under section 112 of the Act, including sections 112(g), (j), and (r), including the following:
 - Any pollutant subject to requirements under section 112(j) of the act. If the administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and
 - Any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to the section 112(g)(2) requirement.
 - Any Class I or II substance subject to a standard promulgated under title VI of the Act.
123. "Regulated minor NSR pollutant" means any pollutant for which a national ambient air quality standard has been promulgated and the following precursors for such pollutants:
- VOC and nitrogen oxides as precursors to ozone.
 - Nitrogen oxides and sulfur dioxide as precursors to PM_{2.5}.
124. "Regulated NSR pollutant" is defined as follows:
- For purposes of determining the applicability of R18-2-403 through R18-2-405 and R18-2-411, regulated NSR pollutant means any pollutant for which a national ambient air quality standard has been promulgated and any pollutant identified under this subsection as a constituent of or precursor to such pollutant, provided that such constituent or precursor pollutant may only be regulated under NSR as part of the regulation of the general pollutant. Precursors for purposes of NSR are the following:
 - Volatile organic compounds and nitrogen oxides are precursors to ozone in all areas.
 - Sulfur dioxide is a precursor to PM_{2.5} in all areas.
 - Nitrogen oxides are precursors to PM_{2.5} in all areas.
 - VOC and ammonia are precursors to PM_{2.5} in PM_{2.5} nonattainment areas.

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- b. For all other purposes, regulated NSR pollutant means the pollutants identified in subsection (a) and the following:
- Any pollutant that is subject to any new source performance standard except greenhouse gases as defined in 40 CFR 86.1818-12(a).
 - Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act as of July 1, 2011.
 - Any pollutant that is otherwise subject to regulation under the Act, except greenhouse gases as defined in 40 CFR 86.1818-12(a).
- c. Notwithstanding subsections (124)(a) and (b), the term regulated NSR pollutant shall not include any or all hazardous air pollutants either listed in section 112 of the Act, or added to the list pursuant to section 112(b)(2) of the Act, unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Act.
- d. PM_{2.5} emissions and PM₁₀ emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On and after January 1, 2011, condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM_{2.5} and PM₁₀ in permits issued under Article 4.
125. "Repowering" means:
- Replacing an existing coal-fired boiler with one of the following clean coal technologies:
 - Atmospheric or pressurized fluidized bed combustion;
 - Integrated gasification combined cycle;
 - Magnetohydrodynamics;
 - Direct and indirect coal-fired turbines;
 - Integrated gasification fuel cells; or
 - As determined by the Administrator, in consultation with the United States Secretary of Energy, a derivative of one or more of the above technologies; and
 - Any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.
 - Repowering also includes any oil, gas, or oil and gas-fired unit that has been awarded clean coal technology demonstration funding as of January 1, 1991, by the United States Department of Energy.
 - The Director shall give expedited consideration to permit applications for any source that satisfies the requirements of this subsection (and) is granted an extension under section 409 of the Act.
126. "Run" means the net period of time during which an emission sample is collected, which may be, unless otherwise specified, either intermittent or continuous within the limits of good engineering practice.
127. "Secondary ambient air quality standards" means the ambient air quality standards which define levels of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant, as specified in Article 2 of this Chapter.
128. "Secondary emissions" means emissions which are specific, well defined, quantifiable, occur as a result of the construction or operation of a major source or major modification, but do not come from the major source or major modification itself, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not otherwise be constructed or increase its emissions except as a result of the construction or operation of the major source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.
129. "Section 302(j) category" means:
- Any of the classes of sources listed in the definition of categorical source in subsection (23); or
 - Any category of affected facility which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.
130. "Shutdown" means the cessation of operation of any air pollution control equipment or process equipment for any purpose, except routine phasing out of process equipment.
131. "Significant" means, in reference to a significant emissions increase, a net emissions increase, a stationary source's potential to emit or a stationary source's maximum capacity to emit with any elective limits as defined in R18-2-301(13):
- A rate of emissions of conventional pollutants that would equal or exceed any of the following:

Pollutant	Emissions Rate
Carbon monoxide	100 tons per year (tpy)
Nitrogen oxides	40 tpy
Sulfur dioxide	40 tpy
PM ₁₀	15 tpy
PM _{2.5}	10 tpy of direct PM _{2.5} emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions.
Ozone	40 tpy of VOC or nitrogen oxides
Lead	0.6 tpy
 - For purposes of determining the applicability of R18-2-302(B)(2) or R18-2-406, in addition to the rates specified in subsection (131)(a), a rate of emissions of non-conventional pollutants that would equal or exceed any of the following:

Pollutant	Emissions Rate
Particulate matter	25 tpy
Fluorides	3 tpy
Sulfuric acid mist	7 tpy
Hydrogen sulfide (H ₂ S)	10 tpy
Total reduced sulfur (including H ₂ S)	10 tpy
Reduced sulfur compounds (including H ₂ S)	10 tpy

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- Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzop-dioxins and dibenzofurans) 3.5×10^{-6} tpy
- Municipal waste combustor metals (measured as particulate matter) 15 tpy
- Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride) 40 tpy
- Municipal solid waste landfill emissions (measured as nonmethane organic compounds) 50 tpy
- Any regulated NSR pollutant not specifically listed in this subsection (or) subsection (131)(a), except for ammonia. Any emission rate
- c. In ozone nonattainment areas classified as serious or severe, the emission rate for nitrogen oxides or VOC determined under R18-2-405.
- d. In a carbon monoxide nonattainment area classified as serious, a rate of emissions that would equal or exceed 50 tons per year, if the Administrator has determined that stationary sources contribute significantly to carbon monoxide levels in that area.
- e. In $PM_{2.5}$ nonattainment areas, an emission rate that would equal or exceed 40 tons per year of VOC as a precursor of $PM_{2.5}$.
- f. In $PM_{2.5}$ nonattainment areas, for purposes of determining the applicability of R18-2-403 or R18-2-404, an emission rate that would equal or exceed 40 tons per year of ammonia, as a precursor to $PM_{2.5}$. This subsection shall take effect on the effective date of the Administrator's action approving it as part of the state implementation plan.
- g. Notwithstanding the emission rates listed in subsection (131)(a) or (b), for purposes of determining the applicability of R18-2-406, any emissions rate or any net emissions increase associated with a major source or major modification, which would be constructed within 10 kilometers of a Class I area and have an impact on the ambient air quality of such area equal to or greater than $1 \mu\text{g}/\text{m}^3$ (24-hour average).
132. "Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant as defined in this Section for that pollutant.
133. "Smoke" means particulate matter resulting from incomplete combustion.
134. "Source" means any building, structure, facility or installation that may cause or contribute to air pollution or the use of which may eliminate, reduce or control the emission of air pollution. A.R.S. § 49-401.01(23).
135. "Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.
136. "Stack in existence" means that the owner or operator had either:
- Begun, or caused to begin, a continuous program of physical onsite construction of the stack;
 - Entered into binding agreements or contractual obligations, which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.
137. "Start-up" means the setting into operation of any air pollution control equipment or process equipment for any purpose except routine phasing in of process equipment.
138. "State implementation plan" or "SIP" means the accumulated record of enforceable air pollution control measures, programs and plans adopted by the Director and submitted to and approved by the Administrator pursuant to 42 U.S.C. 7410.
139. "Stationary rotating machinery" means any gas engine, diesel engine, gas turbine, or oil fired turbine operated from a stationary mounting and used for the production of electric power or for the direct drive of other equipment.
140. "Stationary source" means any building, structure, facility or installation which emits or may emit any regulated NSR pollutant, any regulated air pollutant or any pollutant listed under section 112(b) of the act. "Building," "structure," "facility," or "installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" as described in the "Standard Industrial Classification Manual, 1987."
141. "Subject to regulation" means, for any air pollutant, that the pollutant is subject to either a provision in the Act, or a nationally-applicable regulation codified by the administrator in 40 CFR chapter I, subchapter C, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity.
142. "Sulfuric acid plant" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge, but does not include facilities where conversion to sulfuric acid is utilized as a means of preventing emissions of sulfur dioxide or other sulfur compounds to the atmosphere.
143. "Temporary clean coal technology demonstration project" means a clean coal technology demonstration project operated for five years or less, and that complies with the applicable implementation plan and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after the project is terminated.
144. "Temporary source" means a source which is portable, as defined in A.R.S. § 49-401.01(23) and which is not an affected source.
145. "Total reduced sulfur" (TRS) means the sum of the sulfur compounds, primarily hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide, that are released during kraft pulping and other operations and measured by Method 16 in 40 CFR 60, Appendix A.
146. "Trivial activities" means activities and emissions units, such as the following, that may be omitted from a permit or registration application. Certain of the following listed activities include qualifying statements intended to exclude similar activities:
- Low-Emitting Combustion

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- i. Combustion emissions from propulsion of mobile sources;
- ii. Emergency or backup electrical generators at residential locations;
- iii. Portable electrical generators that can be moved by hand from one location to another. "Moved by hand" means capable of being moved without the assistance of any motorized or non-motorized vehicle, conveyance, or device;
- b. Low- Or Non-Emitting Industrial Activities
 - i. Blacksmith forges;
 - ii. Hand-held or manually operated equipment used for buffing, polishing, carving, cutting, drilling, sawing, grinding, turning, routing or machining of ceramic art work, precision parts, leather, metals, plastics, fiberboard, masonry, carbon, glass, or wood;
 - iii. Brazing, soldering, and welding equipment, and cutting torches related to manufacturing and construction activities that do not result in emission of HAP metals. Brazing, soldering, and welding equipment, and cutting torches related to manufacturing and construction activities that emit HAP metals are insignificant activities based on size or production level thresholds. Brazing, soldering, and welding equipment, and cutting torches directly related to plant maintenance and upkeep and repair or maintenance shop activities that emit HAP metals are treated as trivial and listed separately in this definition;
 - iv. Drop hammers or hydraulic presses for forging or metalworking;
 - v. Air compressors and pneumatically operated equipment, including hand tools;
 - vi. Batteries and battery charging stations, except at battery manufacturing plants;
 - vii. Drop hammers or hydraulic presses for forging or metalworking;
 - viii. Equipment used exclusively to slaughter animals, not including other equipment at slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating equipment;
 - ix. Hand-held applicator equipment for hot melt adhesives with no VOC in the adhesive formulation;
 - x. Equipment used for surface coating, painting, dipping, or spraying operations, except those that will emit VOC or HAP;
 - xi. CO2 lasers used only on metals and other materials that do not emit HAP in the process;
 - xii. Electric or steam-heated drying ovens and autoclaves, but not the emissions from the articles or substances being processed in the ovens or autoclaves or the boilers delivering the steam;
 - xiii. Salt baths using nonvolatile salts that do not result in emissions of any regulated air pollutants;
 - xiv. Laser trimmers using dust collection to prevent fugitive emissions;
 - xv. Process water filtration systems and demineralizers;
 - xvi. Demineralized water tanks and demineralizer vents;
 - xvii. Oxygen scavenging or de-aeration of water;
 - xviii. Ozone generators;
 - xix. Steam vents and safety relief valves;
 - xx. Steam leaks; and
 - xxi. Steam cleaning operations and steam sterilizers;
 - xxii. Use of vacuum trucks and high pressure washer/cleaning equipment within the stationary source boundaries for cleanup and in-source transfer of liquids and slurried solids to waste water treatment units or conveyances;
 - xxiii. Equipment using water, water and soap or detergent, or a suspension of abrasives in water for purposes of cleaning or finishing.
 - xxiv. Electric motors.
- c. Building and Site Maintenance Activities
 - i. Plant and building maintenance and upkeep activities, including grounds-keeping, general repairs, cleaning, painting, welding, plumbing, re-tarring roofs, installing insulation, and paving parking lots, if these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and do not otherwise trigger a permit revision. Cleaning and painting activities qualify as trivial activities if they are not subject to VOC or hazardous air pollutant control requirements;
 - ii. Repair or maintenance shop activities not related to the source's primary business activity, not including emissions from surface coating, de-greasing, or solvent metal cleaning activities, and not otherwise triggering a permit revision;
 - iii. Janitorial services and consumer use of janitorial products;
 - iv. Landscaping activities;
 - v. Routine calibration and maintenance of laboratory equipment or other analytical instruments;
 - vi. Sanding of streets and roads to abate traffic hazards caused by ice and snow;
 - vii. Street and parking lot striping;
 - viii. Caulking operations which are not part of a production process.
- d. Incidental, Non-Industrial Activities
 - i. Air-conditioning units used for human comfort that do not have applicable requirements under Title VI of the Act;
 - ii. Ventilating units used for human comfort that do not exhaust air pollutants into the ambient air from any manufacturing, industrial or commercial process;
 - iii. Tobacco smoking rooms and areas;
 - iv. Non-commercial food preparation;
 - v. General office activities, such as paper shredding, copying, photographic activities, pencil sharpening and blueprinting, but not including incineration;
 - vi. Laundry activities, except for dry-cleaning and steam boilers;
 - vii. Bathroom and toilet vent emissions;

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- viii. Fugitive emissions related to movement of passenger vehicles, if the emissions are not counted for applicability purposes under subsection (146)(c) of the definition of major source in this Section and any required fugitive dust control plan or its equivalent is submitted with the application;
- ix. Use of consumer products, including hazardous substances as that term is defined in the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) where the product is used at a source in the same manner as normal consumer use;
- x. Activities directly used in the diagnosis and treatment of disease, injury or other medical condition;
- xi. Circuit breakers;
- xii. Adhesive use which is not related to production.
- e. Storage, Piping and Packaging
 - i. Storage tanks, vessels, and containers holding or storing liquid substances that will not emit any VOC or HAP;
 - ii. Storage tanks, reservoirs, and pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, if appropriate lids and covers are used;
 - iii. Chemical storage associated with water and wastewater treatment where the water is treated for consumption and/or use within the permitted facility;
 - iv. Chemical storage associated with water and wastewater treatment where the water is treated for consumption and/or use within the permitted facility;
 - v. Storage cabinets for flammable products;
 - vi. Natural gas pressure regulator vents, excluding venting at oil and gas production facilities;
 - vii. Equipment used to mix and package soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, if appropriate lids and covers are used;
- f. Sampling and Testing
 - i. Vents from continuous emissions monitors and other analyzers;
 - ii. Bench-scale laboratory equipment used for physical or chemical analysis, but not laboratory fume hoods or vents;
 - iii. Equipment used for quality control, quality assurance, or inspection purposes, including sampling equipment used to withdraw materials for analysis;
 - iv. Hydraulic and hydrostatic testing equipment;
 - v. Environmental chambers not using HAP gases;
 - vi. Soil gas sampling;
 - vii. Individual sampling points, analyzers, and process instrumentation, whose operation may result in emissions but that are not regulated as emission units;
- g. Safety Activities
 - i. Fire suppression systems;
 - ii. Emergency road flares;
- h. Miscellaneous Activities
 - i. Shock chambers;
 - ii. Humidity chambers;
 - iii. Solar simulators;
 - iv. Cathodic protection systems;
 - v. High voltage induced corona; and
 - vi. Filter draining.
- 147. "Unclassified area" means an area which the Administrator, because of a lack of adequate data, is unable to classify as an attainment or nonattainment area for a specific pollutant, and which, for purposes of this Chapter, is treated as an attainment area.
- 148. "Uncombined water" means condensed water containing analytical trace amounts of other chemical elements or compounds.
- 149. "Urban or suburban open area" means an unsubdivided tract of land surrounding a substantial urban development of a residential, industrial, or commercial nature and which, though near or within the limits of a city or town, may be uncultivated, used for agriculture, or lie fallow.
- 150. "Vacant lot" means a subdivided residential or commercial lot which contains no buildings or structures of a temporary or permanent nature.
- 151. "Vapor" means the gaseous form of a substance normally occurring in a liquid or solid state.
- 152. "Visibility impairment" means any humanly perceptible change in visibility (light extinction, visual range, contrast, coloration) from that which would have existed under natural conditions.
- 153. "Visible emissions" means any emissions which are visually detectable without the aid of instruments and which contain particulate matter.
- 154. "Volatile organic compounds" or "VOC" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, that participates in atmospheric photochemical reactions. This includes any such organic compound other than the following:
 - a. Methane;
 - b. Ethane;
 - c. Methylene chloride (dichloromethane);
 - d. 1,1,1-trichloroethane (methyl chloroform);
 - e. 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
 - f. Trichlorofluoromethane (CFC-11);
 - g. Dichlorodifluoromethane (CFC-12);
 - h. Chlorodifluoromethane (HCFC-22);
 - i. Trifluoromethane (HFC-23);
 - j. 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);
 - k. Chloropentafluoroethane (CFC-115);
 - l. 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);
 - m. 1,1,1,2-tetrafluoroethane (HFC-134(a));
 - n. 1,1-dichloro 1-fluoroethane (HCFC-141(b));
 - o. 1-chloro 1,1-difluoroethane (HCFC-142(b));
 - p. 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
 - q. Pentafluoroethane (HFC-125);
 - r. 1,1,2,2-tetrafluoroethane (HFC-134);
 - s. 1,1,1-trifluoroethane (HFC-143(a));
 - t. 1,1-difluoroethane (HFC-152(a));
 - u. Parachlorobenzotrifluoride (PCBTF);
 - v. Cyclic, branched, or linear completely methylated siloxanes;
 - w. Acetone;
 - x. Perchloroethylene (tetrachloroethylene);
 - y. 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225(ca));

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- z. 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225(cb));
- aa. 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);
- bb. Difluoromethane (HFC-32);
- cc. Ethylfluoride (HFC-161);
- dd. 1,1,1,3,3,3-hexafluoropropane (HFC-236(fa));
- ee. 1,1,2,2,3-pentafluoropropane (HFC-245(ca));
- ff. 1,1,2,3,3-pentafluoropropane (HFC-245(ea));
- gg. 1,1,1,2,3-pentafluoropropane (HFC-245(eb));
- hh. 1,1,1,3,3-pentafluoropropane (HFC-245(fa));
- ii. 1,1,1,2,3,3-hexafluoropropane (HFC-236(ea));
- jj. 1,1,1,3,3-pentafluorobutane (HFC-365(mfc));
- kk. Chlorofluoromethane (HCFC-31);
- ll. 1 chloro-1-fluoroethane (HCFC-151(a));
- mm. 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123(a));
- nn. 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C₄F₉OCH₃);
- oo. 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CFCF₂OCH₃);
- pp. 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅);
- qq. 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CFCF₂OC₂H₅);
- rr. Methyl acetate; and
- ss. 1,1,1,2,2,3,3-heptafluoro-3-methoxypropane (n-C₃F₇OCH₃, HFE—7000);
- tt. 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE – 7500);
- uu. 1,1,1,2,3,3,3-hentafluoropropane (HFC 227ea);
- vv. Methyl formate (HCOOCH₃); and
- ww. (1) 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE–7300);
- xx. Propylene carbonate;
- yy. Dimethyl carbonate; and
- zz. Trans -1,3,3,3-tetrafluoropropene;
- aaa. HCF₂OCF₂H (HFE-134);
- bbb. HCF₂OCF₂OCF₂H (HFE-236(cal2));
- ccc. HCF₂OCF₂CF₂OCF₂H (HFE-338(pcc13));
- ddd. HCF₂OCF₂OCF₂CF₂OCF₂H (H-Galden 1040x or H-Galden ZT 130 (or 150 or 180));
- eee. Trans 1-chloro-3,3,3- trifluoroprop-1-ene;
- fff. 2,3,3,3-tetrafluoropropene;
- ggg. 2-amino-2-methyl-1-propanol; and
- hhh. Perfluorocarbon compounds that fall into these classes:
 - i. Cyclic, branched, or linear, completely fluorinated alkanes.
 - ii. Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations.
 - iii. Cycle, branched, or linear, completely fluorinated tertiary amines with no unsaturations; or
 - iv. Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.
 - v. The following compound is VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOC and shall be uniquely identified in emission reports, but is not VOC for purposes of VOC emissions limitations or VOC content requirements: t-butyl acetate.

155. “Wood waste burner” means an incinerator designed and used exclusively for the burning of wood wastes consisting of wood slabs, scraps, shavings, barks, sawdust or other wood material, including those that generate steam as a by-product.

Historical Note

Former Section R9-3-101 repealed, new Section R9-3-101 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Editorial correction, paragraph (133) (Supp. 80-1). Editorial correction, paragraph (58) (Supp. 80-2). Amended effective July 9, 1980. Amended by adding new paragraphs (24), (55), (102), and (115) and renumbering accordingly, effective August 29, 1980 (Supp. 80-4). Amended effective May 28, 1982 (Supp. 82-3). Amended effective September 22, 1983 (Supp. 83-5). Amended paragraph (133), added paragraph (156) and renumbered accordingly effective September 28, 1984 (Supp. 84-5). Amended paragraph (29) by deleting (aa) and (bb) effective August 9, 1985 (Supp. 85-4). Former Section R9-3-101 renumbered without change as R18-2-101 (Supp. 87-3). Amended paragraph (98) effective December 1, 1988 (Supp. 88-4). Amended effective September 26, 1990 (Supp. 90-3). Amended effective November 15, 1993 (Supp. 93-4). Amended effective June 10, 1994 (Supp. 94-2). Amended effective October 7, 1994 (Supp. 94-4). Amended effective February 28, 1995 (Supp. 95-1). Amended effective August 1, 1995 (Supp. 95-3). Amended effective January 31, 1997; filed with the Office of Secretary of State January 10, 1997 (Supp. 97-1). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 8 A.A.R. 2543, effective May 24, 2002 (Supp. 02-2). Amended by final rulemaking at 9 A.A.R. 4541, effective December 2, 2003 (Supp. 03-4). Amended by final rulemaking at 11 A.A.R. 3305, effective October 3, 2005 (Supp. 05-3). Amended by final rulemaking at 11 A.A.R. 5504, effective February 4, 2006 (Supp. 05-4). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1). Amended by final rulemaking at 25 A.A.R. 3630, effective February 1, 2020 (Supp. 19-4). Amended by final expedited rulemaking at 28 A.A.R. 1135 (May 27, 2022), with an immediate effective date of May 4, 2022 (Supp. 22-2).

R18-2-102. Incorporated Materials

- A.** The following documents are incorporated by reference and are on file with the Office of the Secretary of State (1700 W. Washington St., Suite 103, Phoenix, AZ 85007) and the Department (1110 W. Washington St., Phoenix, AZ 85007):
1. Sections 1 and 7 of the Department’s “Arizona Testing Manual for Air Pollutant Emissions,” amended as of March 1992 (and no future editions).
 2. All ASTM test methods referenced in this Chapter as of the year specified in the reference (and no future amendments). They are available from the American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 19103-1187.

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3. The U.S. Government Printing Office's "Standard Industrial Classification Manual, 1987" (and no future editions).
 - B. The Code of Federal Regulations is published by the United States Government Printing Office, 732 North Capital Street, NW, Washington, DC 20401-0001, is on file with the Department of Environmental Quality, 1110 West Washington Street, Phoenix, Arizona 85007, and is available at the Arizona State Library, Archives & Public Records, 1700 West Washington Street, Phoenix, Arizona 85007 and at other Federal depository libraries in the state (see http://catalog.gpo.gov/fdlpdir/FDLP-dir.jsp?st_12=AZ&flag=searchp). It is also available online at <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>.
- Historical Note**
- Adopted effective September 26, 1990 (Supp. 90-3).
 Amended effective February 3, 1993 (Supp. 93-1).
 Amended effective November 15, 1993 (Supp. 93-4).
 Amended effective June 10, 1994 (Supp. 94-2). Amended effective December 7, 1995 (Supp. 95-4). Amended by final rulemaking at 5 A.A.R. 3221, effective August 12, 1999 (Supp. 99-3). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).
2. The secondary ambient air quality standards for PM_{2.5} are:
 - a. 15 micrograms per cubic meter of PM_{2.5} – annual arithmetic mean concentration.
 - b. 35 micrograms per cubic meter of PM_{2.5} – 24-hour average concentration.
 3. To determine attainment of the primary and secondary standards, a person shall measure PM_{2.5} in the ambient air by:
 - a. A reference method based on 40 CFR 50, Appendix L, and designated according to 40 CFR 53; or
 - b. An equivalent method designated according to 40 CFR 53.
 4. The primary annual ambient air quality standard for PM_{2.5} is met when the annual arithmetic mean concentration, determined according to 40 CFR 50, Appendix N, is less than or equal to 12 micrograms per cubic meter.
 5. The secondary annual ambient air quality standard for PM_{2.5} is met when the annual arithmetic mean concentration, determined according to 40 CFR 50, Appendix N, is less than or equal to 15 micrograms per cubic meter.
 6. The primary and secondary 24-hour ambient air quality standards for PM_{2.5} are met when the 98th percentile 24-hour concentration, determined according to 40 CFR 50, Appendix N, is less than or equal to 35 micrograms per cubic meter.

R18-2-103. Applicable Implementation Plan; Savings

No rule adopted in this Chapter shall preempt or nullify any applicable requirement or emission standard in an applicable implementation plan unless the Director revises the applicable implementation plan in conformance with the requirements of 40 CFR 51, Subpart F, and the Administrator approves the revision.

Historical Note

Adopted effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4).

ARTICLE 2. AMBIENT AIR QUALITY STANDARDS; AREA DESIGNATIONS; CLASSIFICATIONS**R18-2-201. Particulate Matter: PM₁₀ and PM_{2.5}****A. PM₁₀ Standards**

1. The level of the primary and secondary ambient air quality standards for PM₁₀ is 150 micrograms per cubic meter of PM₁₀ – 24-hour average concentration.
2. To determine attainment of the primary and secondary standards, a person shall measure PM₁₀ in the ambient air by:
 - a. A reference method based on 40 CFR 50, Appendix J, and designated according to 40 CFR 53; or
 - b. An equivalent method designated according to 40 CFR 53.
3. The primary and secondary 24-hour ambient air quality standards for PM₁₀ are attained when the expected number of days per calendar year with a 24-hour average concentration above 150 micrograms per cubic meter, determined according to 40 CFR 50, Appendix K, is less than or equal to one.

B. PM_{2.5} Standards

1. The primary ambient air quality standards for PM_{2.5} are:
 - a. 12 micrograms per cubic meter of PM_{2.5} – annual arithmetic mean concentration.
 - b. 35 micrograms per cubic meter of PM_{2.5} – 24-hour average concentration.

Historical Note

Amended effective December 22, 1976 (Supp. 76-5). Former Section R9-3-201 repealed, new Section R9-3-201 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Editorial correction, subsection (E) (Supp. 80-2). Amended effective August 29, 1980 (Supp. 80-4). Amended subsection(B)(1) and deleted subsections (C) through (E) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-201 renumbered without change as Section R18-2-201 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Amended by final rulemaking at 11 A.A.R. 3305, effective October 3, 2005 (Supp. 05-3). Section corrected to include subsection (B), which was inadvertently omitted in Supp. 05-3 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-202. Sulfur Oxides (Sulfur Dioxide)

- A. The primary ambient air quality standards for sulfur oxides, measured as sulfur dioxide, are:
 1. 0.03 parts per million (ppm) (80 µg/m³) -- annual arithmetic mean.
 2. 0.14 parts per million (ppm) (365 µg/m³) – maximum 24-hour concentration not to be exceeded more than once per calendar year.
 3. 75 parts per billion (ppb) – maximum one-hour concentration. The one-hour primary standard is met at an ambient air quality monitoring site when the three-year average of the annual 99th percentile of the daily maximum one-hour average concentrations is less than or equal to 75 parts per billion, as determined according to 40 CFR 50, Appendix T.
- B. The secondary ambient air quality standard for sulfur oxides, measured as sulfur dioxide, is 0.5 parts per million (ppm)

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(1300 µg/m³) -- maximum three-hour concentration not to be exceeded more than once per year.

- C. The level of the standards shall be measured by a reference method based on 40 CFR 50, Appendix A or A-1, or by a Federal Equivalent Method designated according to 40 CFR 53.
- D. The standards in subsections (A)(1) and (2) shall apply:
 1. In an area designated nonattainment for a standard in subsections (A)(1) or (2) as of August 23, 2011, and areas not meeting a state implementation plan call for a standard in subsections (A)(1) or (2), until the state submits pursuant to section 191 of the Act, and the Administrator approves, a state implementation plan providing for attainment the standard in subsection (A)(3) in that area.
 2. In areas other than those identified in subsection (D)(1), until the effective date of the designation of that area, pursuant to section 107 of the act, for the standard in subsection (A)(3).

Historical Note

Amended effective December 22, 1976 (Supp. 76-5).

Former Section R9-3-202 repealed, new Section R9-3-202 adopted effective May 14, 1979 (Supp. 79-1).

Amended effective October 2, 1979 (Supp. 79-5).

Amended effective August 29, 1980 (Supp. 80-4).

Amended subsection (B) effective May 28, 1982 (Supp. 82-3). Amended by deleting subsections (C) through (E) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-202 renumbered without change as Section R18-2-202 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Amended by final rulemaking at 11 A.A.R. 3305, effective October 3, 2005 (Supp. 05-3). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-203. Ozone

- A. The eight-hour average primary ambient air quality standard for ozone is 0.070 ppm.
- B. The eight-hour average secondary ambient air quality standard for ozone is 0.070 ppm.
- C. To determine attainment of the primary and secondary standards, a person shall measure ozone in the ambient air by:
 1. A reference method based on 40 CFR 50, Appendix D, and designated according to 40 CFR 53; or
 2. An equivalent method designated according to 40 CFR 53.
- D. The eight-hour average primary ambient air quality standard for ozone is met at an ambient air quality monitoring site when the three-year average of the annual fourth highest daily maximum eight-hour average ozone concentration is less than or equal to 0.070 ppm, determined according to 40 CFR 50, Appendix U.

Historical Note

Amended effective December 22, 1976 (Supp. 76-5).

Former Section R9-3-204 repealed, new Section R9-3-204 adopted effective May 14, 1979 (Supp. 79-1).

Amended effective October 2, 1979 (Supp. 79-5).

Amended effective August 29, 1980 (Supp. 80-4).

Amended by deleting subsections (B) through (D) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-204 renumbered without change as Section R18-2-204 (Supp. 87-3). Section R18-2-103 renumbered from R18-2-204 and amended effective September 26, 1990 (Supp. 90-3). Amended by final rulemaking at 11 A.A.R. 3305, effective October 3, 2005 (Supp. 05-3). Amended by final rulemaking at 18 A.A.R. 1542, effective August

7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-204. Carbon monoxide

- A. The primary ambient air quality standards for carbon monoxide are:
 1. 9 parts per million (10 milligrams per cubic meter) -- maximum eight-hour concentration not to be exceeded more than once per year.
 2. 35 parts per million (40 milligrams per cubic meter) -- maximum one-hour concentration not to be exceeded more than once per year.
- B. An eight-hour average shall be considered valid if at least 75% of the hourly averages for the eight-hour period are available. In the event that only six or seven hourly averages are available, the eight-hour average shall be computed on the basis of the hours available using 6 or 7 as the divisor.
- C. When summarizing data for comparison with the standards, averages shall be stated to one decimal place. Comparison of the data with the levels of the standards in parts per million shall be made in terms of integers with fractional parts of 0.5 or greater rounding up.

Historical Note

Amended effective December 22, 1976 (Supp. 76-5).

Former Section R9-3-205 repealed, new Section R9-3-205 adopted effective May 14, 1979 (Supp. 79-1).

Amended effective October 2, 1979 (Supp. 79-5).

Amended effective August 29, 1980 (Supp. 80-4).

Amended by deleting subsections (B) through (D) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-205 renumbered without change as Section R18-2-205 (Supp. 87-3). Former Section R18-2-204 renumbered to R18-2-203, new Section R18-2-204 renumbered from R18-2-205 and amended effective September 26, 1990 (Supp. 90-3).

R18-2-205. Nitrogen Oxides (Nitrogen Dioxide)

- A. The primary ambient air quality standards for oxides of nitrogen, measured in the ambient air as nitrogen dioxide, are:
 1. 53 parts per billion -- annual average concentration.
 2. 100 parts per billion -- one-hour average concentration.
- B. The secondary ambient air quality standard for nitrogen dioxide is 0.053 (parts per million (100 micrograms per cubic meter) -- annual arithmetic mean.
- C. The levels of the standards shall be measured by a reference method based on 40 CFR 50, Appendix F or a federal equivalent method designated in accordance with 40 CFR 53.
- D. The annual primary standard is met when the annual average concentration in a calendar year is less than or equal to 53 ppb, as determined in accordance with 40 CFR, Appendix S for the annual standard.
- E. The one-hour primary standard is met when the three-year average of the annual 98th percentile of the daily maximum one-hour average concentration is less than or equal to 100 parts per billion, as determined in accordance with 40 CFR 50, Appendix S.
- F. The secondary standard is attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, rounded to three decimal places, with fractional parts equal to or greater than 0.0005 ppm rounded up. To demonstrate attainment, an annual mean shall be based upon hourly data that is at least 75% complete or upon data derived from the manual methods, that is at least 75% complete for the scheduled sampling days in each calendar quarter.

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Historical Note

Amended effective December 22, 1976 (Supp. 76-5). Former Section R9-3-206 repealed, new Section R9-3-206 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective August 29, 1980 (Supp. 80-4). Amended by deleting subsections (B) through (D) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-206 renumbered without change as Section R18-2-206 (Supp. 87-3). Former Section R18-2-205 renumbered to R18-2-204, new Section R18-2-205 renumbered from R18-2-206 and amended effective September 26, 1990 (Supp. 90-3). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-206. Lead

- A. The primary ambient air quality standard for lead and its compounds, measured as elemental lead, is 0.15 micrograms per cubic meter – maximum arithmetic mean averaged over a three-month period.
- B. The secondary ambient air quality standard for lead and its compounds, measured as elemental lead, is 0.15 micrograms per cubic meter – maximum arithmetic mean averaged over a three-month period.
- C. The level of the standards shall be measured by a reference method based on 40 CFR 50, Appendix G and designated in accordance with 40 CFR 53, or by an equivalent designated in accordance with part 53 of this chapter.
- D. The national primary and secondary ambient air quality standards for lead are met when the maximum arithmetic three-month mean concentration for a three-year period, as determined in accordance with 40 CFR 50, Appendix R, is less than or equal to 0.15 micrograms per cubic meter.
- E. The former primary and secondary ambient air quality standards for lead of 1.5 micrograms per cubic meter averaged over a calendar quarter shall apply to an area until one year after the effective date of the designation of that area, pursuant to section 107 of the Act, for the standards in subsections (A) and (B).

Historical Note

Former Section R9-3-207 repealed effective May 14, 1979 (Supp. 79-1). New Section R9-3-207 adopted effective October 2, 1979 (Supp. 79-5). Amended effective August 29, 1980 (Supp. 80-4). Amended by deleting subsections (B) through (D) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-207 renumbered without change as Section R18-2-207 (Supp. 87-3). Former Section R18-2-206 renumbered to R18-2-205, new Section R18-2-206 renumbered from R18-2-207 and amended effective September 26, 1990 (Supp. 90-3). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-207. Renumbered**Historical Note**

Former Section R9-3-207 renumbered to R18-2-206 effective September 26, 1990 (Supp. 90-3).

R18-2-208. Reserved**R18-2-209. Reserved****R18-2-210. Attainment, Nonattainment, and Unclassifiable Area Designations**

40 CFR 81.303 as amended as of July 1, 2014 (and no future amendments or editions) is incorporated by reference as an applica-

ble requirement and on file with the Department of Environmental Quality. 40 CFR 81.303 is available from the U.S. Government Printing Office, Superintendent of Documents, bookstore.gpo.gov, Mail Stop: SSOP IDCC-SSOM, Washington, D.C. 20402-9328.

Historical Note

Adopted effective November 15, 1993 (Supp. 93-4). Amended effective December 7, 1995 (Supp. 95-4). Amended by final rulemaking at 5 A.A.R. 3221, effective August 12, 1999 (Supp. 99-3). Amended by final rulemaking at 8 A.A.R. 2543, effective May 24, 2002 (Supp. 02-2). Amended by final rulemaking at 10 A.A.R. 3281, effective September 27, 2004 (Supp. 04-3). Amended by final rulemaking at 11 A.A.R. 3305, effective October 3, 2005 (Supp. 05-3). Amended by final rulemaking at 13 A.A.R. 4199, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-211. Reserved**R18-2-212. Reserved****R18-2-213. Reserved****R18-2-214. Reserved****R18-2-215. Ambient air quality monitoring methods and procedures**

- A. Only those methods which have been either designated by the Administrator as reference or equivalent methods or approved by the Director shall be used to monitor ambient air.
- B. Quality assurance, monitor siting, and sample probe installation procedures shall be in accordance with procedures described in the Appendices to 40 CFR 58.
- C. The Director may approve other procedures upon a finding that the proposed procedures are substantially equivalent or superior to procedures in the Appendices to 40 CFR 58.

Historical Note

Adopted effective September 22, 1983 (Supp. 83-5). Former Section R9-3-215 renumbered without change as Section R18-2-215 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3).

R18-2-216. Interpretation of Ambient Air Quality Standards and Evaluation of Air Quality Data

Unless otherwise specified, interpretation of all ambient air quality standards contained in this Article shall be in accordance with 40 CFR 50, incorporated by reference in Appendix 2 of this Chapter.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-216 repealed, new Section R9-3-216 adopted effective August 29, 1980 (Supp. 80-4). Former Section R9-3-216 renumbered without change as Section R18-2-216 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

R18-2-217. Designation and Classification of Attainment Areas

- A. All areas shall be classified as either Class I, Class II or Class III.
- B. All of the following areas which were in existence on August 7, 1977 shall be Class I areas irrespective of attainment status and shall not be redesignated:

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1. International parks;
 2. National wilderness areas which exceed 5,000 acres in size;
 3. National memorial parks which exceed 5,000 acres in size; and
 4. National parks which exceed 6,000 acres in size.
- C.** Areas which were redesignated as Class I under regulations promulgated before August 7, 1977, shall remain Class I, but may be redesignated as provided in this Section.
- D.** Any other area, unless otherwise specified in the legislation creating such an area, is initially designated Class II, but may be redesignated as provided in this Section.
- E.** The following areas shall be designated only as Class I or II:
1. An area which as of August 7, 1977, exceeds 10,000 acres in size and is one of the following:
 - a. A national monument,
 - b. A national primitive area,
 - c. A national preserve,
 - d. A national recreational area,
 - e. A national wild and scenic river,
 - f. A national wildlife refuge,
 - g. A national lakeshore or seashore.
 2. A national park or national wilderness area established after August 7, 1977, which exceeds 10,000 acres in size.
- F.** Except as otherwise provided in subsections (B) to (E), the Governor may redesignate areas of the state as Class I or Class II, provided that the following requirements are fulfilled:
1. At least one public hearing is held in or near the area affected in accordance with 40 CFR 51.102;
 2. Other states, Indian governing bodies and Federal Land Managers, whose land may be affected by the proposed redesignation are notified at least 30 days prior to the public hearing.
 3. A discussion document of the reasons for the proposed redesignation including a description and analysis of health, environmental, economic, social and energy effects of the proposed redesignation is prepared by the Governor or the Governor's designee. The discussion document shall be made available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing shall contain appropriate notification of the availability of such discussion document.
 4. Prior to the issuance of notice respecting the redesignation of an area which includes any federal lands, the Governor or the Governor's designee has provided written notice to the appropriate Federal Land Manager and afforded the Federal Land Manager adequate opportunity, not in excess of 60 days, to confer with the state respecting the redesignation and to submit written comments and recommendations. The Governor or the Governor's designee shall publish a list of any inconsistency between such redesignation and such recommendations, together with the reasons for making such redesignation against the recommendation of the Federal Land Manager, if any Federal Land Manager has submitted written comments and recommendations.
 5. The redesignation is proposed after consultation with the elected leadership of local governments in the area covered by the proposed redesignation.
 6. The redesignation is submitted to the Administrator as a revision to the SIP.
- G.** Except as otherwise provided in subsections (B) to (E), the Governor may redesignate areas of the state as Class III if all of the following criteria are met:
1. Such redesignation meets the requirements of subsection (F);
 2. Such redesignation has been approved after consultation with the appropriate committee of the legislature if it is in session or with the leadership of the legislature if it is not in session.
 3. The general purpose units of local government representing a majority of the residents of the area to be redesignated concur in the redesignation;
 4. Such redesignation shall not cause, or contribute to, a concentration of any air pollutant which exceeds any national ambient air quality standard or any maximum increase allowed under R18-2-218;
 5. For any new major source as defined in R18-2-401 or a major modification of such source which may be permitted to be constructed and operated only if the area in question is redesignated as Class III, any permit application and materials submitted as part of the application shall be available for public inspection prior to any public hearing on the redesignation of the area as Class III.
 6. The redesignation is submitted to the Administrator as a revision to the SIP.
- H.** A redesignation shall not be effective until approved by the Administrator as part of an applicable implementation plan. If the Administrator disapproves the redesignation, the classification of the area shall be that which was in effect before the disapproved redesignation.
- I.** Lands within the exterior boundaries of Indian reservations may be redesignated only by the appropriate Indian governing body.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Editorial correction, subsection (A), paragraph (5), subparagraph (d) (Supp. 80-2). Amended effective May 28, 1982 (Supp. 82-3). Former Section R9-3-217 renumbered without change as Section R18-2-217 (Supp. 87-3). Amended and subsection (B) renumbered to Section R18-2-218 effective September 26, 1990 (Supp. 90-3). Amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-218. Limitation of Pollutants in Classified Attainment Areas

- A.** Areas designated as Class I, II, or III shall be limited to the following increases in air pollutant concentrations occurring over the baseline concentration; provided that for any period other than an annual period, the applicable maximum allowable increase may be exceeded once per year at any one location:

CLASS I

Maximum Allowable Increase (Micrograms per cubic meter)

Particulate matter: PM_{2.5}

Annual arithmetic mean	1
24-hr maximum	2

Particulate matter: PM₁₀

Annual arithmetic mean	4
24-hour maximum	8

Sulfur dioxide:

Annual arithmetic mean	2
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24-hour maximum	5
3-hour maximum	25
Nitrogen dioxide:	
Annual arithmetic mean	2.5

CLASS II

Particulate matter: PM _{2.5}	
Annual arithmetic mean	4
24-hr maximum	9
Particulate matter: PM ₁₀	
Annual arithmetic mean	17
24-hour maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
24-hour maximum	91
3-hour maximum	512
Nitrogen dioxide:	
Annual arithmetic mean	25

CLASS III

Particulate matter: PM _{2.5}	
Annual arithmetic mean	8
24-hr maximum	18
Particulate matter: PM ₁₀	
Annual arithmetic mean	34
24-hour maximum	60
Sulfur dioxide:	
Annual arithmetic mean	40
24-hour maximum	182
3-hour maximum	700
Nitrogen dioxide:	
Annual arithmetic mean	50

B. The baseline concentration is that ambient concentration level which exists in the baseline area at the time of the applicable minor source baseline date.

1. The major source baseline date is:
 - a. January 6, 1975, for sulfur dioxide and PM₁₀.
 - b. February 8, 1988, for nitrogen dioxide.
 - c. October 20, 2010, for PM_{2.5}.
2. The minor source baseline date shall be the earliest date after the trigger date on which a major source as defined in R18-2-401 or major modification subject to 40 CFR 52.21 or R18-2-406 submits a complete application under the relevant regulations.
 - a. The trigger date is:
 - i. August 7, 1977, for PM₁₀ and sulfur dioxide.
 - ii. February 8, 1988, for nitrogen dioxide.
 - iii. October 20, 2011, for PM_{2.5}.
 - b. Any minor source baseline date established originally for total suspended particulates shall remain in effect and shall apply for purposes of determining the amount of available PM-10 increments, except that the Department may rescind any such minor source baseline date where it can be shown, to the

satisfaction of the Department, that the emissions increase from the major source, or the net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM-10 emissions.

3. A baseline concentration shall be determined for each pollutant for which there is a minor source baseline date and shall include both:
 - a. The actual emissions representative of sources in existence on the minor source baseline date, except as provided in subsection (B)(4); and
 - b. The allowable emissions of major sources as defined in R18-2-401 which commenced construction before the major source baseline date but were not in operation by the applicable minor source baseline date.
4. The following shall not be included in the baseline concentration and shall affect the applicable maximum allowable increase:
 - a. Actual emissions from any major source as defined in R18-2-401 on which construction commenced after the major source baseline date; and
 - b. Actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.
- C. The baseline date shall be established for each pollutant for which maximum allowable increases or other equivalent measures have been established if both:
 1. The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the Act for the pollutant on the date of its complete application under 40 CFR 52.21 or R18-2-406; and
 2. In the case of a major source as defined in R18-2-401, the pollutant would be emitted in significant amounts, or in the case of a major modification, there would be a significant net emissions increase of the pollutant.
- D. The baseline area shall be the AQCR that contains the area, designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the Act, in which the major source as defined in R18-2-401 or major modification establishing the minor source baseline date would construct or would have an air quality impact for the pollutant for which the minor source baseline date is established, as follows: greater than or equal to 1 microgram per cubic meter (annual average) for sulfur dioxide, nitrogen dioxide or PM₁₀; or greater than or equal to 0.3 microgram per cubic meter (annual average) for PM_{2.5}.
 1. Area redesignations under section 107(d)(1)(A)(ii) or (iii) of the Act that would redesignate a baseline area may not intersect or be smaller than the area of impact of any new major source as defined in R18-2-401 or a major modification which either:
 - a. Establishes a minor source baseline date, or
 - b. Is subject to either 40 CFR 52.21 or R18-2-406 and would be constructed in Arizona.
 2. Any baseline area established originally for total suspended particulates shall remain in effect and shall apply for purposes of determining the amount of available PM-10 increments, except that such baseline area shall not remain in effect if the Department rescinds the corresponding minor source baseline date in accordance with subsection (B)(2)(b).
- E. The maximum allowable concentration of any air pollutant in any area to which subsection (A) applies shall not exceed a

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concentration for each pollutant equal to the concentration permitted under the national ambient air quality standards.

- F.** For purposes of determining compliance with the maximum allowable increases in ambient concentrations of an air pollutant, the following concentrations of such pollutant shall not be taken into account:
1. Concentration of such pollutant attributable to the increase in emissions from major and stationary sources which have converted from the use of petroleum products, or natural gas, or both, by reason of a natural gas curtailment order which is in effect under the provisions of sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, 15 U.S.C. 792, over the emissions from such sources before the effective date of such order;
 2. The concentration of such pollutant attributable to the increase in emissions from major and stationary sources which have converted from using gas by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, 16 U.S.C. 792 - 825r, over the emissions from such sources before the effective date of the natural gas curtailment plan;
 3. Concentrations of PM₁₀ or PM_{2.5} attributable to the increase in emissions from construction or other temporary emission related activities of a new or modified source;
 4. The increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration; and
 5. Concentrations attributable to the temporary increase in emissions of sulfur dioxide, nitrogen oxides, PM_{2.5}, or PM₁₀ from major sources as defined in R18-2-401 when the following conditions are met:
 - a. The permits issued to such sources specify the time period during which the temporary emissions increase of sulfur dioxide, nitrogen oxides, PM_{2.5} or PM₁₀ would occur. Such time period shall not be renewable and shall not exceed two years.
 - b. The temporary emissions increase will not:
 - i. Impact any Class I area or any area where a maximum increase allowed by subsection (A) is known to be violated; or
 - ii. Cause or contribute to the violation of a national ambient air quality standard.
 - c. The operating permit issued to such sources specifies that, at the end of the time period described in subsection (F)(5)(a), the emissions levels from the sources would not exceed the levels occurring before the temporary emissions increase was approved.
 6. The exception granted by subsections (F)(1) and (2) with respect to maximum increases allowed under subsection (A) shall not apply more than five years after the effective date of the order or natural gas curtailment plan on which the exception is based.
- G.** If the Director or the Administrator determines that the SIP is substantially inadequate to prevent significant deterioration or that an applicable maximum allowable increase as specified in subsection (A) is being violated, the SIP shall be revised to correct the inadequacy or the violation. The SIP shall be revised within 60 days of such a finding by the Director or within 60 days following notification by the Administrator, or

by such later date as prescribed by the Administrator after consultation with the Director.

- H.** The Director shall review the adequacy of the SIP on a periodic basis and within 60 days of such time as information becomes available that an applicable maximum allowable increase is being violated.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Editorial correction, subsection (A), paragraph (5), subparagraph (d) (Supp. 80-2). Amended effective May 28, 1982 (Supp. 82-3). Former Section R9-3-217 renumbered without change as Section R18-2-217 (Supp. 87-3). Former Section R18-2-218 renumbered to R18-2-219, new Section R18-2-218 renumbered from R18-2-217(B) and amended effective September 26, 1990 (Supp. 90-3). Amended effective November 15, 1993 (Supp. 93-4). Amended effective February 28, 1995 (Supp. 95-1). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-219. Repealed**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-218 repealed, new Section R9-3-218 adopted effective September 22, 1983 (Supp. 83-5). Former Section R9-3-218 renumbered without change as Section R18-2-218 (Supp. 87-3). Former Section R18-2-219 renumbered to R18-2-220, new Section R18-2-219 renumbered from R18-2-218 and amended effective September 26, 1990 (Supp. 90-3). Section repealed by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-220. Air Pollution Emergency Episodes

- A.** Procedures shall be implemented by the Director in order to prevent the occurrence of ambient air pollutant concentrations which would cause significant harm to the health of persons, as specified in subsection (B)(4). The procedures and actions required for each stage are described in the Department's "Procedures for Prevention of Emergency Episodes," amended as of August 2018 (and no future edition), which is incorporated herein by reference and on file with the Department.
- B.** The following stages are identified by air quality criteria in order to provide for sequential emissions reductions, public notification and increased Department monitoring and forecast responsibilities. The declaration of any stage, and the area of the state affected, shall be based on air quality measurements and meteorological analysis and forecast.
1. A Stage I air pollution alert shall be declared when any of the alert level concentrations listed in subsection (B)(4) are exceeded at any monitoring site and when meteorological conditions indicate that there will be a continuance or recurrence of alert level concentrations for the same pollutant during the subsequent 24-hour period. If, 48 hours after an alert has been initially declared, air pollution concentrations and meteorological conditions do not improve, the warning stage control actions shall be implemented but no warning shall be declared, unless air quality has deteriorated to the extent described in subsection (B)(2).

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2. A Stage II air pollution warning shall be declared when any of the warning level concentrations listed in subsection (B)(4) are exceeded at any monitoring site and when meteorological conditions indicate that there will be a continuance or recurrence of concentrations of the same pollutant exceeding the warning level during the subsequent 24-hour period. If, 48 hours after a warning has been initially declared, air pollution concentrations and meteorological conditions do not improve, the emergency stage shall be declared and its control actions implemented.
3. A Stage III air pollution emergency shall be declared when any of the emergency level concentrations listed in subsection (B)(4) are exceeded at any monitoring site and when meteorological conditions indicate that there will be a continuance or recurrence of concentrations of the same pollutant exceeding the emergency level during the subsequent 24-hour period.
4. Summary of emergency episode and significant harm levels:

Pollutant	Averaging Time	Alert	Warning	Emergency	Significant Harm
Carbon monoxide (mg/m ³)	1-hr	--	--	--	144
	4-hr	--	--	--	86.3
	8-hr	17	34	46	57.5
Nitrogen dioxide (µg/m ³)	1-hr	1,130	2,260	3,000	3,750
	24-hr	282	565	750	938
Ozone (ppm)	1-hr	.2	.4	.5	.6
PM _{2.5} (µg/m ³)	24-hr	140.5	210.5	280.5	350.5
PM ₁₀ (µg/m ³)	24-hr	350	420	500	600
Sulfur dioxide (µg/m ³)	24-hr	800	1,600	2,100	2,620

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Editorial correction, subsection (B), paragraph (2) (Supp. 80-1). Editorial correction, subsection (A) (Supp. 80-2). Former Section R9-3-219 repealed, new Section R9-3-219 adopted effective May 28, 1982 (Supp. 82-3). Former Section R9-3-219 renumbered without change as Section R18-2-219 (Supp. 87-3). Section R18-2-220 renumbered from R18-2-219 and amended effective September 26, 1990 (Supp. 90-3). Section amended by final rulemaking at 25 A.A.R. 888, effective May 18, 2019 (Supp. 19-1).

ARTICLE 3. PERMITS AND PERMIT REVISIONS**R18-2-301. Definitions**

The following definitions apply to this Article:

1. "Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to produce results adequate for the Director's determination of compliance in accordance with R18-2-311(D).
2. "Billable permit action" means the issuance or denial of a new permit, significant permit revision, or minor permit revision, or the renewal of an existing permit.
3. "Capacity factor" means the ratio of the average load on a machine or equipment for the period of time considered to the capacity rating of the machine or equipment.
4. "CEM" means a continuous emission monitoring system as defined in R18-2-101.
5. "Complete" means, in reference to an application for a permit, permit revision or registration, that the application contains all the information necessary for processing the application. Designating an application complete for purposes of a permit, permit revisions or registration processing does not preclude the Director from requesting or accepting any additional information.
6. "Dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by any of the following:
 - a. Using that portion of a stack which exceeds good engineering practice stack height;
 - b. Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or
- c. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. This shall not include any of the following:
 - i. The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.
 - ii. The merging of exhaust gas streams under any of the following conditions:
 - (1) The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams;
 - (2) After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant, applying only to the emission limitation for that pollutant; or
 - (3) Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior

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to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the reviewing agency shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the reviewing agency shall deny credit for the effects of such merging in calculating the allowable emissions for the source.

- iii. Smoke management in agricultural or silvicultural prescribed burning programs.
 - iv. Episodic restrictions on residential woodburning and open burning.
 - v. Techniques which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.
7. "Emissions allowable under the permit" means a permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or an emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.
8. "Fossil fuel-fired steam generator" means a furnace or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.
9. "Fuel oil" means Number 2 through Number 6 fuel oils as specified in ASTM D-396-90a (Specification for Fuel Oils), gas turbine fuel oils Numbers 2-GT through 4-GT as specified in ASTM D-2880-90a (Specification for Gas Turbine Fuel Oils), or diesel fuel oils Numbers 2-D and 4-D as specified in ASTM D-975-90a (Specification for Diesel Fuel Oils).
10. "Itemized bill" means a breakdown of the permit processing time into the categories of pre-application activities, completeness review, substantive review, and public involvement activities, and within each category, a further breakdown by employee name.
11. "Major source threshold" means the lowest applicable emissions rate for a pollutant that would cause the source to be a major source at the particular time and location, under the definition of major source in R18-2-101.
12. "Maximum capacity to emit" means the maximum amount a source is capable of emitting under its physical and operational design without taking any limitations on operations or air pollution controls into account.
13. "Maximum capacity to emit with any elective limits" means the maximum amount a source is capable of emitting under its physical and operational design taking into account the effect on emissions of any elective limits included in the source's registration under R18-2-302.01(F).
14. "Minor NSR Modification" means any of the following changes that do not qualify as a major source or major modification:
- a. Any physical change in or change in the method of operation of an emission unit or a stationary source that either:
 - i. Increases the potential to emit of a regulated minor NSR pollutant by an amount greater than or equal to the permitting exemption thresholds, or
 - ii. Results in emissions of a regulated minor NSR pollutant not previously emitted by such emission unit or stationary source in an amount greater than or equal to the permitting exemption thresholds.
 - b. Construction of one or more new emissions units that have the potential to emit regulated minor NSR pollutants at an amount greater than or equal to the permitting exemption threshold.
 - c. A change covered by subsections (12)(a) or (b) constitutes a minor NSR modification regardless of whether there will be a net decrease in total source emissions or a net increase in total source emissions that is less than the permitting exemption threshold as a result of decreases in the potential to emit of other emission units at the same stationary source.
 - d. For the purposes of this subsection (the) following do not constitute a physical change or change in the method of operation:
 - i. A change consisting solely of the construction of, or changes to, a combination of emissions units qualifying as a categorically exempt activity.
 - ii. For a stationary source that is required to obtain a Class II permit under R18-2-302 and that is subject to source-wide emissions caps under R18-2-306.01 or R18-2-306.02, a change that will not result in the violation of the existing emissions cap for that regulated minor NSR pollutant.
 - iii. Replacement of an emission unit by a unit with a potential to emit regulated minor NSR pollutants that is less than or equal to the potential to emit of the existing unit, provided the replacement does not cause an increase in emissions at other emission units at the stationary source. A unit installed under this provision is subject to any limits applicable to the unit it replaced.
 - iv. Routine maintenance, repair, and replacement.
 - v. Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, 15 U.S.C. 792, or by reason of a natural gas curtailment plan under the Federal Power Act, 16 U.S.C. 792 to 825r.
 - vi. Use of an alternative fuel by reason of an order or rule under Section 125 of the Act.
 - vii. Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.
 - viii. Use of an alternative fuel or raw material by a stationary source that either:
 - (1) The source was capable of accommodating before December 12, 1976, unless the change would be prohibited under any federally enforceable permit condition established after December 12, 1976, under 40 CFR 52.21, or under Articles 3 or 4 of this Chapter; or
 - (2) The source is approved to use under any permit issued under 40 CFR 52.21, or under Articles 3 or 4 of this Chapter.

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- ix. An increase in the hours of operation or in the production rate, unless the change would be prohibited under any federally enforceable permit condition established after December 12, 1976, under 40 CFR 52.21, or under Articles 3 or 4 of this Chapter.
- x. Any change in ownership at a stationary source.
- xi. The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, if the project complies with:
 - (1) The SIP, and
 - (2) Other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.
- xii. For electric utility steam generating units located in attainment and unclassifiable areas only, the installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, if the project does not result in an increase in the potential to emit any regulated pollutant emitted by the unit. This exemption applies on a pollutant-by-pollutant basis.
- xiii. For electric utility steam generating units located in attainment and unclassifiable areas only, the reactivation of a very clean coal-fired electric utility steam generating unit.
- e. For purposes of this subsection:
 - i. "Potential to emit" means the lower of a source's or emission unit's potential to emit or its allowable emissions.
 - ii. In determining potential to emit, the fugitive emissions of a stationary source shall not be considered unless the source belongs to a section 302(j) category.
 - iii. All of the roadways located at a stationary source constitute a single emissions unit.
- 15. "NAICS" means the five- or six-digit North American Industry Classification System-United States, 1997, number for industries used by the U.S. Department of Commerce.
- 16. "Permit processing time" means all time spent by Air Quality Division staff or consultants on tasks specifically related to the processing of an application for the issuance or renewal of a particular permit or permit revision, including time spent processing an application that is denied.
- 17. "Quantifiable" means, with respect to emissions, including the emissions involved in equivalent emission limits and emission trades, capable of being measured or otherwise determined in terms of quantity and assessed in terms of character. Quantification may be based on emission factors, stack tests, monitored values, operating rates and averaging times, materials used in a process or production, modeling, or other reasonable measurement practices.
- 18. "Registration" means a registration under R18-2-302.01.
- 19. "Replicable" means, with respect to methods or procedures, sufficiently unambiguous that the same or equivalent results would be obtained by the application of the method or procedure by different users.
- 20. "Responsible official" means one of the following:
 - a. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
 - i. The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
 - ii. The delegation of authority to such representatives is approved in advance by the permitting authority;
 - b. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
 - c. For a municipality, state, federal, or other public agency: Either a principal executive officer or ranking elected official. For the purposes of this Article, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or
 - d. For affected sources:
 - i. The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and
 - ii. The designated representative for any other purposes under 40 CFR 70.
- 21. "Screening model" means air dispersion modeling performed with screening techniques in accordance with 40 CFR 51, Appendix W as of June 30, 2017 (and no future amendments or additions).
- 22. "Small source" means a source with a potential to emit, without controls, less than the rate defined as permitting exemption thresholds in R18-2-101, but required to obtain a permit solely because it is subject to a standard under 40 CFR 63.
- 23. "Startup" means the setting in operation of a source for any purpose.
- 24. "Synthetic minor" means a source with a permit that contains voluntarily accepted emissions limitations, controls, or other requirements (for example, a cap on production rates or hours of operation, or limits on the type of fuel) under R18-2-306.01 to reduce the potential to emit to a level below the major source threshold.

Historical Note

Former Section R18-2-301 renumbered to R18-2-302, new Section R18-2-301 adopted effective September 26, 1990 (Supp. 90-3). Correction to table in subsection (A)(13) (Supp. 93-1). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4).

Amended effective August 1, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 343, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 7 A.A.R. 5670, effective January 1, 2002 (Supp. 01-4). Amended

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by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1). Amended by final rulemaking at 25 A.A.R. 3630, effective February 1, 2020 (Supp. 19-4).

R18-2-302. Applicability; Registration; Classes of Permits

- A.** Except as otherwise provided in this Article, no person shall begin actual construction of, operate, or make a modification to any stationary source subject to regulation under this Article, without obtaining a registration, permit or permit revision from the Director.
- B.** Class I and II permits and registrations shall be required as follows:
1. A Class I permit shall be required for a person to begin actual construction of or operate any of the following:
 - a. Any major source,
 - b. Any solid waste incineration unit required to obtain a permit pursuant to Section 129(e) of the Act,
 - c. Any affected source, or
 - d. Any stationary source in a source category designated by the Administrator pursuant to 40 CFR 70.3 and adopted by the Director by rule.
 2. Unless a Class I permit is required, a Class II permit shall be required for:
 - a. A person to begin actual construction of or operate any stationary source that emits, or has the maximum capacity to emit with any elective limits, any regulated NSR pollutant in an amount greater than or equal to the significant level.
 - b. A person to make a physical or operational change to a stationary source that would cause the source to emit, or have the maximum capacity to emit with any elective limits, any regulated NSR pollutant in an amount greater than or equal to the significant level.
 - c. A person to begin actual construction of or modify a stationary source that otherwise would be subject to registration but that the Director has determined requires a permit under R18-2-302.01(C)(4) or (D).
 3. Unless a Class I or II permit is required, registration shall be required for:
 - a. A person to begin actual construction of or operate any stationary source that emits or has the maximum capacity to emit any regulated minor NSR pollutant in an amount greater than or equal to a permitting exemption threshold.
 - b. A person to begin actual construction of or operate any stationary source subject to a standard under section 111 of the Act, except that a stationary source is not required to register solely because it is subject to any of the following standards:
 - i. 40 CFR 60, Subpart AAA (Residential Wood Heaters).
 - ii. 40 CFR 60, Subpart IIII (Stationary Compression Ignition Internal Combustion Engines).
 - iii. 40 CFR 60, Subpart JJJJ (Stationary Spark Ignition Internal Combustion Engines).
 - iv. 40 CFR 60, Subpart QQQQ (Residential Hydronic Heaters and Forced-Air Furnaces).
 - c. A person to begin actual construction of or operate any stationary source, including an area source, subject to a standard under section 112 of the Act, except that a stationary source is not required to register solely because it is subject to any of the following standards:
 - i. 40 CFR 61.145.
 - ii. 40 CFR 63, Subpart ZZZZ (Reciprocating Internal Combustion Engines).
 - iii. 40 CFR 63, Subpart WWWW (Ethylene Oxide Sterilizers).
 - iv. 40 CFR 63, Subpart CCCCCC (Gasoline Distribution).
 - v. 40 CFR 63, Subpart HHHHHH (Paint Stripping and Miscellaneous Surface Coating Operations).
 - vi. 40 CFR 63, Subpart JJJJJJ (Industrial, Commercial, and Institutional Boilers Area Sources), published at 76 FR 15554 (March 21, 2011).
 - vii. A regulation or requirement under section 112(r) of the Act.
 - d. A physical or operational change to a source that would cause the source to emit or have the maximum capacity to emit any regulated minor NSR pollutant in an amount greater than or equal to the permitting exemption threshold.
- C.** Notwithstanding subsections (A) and (B), the following stationary sources do not require a permit or registration unless the source is a major source, or unless operation without a permit would result in a violation of the Act:
1. A stationary source that consists solely of a single categorically exempt activity plus any combination of trivial activities.
 2. Agricultural equipment used in normal farm operations. "Agricultural equipment used in normal farm operations" does not include equipment classified as a source that requires a permit under Title V of the Act, or that is subject to a standard under 40 CFR 60, 61 or 63.
- D.** No person may construct or reconstruct any major source of hazardous air pollutants, unless the Director determines that maximum achievable control technology emission limitation (MACT) for new sources under Section 112 of the Act will be met. If MACT has not been established by the Administrator, such determination shall be made on a case-by-case basis pursuant to 40 CFR 63.40 through 63.44, as incorporated by reference in R18-2-1101(B). For purposes of this subsection, constructing and reconstructing a major source shall have the meaning prescribed in 40 CFR 63.41.
- E.** Elective limits or controls adopted under R18-2-302.01(F) shall not be considered in determining whether a source requires registration or a Class I permit but shall be considered in determining any of the following:
1. Whether the registration is subject to the public participation requirements of R18-2-330, as provided in R18-2-302.01(B)(3).
 2. Whether review for possible interference with attainment or maintenance of ambient standards is required under R18-2-302.01(C).
 3. Whether the source requires a Class II permit, as provided in subsections (B)(2)(a) or (b).
- F.** The fugitive emissions of a stationary source shall not be considered in determining whether the source requires a Class II permit under subsections (B)(2)(a) or (b) or a registration under subsections (B)(3)(a) or (d), unless the source belongs to a section 302(j) category. If a permit is required for a stationary source, the fugitive emissions of the source shall be subject to all of the requirements of this Article.

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- G. Notwithstanding subsections (A) and (B), a person may begin actual construction, but not operation, of a source requiring a Class I permit or Class I permit revision upon the Director's issuance of the proposed final permit or proposed final permit revision.

Historical Note

Amended effective August 7, 1975 (Supp. 75-1). Amended as an emergency effective December 15, 1975 (Supp. 75-2). Amended effective May 10, 1976 (Supp. 76-3). Amended effective April 12, 1977 (Supp. 77-2). Amended effective March 24, 1978 (Supp. 78-2). Former Section R9-3-301 repealed, new Section R9-3-301 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended effective May 28, 1982 (Supp. 82-3). Amended subsections (B) and (C) effective September 22, 1983 (Supp. 83-5). Amended subsection (B), paragraph (3) effective September 28, 1984 (Supp. 84-5). Former Section R9-3-301 renumbered without change as Section R18-2-301 (Supp. 87-3). Former Section R18-2-302 renumbered to R18-2-302.01, new Section R18-2-302 renumbered from R18-2-301 and amended effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-302.01. Source Registration Requirements

- A. Application. An application for registration shall be submitted on the form specified by the Director and shall include the following information:
1. The name of the applicant.
 2. The physical location of the source, including the street address, city, county, zip code and latitude and longitude coordinates.
 3. The source's maximum capacity to emit with any elective limits each regulated minor NSR pollutant.
 4. Identification of any elective limits or controls adopted under subsection (F).
 5. In the case of a modification, each increase in the source's maximum capacity to emit with any elective limits that exceeds the applicable threshold in subsection (G)(1)(a).
 6. Identification of the method used to determine the maximum capacity to emit under R18-2-302(B)(3)(a), a change in the maximum capacity to emit under R18-2-302(B)(3)(d), or the maximum capacity to emit with any elective limits under subsection (G)(1)(a).
 7. Process information for the source, including a list of emission units, design capacity, operations schedule, and identification of emissions control devices.
- B. Registration Processing Procedures.
1. The Department shall complete a review of a registration application for administrative completeness within 30 calendar days, calculated in accordance with A.A.C. R18-1-503, after its receipt.
 2. The Department shall complete a substantive review and take final action on a registration application within 60 calendar days if no hearing is requested, and 90 calendar days if a hearing is requested, calculated in accordance with A.A.C. R18-1-504, after the application is administratively complete.
3. Except as provided in subsection (B)(5), a registration for construction of a source shall be subject to the public notice and participation requirements of R18-2-330. The materials relevant to the registration decision made available to the public under R18-2-330(D) shall include any determination made or modeling conducted by the Director under subsection (C).
 4. The Department shall also send a copy of the notice required by subsection (B)(3) to the administrator through the appropriate regional office, and to all other state and local air pollution control agencies having jurisdiction in the region in which the source subject to the registration will be located. The notice shall also be sent to any other agency in the region having responsibility for implementing the procedures required under 40 CFR 51, Subpart I.
 5. A registration for construction of a source shall not be subject to subsections (B)(3) or (4), if the source's maximum capacity to emit with any elective limits each regulated minor NSR pollutant is less than the applicable permitting exemption threshold.
- C. Review for National Ambient Air Quality Standards Compliance; Requirement to Obtain a Permit.
1. The Director shall review each application for registration of a source with the maximum capacity to emit with any elective limits any regulated minor NSR pollutant in an amount equal to or greater than the permitting exemption threshold. The purpose of the review shall be to determine whether the new or modified source may interfere with attainment or maintenance of a national ambient air quality standard in any area. In making the determination required by this subsection, the Director shall take into account the following factors:
 - a. The source's emission rates, including fugitive emission rates, taking into account any elective limits or controls adopted under subsection (F).
 - b. The location of emission units within the facility and their proximity to the ambient air.
 - c. The terrain in which the source is or will be located.
 - d. The source type.
 - e. The location and emissions of nearby sources.
 - f. Background concentrations of regulated minor NSR pollutants.
 2. The Director may undertake the review specified in subsection (C)(1) for a source with the maximum capacity to emit with any elective limits regulated minor NSR pollutants in an amount less than the permitting exemption threshold.
 3. If the Director determines under subsections (C)(1) or (C)(2) that a source's emissions may interfere with attainment or maintenance of a national ambient air quality standard, the Director shall perform a screening model run for each regulated minor NSR pollutant for which that determination has been made.
 4. If the Director determines, based on performance of the screening model pursuant to subsection (C)(3), that a source's emissions, taking into account any elective limits or controls adopted under subsection (F), will interfere with attainment or maintenance of a national ambient air quality standard, the Director shall deny the application for registration. Notwithstanding R18-2-302(B)(3), the owner or operator of the source shall be required to obtain

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a permit under R18-2-302 and shall comply with R18-2-334 before beginning actual construction of the source or modification.

- D. Requirement to Obtain a Permit.** Notwithstanding R18-2-302(B)(3)(b) and (c), the Director shall deny an application for registration for a source subject to a standard under section 111 or 112 of the Act and require the owner or operator to obtain a permit under R18-2-302, if the Director determines based on the following factors that the requirement to obtain a permit is warranted:

1. The size and complexity of the source.
2. The complexity of the section 111 or 112 standard applicable to the source.
3. The public health or environmental risks posed by the pollutants subject to regulation under the section 111 or 112 standard.

- E. Registration Contents.** A registration shall contain the following elements:

1. Enforceable emission limitations and standards, including operational requirements and limitations, that ensure compliance with all applicable SIP requirements at the time of issuance and any testing, monitoring, recordkeeping and reporting obligations imposed by the applicable requirement or by R18-2-312.
2. Any elective limits or controls and associated operating, maintenance, monitoring and recordkeeping requirements adopted pursuant to subsection (F).
3. A requirement to retain any records required by the registration at the source for at least three years in a form that is suitable for expeditious inspection and review.
4. For any source that has adopted elective limits or controls under subsection (F), a requirement to submit an annual compliance report on the form provided by the Director in the registration.

- F. Elective Limits or Controls.** The owner or operator of a source requiring registration may elect to include any of the following emission limitations in the registration, provided the Department approves the limitation and the registration also includes the operating, maintenance, monitoring, and recordkeeping requirements specified below for the limitation.

1. A limitation on the hours of operation of any process or combination of processes.
 - a. The registration shall express the limitation in terms of hours per rolling 12-month period and shall specify the process or combination of processes subject to the limitation.
 - b. The owner or operator shall maintain a log or readily available business records showing actual operating hours through the preceding operating day for the process or processes subject to the limitation.
2. A limitation on the production rate for any process or combination of processes.
 - a. The registration shall express the limitation in terms of an appropriate unit of mass or production per rolling 12-month period and shall specify the process or combination of processes subject to the limitation.
 - b. The owner or operator shall maintain a log or readily available business records showing the actual production rate through the preceding operating day for the process or processes subject to the limitation. The owner or operator shall update the log or business records at least once per operating day.
3. A requirement to operate a fabric filter for the control of particulate matter emissions.

- a. The owner or operator shall operate the fabric filter at all times that the emission unit controlled by the fabric filter is operated.

- b. The owner or operator shall inspect the fabric filter at least once per month for tears and leaks and shall promptly repair any tears or leaks identified. If the fabric filter is subject to a limit on the opacity of emissions, the inspection shall include an opacity observation in accordance with the applicable reference method.

- c. The owner or operator shall operate and maintain the fabric filter in substantial compliance with the manufacturer's operation and maintenance recommendations.

- d. The owner or operator shall keep a log or readily available business records of the inspections required by subsection (F)(3)(b) and the maintenance activities required by subsection (F)(3)(c). The owner or operator shall update the log or business records within 24 hours after an inspection or maintenance activity is performed.

- e. The registration shall identify the fabric filters and processes subject to this requirement.

4. Limitations on the total amount of VOC or hazardous air pollutants in solvents, coatings or other process materials used at the registered source.

- a. The registration shall identify the pollutants and processes covered by the limitations and shall express the limitations in terms of pounds per rolling 12-month period.

- b. The owner or operator shall maintain a log or readily available business records showing the concentration of each covered VOC or hazardous air pollutant in each VOC or hazardous air pollutant containing material used at the source. The owner or operator shall update the records whenever the concentration in any material changes or a new material is used. The presence at the source of a current material safety data sheet for a material used without dilution or other alteration satisfies this requirement.

- c. The owner or operator shall maintain a spreadsheet or database to record the amount of each material containing a covered VOC or hazardous air pollutant used. The spreadsheet or database shall calculate the total pounds of the VOC or hazardous air pollutant used by multiplying the concentration of VOC or hazardous air pollutant in a material by the amount of material used and shall employ appropriate units of measurement and conversion factors. The owner or operator shall update the spreadsheet or database at least once per operating day.

- G. Revised Registrations.**

1. Unless a Class II permit is required under R18-2-302(B)(2)(b), the owner or operator of a registered source shall file a revised registration on the occurrence of any of the following:

- a. A modification to the source that would result in an increase in the source's maximum capacity to emit with any elective limits exceeding any of the following amounts:

- i. 2.5 tons per year for NO_x, SO₂, PM₁₀, PM_{2.5}, VOC or CO.
- ii. 0.3 tons per year for lead.

- b. Relocation of a portable source.

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- c. The transfer of the source to a new owner.
- 2. The requirements of subsection (B) shall not apply to a revised registration. The owner or operator may begin actual construction and operation of the modified, relocated or transferred source on filing the revised registration.

H. Registration Term.

- 1. A source's registration shall expire five years after the date of issuance of the last registration for the source or any modification to the source.
- 2. A source shall submit an application for renewal of a registration not later than six months before expiration of the registration's term.
- 3. If a source submits a timely and complete application for renewal of a registration, the source's authorization to operate under its existing registration shall continue until the Director takes final action on the application.
- 4. The Director may terminate a registration under R18-2-321(C). If the Director terminates a registration under R18-2-321(C)(3), the owner or operator shall be required to apply for a permit for the source under R18-2-302.

- I.** Issuance of a registration shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local, state, or federal law.

Historical Note

Amended effective August 7, 1975 (Supp. 75-1); Former Section R9-3-302 repealed, new Section R9-3-302 adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-302 repealed, new Section R9-3-302 adopted effective October 2, 1979 (Supp. 79-5). Former Section R9-3-302 repealed, new Section R9-3-302 adopted effective May 28, 1982 (Supp. 82-3). Former Section R9-3-302 renumbered without change as Section R18-2-302 (Supp. 87-3). Section R18-2-302.01 renumbered from Section R18-2-302 and amended effective September 26, 1990 (Supp. 90-3). Section repealed effective November 15, 1993 (Supp. 93-4). New Section made by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1). Amended by final rulemaking at 25 A.A.R. 3630, effective February 1, 2020 (Supp. 19-4).

R18-2-303. Transition from Installation and Operating Permit Program to Unitary Permit Program; Registration Transition; Minor NSR Transition

- A.** An installation or operating permit issued before September 1, 1993, and the authority to operate, as provided in Laws 1992, Ch. 299, § 65, continues in effect until the installation or operating permit is terminated, or until the Director issues or denies a Class I or Class II permit to the source, whichever is earlier.
- B.** The terms and conditions of installation permits issued before September 1, 1993, or in permits or permit revisions issued under R18-2-302 and authorizing the construction or modification of a stationary source, remain federal applicable requirements unless modified or revoked by the Director.
- C.** All sources in existence on September 1, 2012, requiring a registration shall provide notice to the Director by no later than December 1, 2012, on a form provided by the Director.
- D.** All sources requiring a registration that are in existence on the date R18-2-302.01 becomes effective under R18-2-302.01(I) may submit applications for registration at any time after R18-

2-302.01 is effective and shall submit an application no later than 180 days after receipt of written notice from the Director that an application is required.

- E.** Sources in existence on December 2, 2015 are not subject to R18-2-334, unless the source undertakes a minor NSR modification after that date. Notwithstanding any other provision of this Chapter, R18-2-334 shall apply only to applications for permits or permit revisions filed after December 2, 2015.

Historical Note

Amended effective August 7, 1975 (Supp. 75-1). Amended effective August 6, 1976 (Supp. 76-4). Former Section R9-3-303 repealed, new Section R9-3-303 adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-303 repealed, new Section R9-3-303 adopted effective October 2, 1979 (Supp. 79-5). Amended effective May 28, 1982 (Supp. 82-3). Amended subsection (D), paragraph (1) effective September 28, 1984 (Supp. 84-5). Former Section R9-3-303 renumbered without change as Section R18-2-303 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-304. Permit Application Processing Procedures

- A.** Unless otherwise noted, this Section applies to each source requiring a Class I or II permit or permit revision.
- B.** Standard Application Form and Required Information. To apply for a permit required by this Chapter, applicants shall complete the applicable standard application form provided by the Director and supply all information required by the form's filing instructions. The application forms and filing instructions for Class I Permits shall at a minimum require submission of the following elements:
 - 1. Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact.
 - 2. A description of the source's processes and products (by Standard Industrial Classification (SIC) Code), including those associated with any proposed alternative operating scenarios (AOS) identified by the source.
 - 3. The following emission-related information:
 - a. All emissions of pollutants for which the source is major, and all emissions of regulated air pollutants. A permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except as otherwise provided in R18-2-304(F)(8). The Director shall require additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed under R18-2-326.
 - b. Identification and description of all points of emissions described in subsection (B)(3)(a) in sufficient detail to establish the basis for fees and applicability of requirements.
 - c. Emissions rate in tons per year (tpy) and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method. For emissions units subject to an annual emissions cap, tpy can be reported as part of the

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- aggregate emissions associated with the cap, except where more specific information is needed, including where necessary to determine and/or assure compliance with an applicable requirement.
- d. The following information to the extent it is needed to determine or regulate emissions: fuels, fuel use, raw materials, production rates, and operating schedules.
 - e. Identification and description of air pollution control equipment and compliance monitoring devices or activities.
 - f. Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the Class I source.
 - g. Other information required by any applicable requirement (including information related to stack height limitations in R18-2-332).
 - h. Calculations on which the information in subsections (B)(3)(a) through (g) is based.
4. The following air pollution control requirements:
 - a. Citation and description of all applicable requirements, and
 - b. Description of or reference to any applicable test method for determining compliance with each applicable requirement.
 5. Other specific information that may be necessary to implement and enforce other applicable requirements or to determine the applicability of such requirements.
 6. An explanation of any proposed exemptions from otherwise applicable requirements.
 7. Additional information as determined to be necessary by the Director to define proposed AOS identified by the source pursuant to R18-2-306(A)(11) or to define permit terms and conditions implementing any AOS under R18-2-306(A)(11) or implementing R18-2-317, R18-2-306(A)(12), R18-2-306(A)(14), or R18-2-306.02. The permit application shall include documentation demonstrating that the source has obtained all authorizations required under the applicable requirements relevant to any proposed AOS, or a certification that the source has submitted all relevant materials to the Director for obtaining such authorizations.
 8. A compliance plan for all Class I sources that contains all of the following:
 - a. A description of the compliance status of the source with respect to all applicable requirements.
 - b. A description as follows:
 - i. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.
 - ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.
 - iii. For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.
 - iv. For applicable requirements associated with a proposed AOS, a statement that the source will meet such requirements upon implementation of the AOS. If a proposed AOS would implicate an applicable requirement that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.
 - c. A compliance schedule as follows:
 - i. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.
 - ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet, in a timely manner, applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.
 - iii. A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.
 - iv. For applicable requirements associated with a proposed AOS, a statement that the source will meet such requirements upon implementation of the AOS. If a proposed AOS would implicate an applicable requirement that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet, in a timely manner, applicable requirements that become effective during the permit term will satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.
 - d. A schedule for submission of certified progress reports no less frequently than every six months for sources required to have a schedule of compliance to remedy a violation.
 - e. The compliance plan content requirements specified in subsection (B)(8) shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under title IV of the Act with regard to the schedule and methods the source will use to achieve compliance with the acid rain emissions limitations.
9. Requirements for compliance certification, including the following:
 - a. A certification of compliance with all applicable requirements by a responsible official, which shall include:

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- i. Identification of the applicable requirement that is the basis of the certification;
 - ii. The method used for determining the compliance status of the source, including a description of monitoring, recordkeeping, and reporting requirements and test methods;
 - iii. The compliance status; and
 - iv. Such other facts as the Director may require;
 - b. A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the permitting authority;
 - c. A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act; and
 - d. A certification of truth, accuracy, and completeness pursuant to R18-2-304(I).
 10. The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under title IV of the act.
- C. The Director, either upon the Director's own initiative or on the request of a permit applicant, may waive a requirement that specific information or data be submitted in the application for a Class II permit for a particular source or category of sources if the Director determines that the information or data would be unnecessary to determine all of the following:
1. The applicable requirements to which the source may be subject;
 2. That the source is so designed, controlled, or equipped with such air pollution control equipment that it may be expected to operate without emitting or without causing to be emitted air contaminants in violation of the provisions of A.R.S. Title 49, Chapter 3, Article 2 and this Chapter;
 3. The fees to which the source may be subject; and
 4. A proposed emission limitation, control, or other requirement that meets the requirements of R18-2-306.01 or R18-2-306.02.
- D. A timely application is:
1. For a source, that becomes subject to the permit program as a result of a change in regulation and not as a result of construction or a physical or operational change, one that is submitted within 12 months after the source becomes subject to the permit program.
 2. For purposes of permit renewal, a timely application is one that is submitted at least six months, but not more than 18 months, prior to the date of permit expiration.
 3. Any source under R18-2-326(A)(3) which becomes subject to a standard promulgated by the Administrator pursuant to section 112(d) of the Act shall, within 12 months of the date on which the standard is promulgated, submit an application for a permit revision demonstrating how the source will comply with the standard.
- E. If an applicable implementation plan allows the determination of an alternative emission limit, a source may, in its application, propose an emission limit that is equivalent to the emission limit otherwise applicable to the source under the applicable implementation plan. The source shall also demonstrate that the equivalent limit is quantifiable, accountable, enforceable, and subject to replicable compliance determination procedures.
- F. A complete application shall comply with all of the following:
1. To be complete, an application shall provide all information required by subsection (B) (standard application form section). An application for permit revision only need supply information related to the proposed change, unless the source's proposed permit revision will change the permit from a Class II permit to a Class I permit. A responsible official shall certify the submitted information consistent with subsection (I) (Certification of Truth, Accuracy, and Completeness).
 2. An application for a new permit or permit revision shall contain an assessment of the applicability of the requirements of Article 4 of this Chapter. If the applicant determines that the proposed new source is a major source as defined in R18-2-401, or the proposed permit revision constitutes a major modification as defined in R18-2-101, then the application shall comply with all applicable requirements of Article 4.
 3. An application for a new permit or permit revision shall contain an assessment of the applicability of Minor New Source Review requirements in R18-2-334. If the applicant determines that the proposed new source is subject to R18-2-334, or the proposed permit revision constitutes a Minor NSR Modification, then the application shall comply with all applicable requirements of R18-2-334.
 4. Except for proposed new major sources or major modifications subject to the requirements of Article 4 of this Chapter, an application for a new permit, a permit revision, or a permit renewal shall be deemed to be complete unless, within 60 days of receipt of the application, the Director notifies the applicant by certified mail that the application is not complete.
 5. If a source wishes to voluntarily enter into an emissions limitation, control, or other requirement pursuant to R18-2-306.01, the source shall describe that emissions limitation, control, or other requirement in its application, along with proposed associated monitoring, recordkeeping, and reporting requirements necessary to demonstrate that the emissions limitation, control, or other requirement is permanent, quantifiable, and otherwise enforceable as a practical matter.
 6. If, while processing an application that has been determined or deemed to be complete, the Director determines that additional information is necessary to evaluate or take final action on that application, the Director may request such information in writing and set a reasonable deadline for a response. Except for minor permit revisions as set forth in R18-2-319, a source's ability to continue operating without a permit, as set forth in subsection (K), shall be in effect from the date the application is determined to be complete until the final permit is issued, provided that the applicant submits any requested additional information by the deadline specified by the Director.
 7. The completeness determination shall not apply to revisions processed through the minor permit revision process.
 8. Activities which are insignificant pursuant to the definition of insignificant activities in R18-2-101 shall be listed in the application. Except as necessary to complete the assessment required by subsections (F)(2) or (3), the application need not provide emissions data regarding insignificant activities. If the Director determines that an activity listed as insignificant does not meet the require-

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ments of the definition of insignificant activities in R18-2-101 or that emissions data for the activity is required to complete the assessment required by subsections (F)(2) or (3), the Director shall notify the applicant in writing and specify additional information required.

9. If a permit applicant requests terms and conditions allowing for the trading of emission increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emission cap that is established in the permit independent of otherwise applicable requirements, the permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable.
 10. The Director is not in disagreement with a notice of confidentiality submitted with the application pursuant to A.R.S. § 49-432.
- G.** A source applying for a Class I permit that has submitted information with an application under a claim of confidentiality pursuant to A.R.S. § 49-432 and R18-2-305 shall submit a copy of such information directly to the Administrator.
- H.** Duty to Supplement or Correct Application. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a proposed permit.
- I.** Certification of Truth, Accuracy, and Completeness. Any application form, report, or compliance certification submitted pursuant to this Chapter shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this Article shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
- J.** Action on Application.
1. The Director shall issue or deny each permit according to the provisions of A.R.S. § 49-427. The Director may issue a permit with a compliance schedule for a source that is not in compliance with all applicable requirements at the time of permit issuance.
 2. In addition, a permit may be issued, revised, or renewed only if all of the following conditions have been met:
 - a. The application received by the Director for a permit, permit revision, or permit renewal shall be complete according to subsection (F).
 - b. Except for revisions qualifying as administrative or minor under R18-2-318 and R18-2-319, all of the requirements for public notice and participation under R18-2-330 shall have been met.
 - c. For Class I permits, the Director shall have complied with the requirements of R18-2-307 for notifying and responding to affected states, and if applicable, other notification requirements of R18-2-402(D)(2) and R18-2-410(C)(2).
 - d. For Class I and II permits, the conditions of the permit shall require compliance with all applicable requirements.
 - e. For permits for which an application is required to be submitted to the Administrator under R18-2-307(A), and to which the Administrator has properly objected to its issuance in writing within 45 days of receipt of the proposed final permit and all necessary supporting information from the Department, the Director has revised and submitted a proposed final permit in response to the objection and EPA has not objected to this proposed final permit within 45 days of receipt.
 - f. For permits to which the Administrator has objected to issuance pursuant to a petition filed under 40 CFR 70.8(d), the Administrator's objection has been resolved.
 - g. For a Class II permit that contains voluntary emission limitations, controls, or other requirements established pursuant to R18-2-306.01, the Director shall have complied with the requirement of R18-2-306.01(C) to provide the Administrator with a copy of the proposed permit.
 3. If the Director denies a permit under this Section, a notice shall be served on the applicant by certified mail, return receipt requested. The notice shall include a statement detailing the grounds for the denial and a statement that the permit applicant is entitled to a hearing.
 4. The Director shall provide a statement that sets forth the legal and factual basis for the proposed permit conditions including references to the applicable statutory or regulatory provisions. The Director shall send this statement to any person who requests it and, for Class I permits, to the Administrator.
 5. Priority shall be given by the Director to taking action on applications for construction or modification submitted pursuant to Title I, Parts C (Prevention of Significant Deterioration) and D (New Source Review) of the Act.
- K.** Requirement for a Permit. Except as noted under the provisions in R18-2-317 and R18-2-319, no source may operate after the time that it is required to submit a timely and complete application, except in compliance with a permit issued pursuant to this Chapter. However, if a source under R18-2-326(A)(3) submits a timely and complete application for continued operation under a permit revision or renewal, the source's failure to have a permit is not a violation of this Article until the Director takes final action on the application. This protection shall cease to apply if, subsequent to the completeness determination, the applicant fails to submit, by the deadline specified in writing by the Director, any additional information identified as being needed to process the application. This subsection does not affect a source's obligation to obtain a permit revision before making a modification to the source.

Historical Note

Amended effective August 7, 1975 (Supp. 75-1). Former Section R9-3-304 repealed, new Section R9-3-304 formerly Section R9-3-305 renumbered and amended effective August 6, 1976 (Supp. 76-4). Former Section R9-3-304 repealed, new Section R9-3-304 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Former Section R9-3-304 repealed, new Section R9-3-304 adopted effective May 28, 1982 (Supp. 82-3). Former Section R9-3-304 renumbered without change as Section R18-2-304 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended effective October 7, 1994 (Supp. 94-4). Amended effective August 1, 1995 (Supp. 95-3). The reference to R18-2-101(54) in subsec-

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tion (E)(8) corrected to reference R18-2-101(57) (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 343, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1). Amended by final rulemaking at 25 A.A.R. 3630, February 1, 2020 (Supp. 19-4).

R18-2-305. Public Records; Confidentiality

- A. The Director shall make all permits, including all elements required to be in the permit pursuant to R18-2-306, available to the public. No permit shall be issued unless the information required by R18-2-306 is present in the permit.
- B. A notice of confidentiality pursuant to A.R.S. § 49-432(C) shall:
 1. Precisely identify the information in the documents submitted which is considered confidential.
 2. Contain sufficient supporting information to allow the Director to evaluate whether such information satisfies the requirements related to trade secrets or, if applicable, how the information, if disclosed, is likely to cause substantial harm to the person's competitive position.
- C. Within 30 days of receipt of a notice of confidentiality that complies with subsection (B) above, the Director shall make a determination as to whether the information satisfies the requirements for trade secret or competitive position pursuant to A.R.S. § 49-432(C)(1) and so notify the applicant in writing. If the Director agrees with the applicant that the information covered by the notice of confidentiality satisfies the statutory requirements, the Director shall include a notice in the file for the permit or permit application that certain information has been considered confidential.
- D. If the Director takes action pursuant to A.R.S. § 49-432(D) and obtains a final order authorizing disclosure, the Director shall place the information in the public file and shall notify any person who has requested disclosure. If the court determines that the information is not subject to disclosure, the Director shall provide the notice specified in subsection (C) above.

Historical Note

Amended effective August 7, 1975 (Supp. 75-1).
 Amended as an emergency effective December 15, 1975 (Supp. 75-2). Amended effective May 10, 1976 (Supp. 76-3). Former Section R9-3-306 renumbered as Section R9-3-305 effective August 6, 1976. References changed to conform (Supp. 76-4). Amended effective April 12, 1977 (Supp. 77-2). Amended effective March 24, 1978 (Supp. 78-2). Former Section R9-3-305 repealed, new Section R9-3-305 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Former Section R9-3-305 repealed, new Section R9-3-305 adopted effective May 28, 1982 (Supp. 82-3). Former Section R9-3-305 renumbered without change as R18-2-305 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4).

R18-2-306. Permit Contents

- A. Each permit issued by the Director shall include the following elements:
 1. The date of issuance and the permit term.
 2. Enforceable emission limitations and standards, including operational requirements and limitations that ensure

compliance with all applicable requirements at the time of issuance and operational requirements and limitations that have been voluntarily accepted under R18-2-306.01.

- a. The permit shall specify and reference the origin of and authority for each term or condition and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.
 - b. The permit shall state that, if an applicable requirement of the Act is more stringent than an applicable requirement of regulations promulgated under Title IV of the Act, both provisions shall be incorporated into the permit and shall be enforceable by the Administrator.
 - c. Any permit containing an equivalency demonstration for an alternative emission limit submitted under R18-2-304(E) shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.
 - d. The permit shall specify applicable requirements for fugitive emission limitations, regardless of whether the source category in question is included in the list of sources contained in the definition of major source in R18-2-101.
3. Each permit shall contain the following requirements with respect to monitoring:
 - a. All monitoring and analysis procedures or test methods required under applicable monitoring and testing requirements, including:
 - i. Monitoring and analysis procedures or test methods under 40 CFR 64;
 - ii. Other procedures and methods promulgated under sections 114(a)(3) or 504(b) of the Act; and
 - iii. Monitoring and analysis procedures or test methods required under R18-2-306.01.
 - b. 40 CFR 64 as adopted July 1, 1998, is incorporated by reference and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. If more than one monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions if the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements not included in the permit as a result of such streamlining;
 - c. If the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit as reported under subsection (A)(4). The monitoring requirements shall ensure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement, and as otherwise required under R18-2-306.01. Recordkeeping provisions may be sufficient to meet the requirements of this subsection; and

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- d. As necessary, requirements concerning the use, maintenance, and, if appropriate, installation of monitoring equipment or methods.
4. The permit shall incorporate all applicable recordkeeping requirements including recordkeeping requirements established under R18-2-306.01, for the following:
 - a. Records of required monitoring information that include the following:
 - i. The date, place as defined in the permit, and time of sampling or measurement;
 - ii. The date any analyses was performed;
 - iii. The name of the company or entity that performed the analysis;
 - iv. A description of the analytical technique or method used;
 - v. The results of any analysis; and
 - vi. The operating conditions existing at the time of sampling or measurement;
 - b. Retention of records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation and copies of all reports required by the permit.
5. The permit shall incorporate all applicable reporting requirements including reporting requirements established under R18-2-306.01 and require the following:
 - a. Submittal of reports of any required monitoring. All instances of deviations from permit requirements shall be clearly identified in the reports. All required reports shall be certified by a responsible official consistent with R18-2-304(I) and R18-2-309(A)(5) and shall be submitted with the following frequency:
 - i. For a Class I permit, at least once every six months;
 - ii. For a Class II permit, at least once per year.
 - b. Prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of the deviations, and any corrective actions or preventive measures taken. Where the applicable requirement contains a definition of prompt or otherwise specifies a timeframe for reporting deviations, that definition or timeframe shall govern. Where the applicable requirement does not address the timeframe for reporting deviations, the permittee shall submit reports of deviations in compliance with the following schedule:
 - i. Notice that complies with timeframe in R18-2-310.01(A) is prompt for deviations that constitute excess emissions;
 - ii. Except as otherwise provided in the permit, notice that complies with subsection (A)(5)(a) is prompt for all other types of deviation.
6. A permit condition prohibiting emissions exceeding any allowances the source lawfully holds under Title IV of the Act or the regulations promulgated thereunder.
 - a. A permit revision is not required for increases in emissions that are authorized by allowances acquired under the acid rain program, if the increases do not require a permit revision under any other applicable requirement.
 - b. A limit shall not be placed on the number of allowances held by the source. The source shall not, however, use allowances as a defense to noncompliance with any other applicable requirement.
 - c. Any allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Act.
 - d. Any permit issued under the requirements of this Chapter and Title V of the Act to a unit subject to the provisions of Title IV of the Act shall include conditions prohibiting all of the following:
 - i. Annual emissions of sulfur dioxide in excess of the number of allowances to emit sulfur dioxide held by the owner or operator of the unit or the designated representative of the owner or operator,
 - ii. Exceedances of applicable emission rates,
 - iii. Use of any allowance before the year for which it is allocated, and
 - iv. Contravention of any other provision of the permit.
7. A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portion of the permit.
8. Provisions stating the following:
 - a. The permittee shall comply with all conditions of the permit including all applicable requirements of Arizona air quality statutes A.R.S. Title 49, Chapter 3, and the air quality rules, 18 A.A.C. 2. Any permit noncompliance is grounds for enforcement action; for a permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application. Noncompliance with any federally enforceable requirement in a permit is a violation of the Act.
 - b. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
 - c. The permit may be revised, reopened, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit revision, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.
 - d. The permit does not convey any property rights of any sort, or any exclusive privilege to the permit holder.
 - e. The permittee shall furnish to the Director, within a reasonable time, any information that the Director may request in writing to determine whether cause exists for revising, revoking and reissuing, or terminating the permit, or to determine compliance with the permit. Upon the Director's request, the permittee shall also furnish to the Director copies of records required to be kept by the permit. For information claimed to be confidential, the permittee shall furnish a copy of the records directly to the Administrator along with a claim of confidentiality.
 - f. For any major source operating in a nonattainment area for all pollutants for which the source is classified as a major source, the source shall comply with reasonably available control technology.

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9. A provision to ensure that the source pays fees to the Director under A.R.S. § 49-426(E), R18-2-326, and R18-2-511.
10. A provision stating that a permit revision shall not be required under any approved economic incentives, marketable permits, emissions trading, and other similar programs or processes for changes provided for in the permit.
11. Terms and conditions for reasonably anticipated operating scenarios identified by the source in its application as approved by the Director. The terms and conditions shall:
 - a. Require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating;
 - b. Extend the permit shield described in R18-2-325 to all terms and conditions under each such operating scenario; and
 - c. Ensure that the terms and conditions of each such alternative scenario meet all applicable requirements and the requirements of this Chapter.
12. Terms and conditions, if the permit applicant requests them, and as approved by the Director, for the trading of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading the increases and decreases without a case-by-case approval of each emissions trade. The terms and conditions:
 - a. Shall include all terms required under subsections (A) and (C) to determine compliance;
 - b. Shall not extend the permit shield in subsection (D) to all terms and conditions that allow the increases and decreases in emissions;
 - c. Shall not include trading that involves emission units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades; and
 - d. Shall meet all applicable requirements and requirements of this Chapter.
13. Terms and conditions, if the permit applicant requests them and they are approved by the Director, setting forth intermittent operating scenarios including potential periods of downtime. If the terms and conditions are included, the state's emissions inventory shall not reflect the zero emissions associated with the periods of downtime.
14. Upon request of a permit applicant, the Director shall issue a permit that contains terms and conditions allowing for the trading of emission increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emission cap established in the permit independent of otherwise applicable requirements. The permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. The Director shall not include in the emissions trading provisions any emissions units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. The permit shall also require compliance with all applicable requirements. Changes made under this subsection (shall) not include modifications under any provision of Title I of the Act and shall not exceed emissions allowable under the permit. The terms and conditions shall provide, for Class I sources, for notice that conforms to R18-2-317(D) and (E), and for Class II sources, for logging that conforms to R18-2-317.02(B)(5). In addition, the notices for Class I and Class II sources shall describe how the increases and decreases in emissions will comply with the terms and conditions of the permit.
15. Other terms and conditions as are required by the Act, A.R.S. Title 49, Chapter 3, Articles 1 and 2, and the rules adopted in 18 A.A.C. 2.
 - B. Federally-enforceable Requirements.**
 1. The following permit conditions shall be enforceable by the Administrator and citizens under the Act:
 - a. Except as provided in subsection (B)(2), all terms and conditions in a Class I permit, including any provision designed to limit a source's potential to emit;
 - b. Terms or conditions in a Class II permit setting forth federal applicable requirements; and
 - c. Terms and conditions in any permit entered into voluntarily under R18-2-306.01, as follows:
 - i. Emissions limitations, controls, or other requirements; and
 - ii. Monitoring, recordkeeping, and reporting requirements associated with the emissions limitations, controls, or other requirements in subsection (B)(1)(c)(i).
 2. Notwithstanding subsection (B)(1)(a), the Director shall specifically designate as not being federally enforceable under the Act any terms and conditions included in a Class I permit that are not required under the Act or under any of its applicable requirements.
 - C. Each permit shall contain a compliance plan as specified in R18-2-309.**
 - D. Each permit shall include the applicable permit shield provisions under R18-2-325.**
 - E. Emergency provision.**
 1. An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, that requires immediate corrective action to restore normal operation and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.
 2. An emergency constitutes an affirmative defense to an action brought for noncompliance with technology-based emission limitations if the conditions of subsection (E)(3) are met.
 3. The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An emergency occurred and the permittee can identify the cause or causes of the emergency;
 - b. At the time of the emergency the permitted facility was being properly operated;
 - c. During the period of the emergency, the permittee took all reasonable steps to minimize levels of emissions that exceeded the emissions standards or other requirements in the permit; and
 - d. The permittee submitted notice of the emergency to the Director by certified mail, facsimile, or hand

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delivery within two working days of the time when emission limitations were exceeded due to the emergency. This notice shall contain a description of the emergency, any steps taken to mitigate emissions, and corrective action taken.

4. In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.
 5. This provision is in addition to any emergency or upset provision contained in any applicable requirement.
- F.** A Class I permit issued to a major source shall require that revisions be made under R18-2-321 to incorporate additional applicable requirements adopted by the Administrator under the Act that become applicable to a source with a permit with a remaining permit term of three or more years. A revision shall not be required if the effective date of the applicable requirement is after the expiration of the permit. The revisions shall be made as expeditiously as practicable, but not later than 18 months after the promulgation of the standards and regulations. Any permit revision required under this subsection (shall) comply with R18-2-322 for permit renewal and shall reset the five-year permit term.

Historical Note

Adopted effective August 7, 1975 (Supp. 75-1). Former Section R9-3-307 renumbered as Section R9-3-306 effective August 6, 1976. Reference changed to conform (Supp. 76-4). Former Section R9-3-306 repealed, new Section R9-3-306 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective May 28, 1982 (Supp. 82-3). Amended subsection (A) effective September 28, 1984 (Supp. 84-5). Former Section R9-3-306 renumbered without change as R18-2-306 (Supp. 87-3). Amended subsection (I) effective December 1, 1988 (Supp. 88-4). Amended effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended effective August 1, 1995 (Supp. 95-3). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 343, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-306.01. Permits Containing Voluntarily Accepted Emission Limitations and Standards

- A.** A source may voluntarily propose in its application, and accept in its permit, emissions limitations, controls, or other requirements that are permanent, quantifiable, and otherwise enforceable as a practical matter in order to avoid classification as a source that requires a Class I permit or to avoid one or more other applicable requirements. For the purposes of this Section, "enforceable as a practical matter" means that specific means to assess compliance with an emissions limitation, control, or other requirement are provided for in the permit in a manner that allows compliance to be readily determined by an inspection of records and reports.
- B.** In order for a source to obtain a permit containing voluntarily accepted emissions limitations, controls, or other requirements, the source shall demonstrate all of the following in its permit application:

1. The emissions limitations, controls, or other requirements to be imposed for the purpose of avoiding an applicable requirement are at least as stringent as the emissions limitations, controls, or other requirements that would otherwise be applicable to that source, including those that originate in an applicable implementation plan; and the permit does not waive, or make less stringent, any limitations or requirements contained in or issued pursuant to an applicable implementation plan, or that are otherwise federally enforceable.
 2. All voluntarily accepted emissions limitations, controls, or other requirements will be permanent, quantifiable, and otherwise enforceable as a practical matter.
- C.** At the same time as notice of proposed issuance is first published pursuant to A.R.S. § 49-426(D), the Director shall send a copy of any Class II permit proposed to be issued pursuant to this Section to the Administrator for review during the comment period described in the notice pursuant to R18-2-330(C)(3).
- D.** The Director shall send a copy of each final permit issued pursuant to this Section to the Administrator.

Historical Note

Adopted effective August 1, 1995 (Supp. 95-3). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-306.02. Expired**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 2982, effective September 15, 2016 (Supp. 16-3).

R18-2-307. Permit Review by the EPA and Affected States

- A.** Except as provided in R18-2-304(G) and as waived by the Administrator, for each Class I permit, a copy of each of the following shall be provided to the Administrator as follows:
1. The applicant shall provide a complete copy of the application including any attachments, compliance plans, and other information required by R18-2-304(F) at the time of submittal of the application to the Director.
 2. The Director shall provide the proposed final permit after public and affected state review.
 3. The Director shall provide the final permit at the time of issuance.
- B.** The Director shall keep all records associated with all permits for a minimum of five years from issuance.
- C.** No permit for which an application is required to be submitted to the Administrator under subsection (A) shall be issued if the Administrator properly objects to its issuance in writing within 45 days of receipt of the proposed final permit from the Department and all necessary supporting information.
- D.** Review by Affected States.
1. For each Class I permit, the Director shall provide notice of each proposed permit to any affected state on or before the time that the Director provides this notice to the public as required under R18-2-330 except to the extent R18-2-319 requires the timing of the notice to be different.
 2. If the Director refuses to accept a recommendation of any affected state submitted during the public or affected state review period, the Director shall notify the Administrator and the affected state in writing. The notification shall

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include the Director's reasons for not accepting any such recommendation and shall be provided to the Administrator as part of the submittal of the proposed final permit. The Director shall not be required to accept recommendations that are not based on federal applicable requirements or requirements of state law.

- E. Any person who petitions the Administrator pursuant to 40 CFR 70.8(d) shall notify the Department by certified mail of such petition as soon as possible, but in no case more than 10 days following such petition. Such notice shall include the grounds for objection and whether such objections were raised during the public comment period. If the Administrator objects to the permit as a result of a petition filed under this subsection, the Director shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day administrative review period and prior to the Administrator's objection.
- F. If the Director has issued a permit prior to receipt of the Administrator's objection under subsection (E), and the Administrator indicates that it should be revised, terminated, or revoked and reissued, the Director shall reopen the permit in accordance with R18-2-321 and may thereafter issue only a revised permit that satisfies the Administrator's objection. In any case, the source shall not be in violation of the requirement to have submitted a timely and complete application.
- G. Prohibition on Default Issuance.
 - 1. No Class I permit including a permit renewal or revision shall be issued until affected states and the Administrator have had an opportunity to review the proposed permit.
 - 2. No permit or renewal shall be issued unless the Director has acted on the application.

Historical Note

Adopted effective August 7, 1975 (Supp. 75-1). Former Section R9-3-307 renumbered as Section R9-3-306 effective August 6, 1976 (Supp. 76-4). New Section R9-3-307 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Former Section R9-3-307 repealed, new Section R9-3-307 adopted effective May 28, 1982 (Supp. 82-3). Amended subsection (B)(4)(b) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-307 renumbered without change as R18-2-307 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-308. Emission Standards and Limitations

Wherever applicable requirements apply different standards or limitations to a source for the same item, all applicable requirements shall be included in the permit.

Historical Note

Adopted effective August 7, 1975 (Supp. 75-1). Former Section R9-3-308 repealed, new Section R9-3-308 adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-308 renumbered without change as R18-2-308 (Supp. 87-3). Amended effective December 1, 1988 (Supp. 88-4). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4).

R18-2-309. Compliance Plan; Certification

All permits shall contain the following elements with respect to compliance:

- 1. The elements required by R18-2-306(A)(3), (4), and (5).

- 2. Requirements for certifications of compliance with terms and conditions contained in the permit, including emissions limitations, standards, and work practices. Permits shall include each of the following:
 - a. The frequency of submissions of compliance certifications, which shall not be less than annually;
 - b. The means to monitor the compliance of the source with its emissions limitations, standards, and work practices;
 - c. A requirement that the compliance certification include all of the following (the identification of applicable information may cross-reference the permit or previous reports, as applicable):
 - i. The identification of each term or condition of the permit that is the basis of the certification;
 - ii. The identification of the methods or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period. The methods and other means shall include, at a minimum, the methods and means required under R18-2-306(A)(3). If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with section 113(c)(2) of the Act, which prohibits knowingly making a false certification or omitting material information;
 - iii. The status of compliance with the terms and conditions of the permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification shall be based on the methods or means designated in subsection (2)(c)(ii). The certification shall identify each deviation and take it into account in the compliance certification. For emission units subject to 40 CFR 64, the certification shall also identify as possible exceptions to compliance any period during which compliance is required and in which an excursion or exceedance defined under 40 CFR 64 occurred; and
 - iv. Other facts the Director may require to determine the compliance status of the source.
 - d. A requirement that permittees submit all compliance certifications to the Director. Class I permittees shall also submit compliance certifications to the Administrator.
 - e. Additional requirements specified in sections 114(a)(3) and 504(b) of the Act or pursuant to R18-2-306.01.
- 3. A requirement for any document required to be submitted by a permittee, including reports, to contain a certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this Section shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
- 4. Inspection and entry provisions that require that upon presentation of proper credentials, the permittee shall allow the Director to:
 - a. Enter upon the permittee's premises where a source is located, emissions-related activity is conducted, or

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- records are required to be kept under the conditions of the permit;
- b. Have access to and copy, at reasonable times, any records that are required to be kept under the conditions of the permit;
 - c. Inspect, at reasonable times, any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit;
 - d. Sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or other applicable requirements; and
 - e. Record any inspection by use of written, electronic, magnetic, or photographic media.
5. A compliance plan that contains all the following:
 - a. A description of the compliance status of the source with respect to all applicable requirements;
 - b. A description as follows:
 - i. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with the requirements;
 - ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet the requirements on a timely basis; and
 - iii. For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements;
 - c. A compliance schedule as follows:
 - i. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with the requirements;
 - ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement;
 - iii. A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. The schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirement for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. The schedule of compliance shall supplement, and shall not sanction noncompliance with, the applicable requirements on which it is based.
 - d. A schedule for submission of certified progress reports no less frequently than every six months for sources required to have a schedule of compliance to remedy a violation. The progress reports shall contain:
 - i. Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones, or compliance were achieved; and
 - ii. An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.
 6. The compliance plan content requirements specified in subsection (5) shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Act, and incorporated under R18-2-333 with regard to the schedule and each method the source will use to achieve compliance with the acid rain emissions limitations.
 7. If there is a Federal Implementation Plan (FIP) applicable to the source, a provision that compliance with the FIP is required.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amendment filed September 18, 1979, effective following the adoption of Article 7. Nonferrous Smelter Orders.

Amended effective October 2, 1979 (Supp. 79-5). Article 7. Nonferrous Smelter Orders adopted effective January 8, 1980. Amendment filed September 18, 1979 effective January 8, 1980 (Supp. 80-2). Amended effective September 28, 1984 (Supp. 84-5). Former Section R9-3-309 renumbered without change as R18-2-309 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended effective October 7, 1994 (Supp. 94-4). Amended effective August 1, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 343, effective December 20, 1999 (Supp. 99-4).

Amended by final rulemaking at 10 A.A.R. 2833, effective June 17, 2004 (Supp. 04-2).

R18-2-310. Affirmative Defenses for Excess Emissions Due to Malfunctions, Startup, and Shutdown**A. Applicability.**

This rule establishes affirmative defenses for certain emissions in excess of an emission standard or limitation and applies to all emission standards or limitations except for standards or limitations:

1. Promulgated pursuant to Sections 111 or 112 of the Act,
2. Promulgated pursuant to Titles IV or VI of the Clean Air Act,
3. Contained in any Prevention of Significant Deterioration (PSD) or New Source Review (NSR) permit issued by the U.S. E.P.A.,
4. Contained in R18-2-715(F), or
5. Included in a permit to meet the requirements of R18-2-406(A)(5).

B. Affirmative Defense for Malfunctions.

Emissions in excess of an applicable emission limitation due to malfunction shall constitute a violation. The owner or operator of a source with emissions in excess of an applicable emission limitation due to malfunction has an affirmative defense to a civil or administrative enforcement proceeding based on that violation, other than a judicial action seeking injunctive relief, if the owner or operator of the source has

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complied with the reporting requirements of R18-2-310.01 and has demonstrated all of the following:

1. The excess emissions resulted from a sudden and unavoidable breakdown of process equipment or air pollution control equipment beyond the reasonable control of the operator;
2. The air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;
3. If repairs were required, the repairs were made in an expeditious fashion when the applicable emission limitations were being exceeded. Off-shift labor and overtime were utilized where practicable to ensure that the repairs were made as expeditiously as possible. If off-shift labor and overtime were not utilized, the owner or operator satisfactorily demonstrated that the measures were impracticable;
4. The amount and duration of the excess emissions (including any bypass operation) were minimized to the maximum extent practicable during periods of such emissions;
5. All reasonable steps were taken to minimize the impact of the excess emissions on ambient air quality;
6. The excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance;
7. During the period of excess emissions there were no exceedances of the relevant ambient air quality standards established in Article 2 of this Chapter that could be attributed to the emitting source;
8. The excess emissions did not stem from any activity or event that could have been foreseen and avoided, or planned, and could not have been avoided by better operations and maintenance practices;
9. All emissions monitoring systems were kept in operation if at all practicable; and
10. The owner or operator's actions in response to the excess emissions were documented by contemporaneous records.

C. Affirmative Defense for Startup and Shutdown.

1. Except as provided in subsection (C)(2), and unless otherwise provided for in the applicable requirement, emissions in excess of an applicable emission limitation due to startup and shutdown shall constitute a violation. The owner or operator of a source with emissions in excess of an applicable emission limitation due to startup and shutdown has an affirmative defense to a civil or administrative enforcement proceeding based on that violation, other than a judicial action seeking injunctive relief, if the owner or operator of the source has complied with the reporting requirements of R18-2-310.01 and has demonstrated all of the following:
 - a. The excess emissions could not have been prevented through careful and prudent planning and design;
 - b. If the excess emissions were the result of a bypass of control equipment, the bypass was unavoidable to prevent loss of life, personal injury, or severe damage to air pollution control equipment, production equipment, or other property;
 - c. The source's air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;

- d. The amount and duration of the excess emissions (including any bypass operation) were minimized to the maximum extent practicable during periods of such emissions;
- e. All reasonable steps were taken to minimize the impact of the excess emissions on ambient air quality;
- f. During the period of excess emissions there were no exceedances of the relevant ambient air quality standards established in Article 2 of this Chapter that could be attributed to the emitting source;
- g. All emissions monitoring systems were kept in operation if at all practicable; and
- h. The owner or operator's actions in response to the excess emissions were documented by contemporaneous records.

2. If excess emissions occur due to a malfunction during routine startup and shutdown, then those instances shall be treated as other malfunctions subject to subsection (B).

D. Affirmative Defense for Malfunctions During Scheduled Maintenance.

If excess emissions occur due to a malfunction during scheduled maintenance, then those instances will be treated as other malfunctions subject to subsection (B).

E. Demonstration of Reasonable and Practicable Measures.

For an affirmative defense under subsections (B) or (C), the owner or operator of the source shall demonstrate, through submission of the data and information required by this Section and R18-2-310.01, that all reasonable and practicable measures within the owner or operator's control were implemented to prevent the occurrence of the excess emissions.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective June 19, 1981 (Supp. 81-3). Amended Arizona Testing Manual for Air Pollutant Emissions, effective September 22, 1983 (Supp. 83-5). Amended Arizona Testing Manual for Air Pollutant Emissions, as of September 15, 1984, effective August 9, 1985 (Supp. 85-4). Amended effective September 28, 1984 (Supp. 84-5). Former Section R9-3-310 renumbered without change as R18-2-310 (Supp. 87-3). Amended effective February 26, 1988 (Supp. 88-1). Amended effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Section repealed; new Section adopted by final rulemaking at 7 A.A.R. 1164, effective February 15, 2001 (Supp. 01-1).

R18-2-310.01. Reporting Requirements

- A.** The owner or operator of any source shall report to the Director any emissions in excess of the limits established by this Chapter or the applicable permit. The owner or operator of any registered source may report excess emissions in accordance with this Section in order to qualify for the affirmative defense established in R18-2-310. The report shall be in two parts as specified below:
 1. Notification by telephone or facsimile within 24 hours of the time the owner or operator first learned of the occurrence of excess emissions that includes all available information from subsection (B).
 2. Detailed written notification by submission of an excess emissions report within 72 hours of the notification under subsection (A)(1).
- B.** The excess emissions report shall contain the following information:

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1. The identity of each stack or other emission point where the excess emissions occurred;
 2. The magnitude of the excess emissions expressed in the units of the applicable emission limitation and the operating data and calculations used in determining the magnitude of the excess emissions;
 3. The time and duration or expected duration of the excess emissions;
 4. The identity of the equipment from which the excess emissions emanated;
 5. The nature and cause of the emissions;
 6. The steps taken, if the excess emissions were the result of a malfunction, to remedy the malfunction and the steps taken or planned to prevent the recurrence of the malfunctions;
 7. The steps that were or are being taken to limit the excess emissions; and
 8. If the source's permit contains procedures governing source operation during periods of startup or malfunction and the excess emissions resulted from startup or malfunction, a list of the steps taken to comply with the permit procedures.
- C. In the case of continuous or recurring excess emissions, the notification requirements of this Section shall be satisfied if the source provides the required notification after excess emissions are first detected and includes in the notification an estimate of the time the excess emissions will continue. Excess emissions occurring after the estimated time period or changes in the nature of the emissions as originally reported shall require additional notification pursuant to subsections (A) and (B).

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1164, effective February 15, 2001 (Supp. 01-1).
Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-311. Test Methods and Procedures

- A. Except as otherwise specified in this Chapter, the applicable procedures and testing methods contained in the Arizona Testing Manual; 40 CFR 52, Appendices D and E; 40 CFR 60, Appendices A through F; and 40 CFR 61, Appendices B and C shall be used to determine compliance with the requirements established in this Chapter or contained in permits issued pursuant to this Chapter.
- B. Except as otherwise provided in this subsection the opacity of visible emissions shall be determined by Reference Method 9 of the Arizona Testing Manual or by alternative method ALT-082 approved by the Administrator on May 15, 2012. A permit may specify a method, other than Method 9 or ALT-082, for determining the opacity of emissions from a particular emissions unit, if the method has been promulgated by the Administrator in 40 CFR 60, Appendix A or approved by the Administrator as an alternative method.
- C. Except as otherwise specified in this Chapter, the heat content of solid fuel shall be determined according to ASTM method D-3176-89, (Practice for Ultimate Analysis of Coal and Coke) and ASTM method D-2015-91, (Test Method for Gross Calorific Value of Coal and Coke by the Adiabatic Bomb Calorimeter).
- D. Except for ambient air monitoring and emissions testing required under Articles 9 and 11 of this Chapter, alternative and equivalent test methods in any test plan submitted to the

Director may be approved by the Director for the duration of that plan provided that the following three criteria are met:

1. The alternative or equivalent test method measures the same chemical and physical characteristics as the test method it is intended to replace.
2. The alternative or equivalent test method has substantially the same or better reliability, accuracy, and precision as the test method it is intended to replace.
3. Applicable quality assurance procedures are followed in accordance with the Arizona Testing Manual, 40 CFR 60 or other quality assurance methods which are consistent with principles contained in the Arizona Testing Manual or 40 CFR 60 as approved by the Director.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Amended effective September 28, 1984 (Supp. 84-5). Former Section R9-3-311 renumbered without change as R18-2-311 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-312. Performance Tests

- A. Except as provided in subsection (J), within 60 days after a source subject to the permit requirements of this Article has achieved the capability to operate at its maximum production rate on a sustained basis but no later than 180 days after initial start-up of such source and at such other times as may be required by the Director, the owner or operator of such source shall conduct performance tests and furnish the Director a written report of the results of the tests.
- B. Performance tests shall be conducted and data reduced in accordance with the test method and procedures contained in the Arizona Testing Manual unless the Director:
 1. Specifies or approves, in specific cases, the use of a reference method with minor changes in methodology;
 2. Approves the use of an equivalent method;
 3. Approves the use of an alternative method the results of which he has determined to be adequate for indicating whether a specific source is in compliance; or
 4. Waives the requirement for performance tests because the owner or operator of a source has demonstrated by other means to the Director's satisfaction that the source is in compliance with the standard.
 5. Nothing in this Section shall be construed to abrogate the Director's authority to require testing.
- C. Performance tests shall be conducted under such conditions as the Director shall specify to the plant operator based on representative performance of the source. The owner or operator shall make available to the Director such records as may be necessary to determine the conditions of the performance tests. Operations during periods of start-up, shutdown, and malfunction shall not constitute representative conditions of performance tests unless otherwise specified in the applicable standard.
- D. The owner or operator of a permitted source shall provide the Director two weeks prior notice of the performance test to afford the Director the opportunity to have an observer present.
- E. The owner or operator of a permitted source shall provide, or cause to be provided, performance testing facilities as follows:
 1. Sampling ports adequate for test methods applicable to such facility.

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2. Safe sampling platform(s).
 3. Safe access to sampling platform(s).
 4. Utilities for sampling and testing equipment.
- F.** Each performance test shall consist of three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in the applicable standard. For the purpose of determining compliance with an applicable standard, the arithmetic means of results of the three runs shall apply. In the event that a sample is accidentally lost or conditions occur in which one of the three runs is required to be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the owner or operator's control, compliance may, upon the Director's approval, be determined using the arithmetic means of the results of the two other runs. If the Director, or the Director's designee is present, tests may only be stopped with the Director's or such designee's approval. If the Director, or the Director's designee is not present, tests may only be stopped for good cause, which includes forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the operator's control. Termination of testing without good cause after the first run is commenced shall constitute a failure of the test.
- G.** Except as provided in subsection (H) compliance with the emission limits established in this Chapter or as prescribed in permits issued pursuant to this Chapter shall be determined by the performance tests specified in this Section or in the permit.
- H.** In addition to performance tests specified in this Section, compliance with specific emission limits may be determined by:
1. Opacity tests.
 2. Emission limit compliance tests specifically designated as such in the regulation establishing the emission limit to be complied with.
 3. Continuous emission monitoring, where applicable quality assurance procedures are followed and where it is designated in the permit or in an applicable requirement to show compliance.
- I.** Nothing in this Section shall be so construed as to prevent the utilization of measurements from emissions monitoring devices or techniques not designated as performance tests as evidence of compliance with applicable good maintenance and operating requirements.
- J.** The owner or operator of a source subject to this Section may request an extension to the performance test deadline due to a force majeure event as follows:
1. If a force majeure event is about to occur, occurs, or has occurred for which the owner or operator intends to assert a claim of force majeure, the owner or operator shall notify the Director in writing as soon as practicable following the date the owner or operator first knew, or through due diligence should have known that the event may cause or caused a delay in testing beyond the regulatory deadline. The notification must occur before the performance test deadline unless the initial force majeure or a subsequent force majeure event delays the notice, and in such cases, the notification shall be given as soon as practicable.
 2. The owner or operator shall provide to the Director a written description of the force majeure event and a rationale for attributing the delay in testing beyond the regulatory deadline to the force majeure; describe the measures taken or to be taken to minimize the delay; and identify a date by which the owner or operator proposes to conduct

the performance test. The performance test shall be conducted as soon as practicable after the force majeure event occurs.

3. The decision as to whether or not to grant an extension to the performance test deadline is solely within the discretion of the Director. The Director shall notify the owner or operator in writing of approval or disapproval of the request for an extension as soon as practicable.
4. Until an extension of the performance test deadline has been approved by the Director under subsections (1), (2), and (3), the owner or operator remains subject to the requirements of this Section.
5. For purposes of this subsection, a "force majeure event" means an event that will be or has been caused by circumstances beyond the control of the source, its contractors, or any entity controlled by the source that prevents the owner or operator from complying with the regulatory requirement to conduct performance tests within the specified timeframe despite the source's best efforts to fulfill the obligation. Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazard beyond the control of the source.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective September 28, 1984 (Supp. 84-5). Former Section R9-3-312 renumbered without change as R18-2-312 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-313. Existing Source Emission Monitoring

- A.** Every source subject to an existing source performance standard as specified in this Chapter shall install, calibrate, operate, and maintain all monitoring equipment necessary for continuously monitoring the pollutants and other gases specified in this Section for the applicable source category.
1. Applicability.
 - a. Fossil-fuel fired steam generators, as specified in subsection (C)(1), shall be monitored for opacity, nitrogen oxides emissions, sulfur dioxide emissions, and oxygen or carbon dioxide.
 - b. Fluid bed catalytic cracking unit catalyst regenerators, as specified in subsection (C)(4), shall be monitored for opacity.
 - c. Sulfuric acid plants, as specified in subsection (C)(3), shall be monitored for sulfur dioxide emissions.
 - d. Nitric acid plants, as specified in subsection (C)(2), shall be monitored for nitrogen oxides emissions.
 2. Emission monitoring shall not be required when the source of emissions is not operating.
 3. Variations.
 - a. Unless otherwise prohibited by the Act, the Director may approve, on a case-by-case basis, alternative monitoring requirements different from the provisions of this Section if the installation of a continuous emission monitoring system cannot be implemented by a source due to physical plant limitations or extreme economic reasons. Alternative monitoring procedures shall be specified by the Director on a case-by-case basis and shall include, as a minimum, annual manual stack tests for the pollutants identified for each type of source in this Sec-

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tion. Extreme economic reasons shall mean that the requirements of this Section would cause the source to be unable to continue in business.

- b. Alternative monitoring requirements may be prescribed when installation of a continuous emission monitoring system or monitoring device specified by this Section would not provide accurate determinations of emissions (e.g., condensed, uncombined water vapor may prevent an accurate determination of opacity using commercially available continuous emission monitoring systems).
 - c. Alternative monitoring requirements may be prescribed when the affected facility is infrequently operated (e.g., some affected facilities may operate less than one month per year).
4. Monitoring system malfunction: A temporary exemption from the monitoring and reporting requirements of this Section may be provided during any period of monitoring system malfunction, provided that the source owner or operator demonstrates that the malfunction was unavoidable and is being repaired expeditiously.
- B.** Installation and performance testing required under this Section shall be completed and monitoring and recording shall commence within 18 months of the effective date of this Section.
- C.** Minimum monitoring requirements:
1. Fossil-fuel fired steam generators: Each fossil-fuel fired steam generator, except as provided in the following subsections, with an annual average capacity factor of greater than 30%, as reported to the Federal Power Commission for calendar year 1976, or as otherwise demonstrated to the Department by the owner or operator, shall conform with the following monitoring requirements when such facility is subject to an emission standard for the pollutant in question.
 - a. A continuous emission monitoring system for the measurement of opacity which meets the performance specifications of this Section shall be installed, calibrated, maintained, and operated in accordance with the procedures of this Section by the owner or operator of any such steam generator of greater than 250 million Btu per hour heat input except where:
 - i. Gaseous fuel is the only fuel burned; or
 - ii. Oil or a mixture of gas and oil are the only fuels burned and the source is able to comply with the applicable particulate matter and opacity regulations without utilization of particulate matter collection equipment, and where the source has never been found to be in violation through any administrative or judicial proceedings, or accepted responsibility for any violation of any visible emission standard.
 - b. A continuous emission monitoring system for the measurement of sulfur dioxide which meets the performance specifications of this Section shall be installed, calibrated, using sulfur dioxide calibration gas mixtures or other gas mixtures approved by the Director, maintained and operated on any fossil-fuel fired steam generator of greater than 250 million Btu per hour heat input which has installed sulfur dioxide pollutant control equipment.
 - c. A continuous emission monitoring system for the measurement of nitrogen oxides which meets the performance specification of this Section shall be installed, calibrated using nitric oxide calibration gas mixtures or other gas mixtures approved by the Director, maintained and operated on fossil-fuel fired steam generators of greater than 1000 million Btu per hour heat input when such facility is located in an air quality control region where the Director has specifically determined that a control strategy for nitrogen dioxide is necessary to attain the ambient air quality standard specified in R18-2-205, unless the source owner or operator demonstrates during source compliance tests as required by the Department that such a source emits nitrogen oxides at levels 30% or more below the emission standard within this Chapter.
 - d. A continuous emission monitoring system for the measurement of the percent oxygen or carbon dioxide which meets the performance specifications of this Section shall be installed, calibrated, operated, and maintained on fossil-fuel fired steam generators where measurements of oxygen or carbon dioxide in the flue gas are required to convert either sulfur dioxide or nitrogen oxides continuous emission monitoring data, or both, to units of the emission standard within this Chapter.
 2. Nitric acid plants: Each nitric acid plant of greater than 300 tons per day production capacity, the production capacity being expressed as 100% acid located in an air quality control region where the Director has specifically determined that a control strategy for nitrogen dioxide is necessary to attain the ambient air quality standard specified in R18-2-205, shall install, calibrate using nitrogen dioxide calibration gas mixtures, maintain, and operate a continuous emission monitoring system for the measurement of nitrogen oxides which meets the performance specifications of this Section for each nitric acid producing facility within such plant.
 3. Sulfuric acid plants: Each sulfuric acid plant as defined in R18-2-101, of greater than 300 tons per day production capacity, the production being expressed as 100% acid, shall install, calibrate using sulfur dioxide calibration gas mixtures or other gas mixtures approved by the Director, maintain and operate a continuous emission monitoring system for the measurement of sulfur dioxide which meets the performance specifications of this Section for each sulfuric acid producing facility within such a plant.
 4. Fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries. Each catalyst regenerator for fluid bed catalytic cracking units of greater than 20,000 barrels per day fresh-feed capacity shall install, calibrate, maintain and operate a continuous emission monitoring system for the measurement of opacity which meets the performance specifications of this Section for each regenerator within such refinery.
- D.** Minimum specifications: Owners or operators of monitoring equipment installed to comply with this Section shall demonstrate compliance with the following performance specifications.
1. The performance specifications set forth in Appendix B of 40 CFR 60 are incorporated herein by reference and shall be used by the Director to determine acceptability of monitoring equipment installed pursuant to this Section. However where reference is made to the Administrator in Appendix B of 40 CFR 60, the Director may allow the

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use of either the state-approved reference method or the federally approved reference method as published in 40 CFR 60. The performance specifications to be used with each type of monitoring system are listed below.

- a. Continuous emission monitoring systems for measuring opacity shall comply with performance specification 1.
 - b. Continuous emission monitoring systems for measuring nitrogen oxides shall comply with performance specification 2.
 - c. Continuous emission monitoring systems for measuring sulfur dioxide shall comply with performance specification 2.
 - d. Continuous emission monitoring systems for measuring sulfur dioxide shall comply with performance specification 3.
 - e. Continuous emission monitoring systems for measuring carbon dioxide shall comply with performance specification 3.
2. Calibration gases: Span and zero gases shall be traceable to National Bureau of Standards reference gases whenever these reference gases are available. Every six months from date of manufacture, span and zero gases shall be reanalyzed by conducting triplicate analyses using the reference methods in Appendix A of 40 CFR 60 (Chapter 1) as amended: For sulfur dioxide, use Reference Method 6; for nitrogen oxides, use Reference method 7; and for carbon dioxide or oxygen, use Reference Method 3. The gases may be analyzed at less frequent intervals if longer shelf lives are guaranteed by the manufacturer.
 3. Cycling time: Time includes the total time required to sample, analyze, and record an emission measurement.
 - a. Continuous emission monitoring systems for measuring opacity shall complete a minimum of one cycle of sampling and analyzing for each successive six-minute period.
 - b. Continuous emission monitoring systems for measuring oxides of nitrogen, carbon dioxide, oxygen, or sulfur dioxide shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period.
 4. Monitor location: All continuous emission monitoring systems or monitoring devices shall be installed such that representative measurements of emissions of process parameter (i.e., oxygen, or carbon dioxide) from the affected facility are obtained. Additional guidance for location of continuous emission monitoring systems to obtain representative samples are contained in the applicable performance specifications of Appendix B of 40 CFR 60.
 5. Combined effluents: When the effluents from two or more affected facilities of similar design and operating characteristics are combined before being released to the atmosphere through more than one point, separate monitors shall be installed.
 6. Zero and drift: Owners or operators of all continuous emission monitoring systems installed in accordance with the requirements of this Section shall record the zero and span drift in accordance with the method prescribed by the manufacturer's recommended zero and span check at least once daily, using calibration gases specified in subsection (C) as applicable, unless the manufacturer has recommended adjustments at shorter intervals, in which case such recommendations shall be followed; shall adjust the zero span whenever the 24-hour zero drift or 24-hour calibration drift limits of the applicable performance specifications in Appendix B of Part 60, Chapter 1, Title 40 CFR are exceeded.
 7. Span: Instrument span should be approximately 200% of the expected instrument data display output corresponding to the emission standard for the source.
- E. Minimum data requirement: The following subsections set forth the minimum data reporting requirements for sources employing continuous monitoring equipment as specified in this Section. These periodic reports do not relieve the source operator from the reporting requirements of R18-2-310.01.
1. The owners or operators of facilities required to install continuous emission monitoring systems shall submit to the Director a written report of excess emissions for each calendar quarter and the nature and cause of the excess emissions, if known. The averaging period used for data reporting shall correspond to the averaging period specified in the emission standard for the pollutant source category in question. The required report shall include, as a minimum, the data stipulated in this subsection.
 2. For opacity measurements, the summary shall consist of the magnitude in actual percent opacity of all six-minute opacity averages greater than any applicable standards for each hour of operation of the facility. Average values may be obtained by integration over the averaging period or by arithmetically averaging a minimum of four equally spaced, instantaneous opacity measurements per minute. Any time periods exempted shall be deleted before determining any averages in excess of opacity standards.
 3. For gaseous measurements the summary shall consist of emission averages in the units of the applicable standard for each averaging period during which the applicable standard was exceeded.
 4. The date and time identifying each period during which the continuous emission monitoring system was inoperative, except for zero and span checks and the nature of system repair or adjustment shall be reported. The Director may require proof of continuous emission monitoring system performance whenever system repairs or adjustments have been made.
 5. When no excess emissions have occurred and the continuous emission monitoring system(s) have not been inoperative, repaired, or adjusted, such information shall be included in the report.
 6. Owners or operators of affected facilities shall maintain a file of all information reported in the quarterly summaries, and all other data collected either by the continuous emission monitoring system or as necessary to convert monitoring data to the units of the applicable standard for a minimum of two years from the date of collection of such data or submission of such summaries.
- F. Data reduction: Owners or operators of affected facilities shall use the following procedures for converting monitoring data to units of the standard where necessary.
1. For fossil-fuel fired steam generators the following procedures shall be used to convert gaseous emission monitoring data in parts per million to g/million cal (lb/million Btu) where necessary.
 - a. When the owner or operator of a fossil-fuel fired steam generator elects under subsection (C)(1)(d) to measure oxygen in the flue gases, the measurements

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of the pollutant concentration and oxygen concentration shall each be on a consistent basis (wet or dry).

- i. When measurements are on a wet basis, except where wet scrubbers are employed or where moisture is otherwise added to stack gases, the following conversion procedure shall be used:

$$E(Q) = C(ws)F(w) \left[\frac{20.9}{20.9(1 - B(wa)) - \%O(2ws)} \right]$$

- ii. When measurements are on a wet basis and the water vapor content of the stack gas is determined at least once every 15 minutes the following conversion procedure shall be used:

$$E(Q) = C(ws)F \left[\frac{20.9}{20.9(1 - B(wa))\%O(2ws)} \right]$$

Use of this equation is contingent upon demonstrating the ability to accurately determine B(ws) such that any absolute error in B(ws) will not cause an error of more than $\pm 1.5\%$ in the term:

$$\left[\frac{20.9}{20.9(1 - B(wa)) - \%O(2ws)} \right]$$

- iii. When measurements are on a dry basis, the following conversion procedure shall be used:

$$E(Q) = CF \left[\frac{20.9}{20.9 - \%O(2ws)} \right]$$

- b. When the owner or operator elects under subsection (C)(1)(d) to measure carbon dioxide in the flue gases, the measurement of the pollutant concentration and the carbon dioxide concentration shall each be on a consistent basis (wet or dry) and the following conversion procedure used;

$$E(Q) = CF(c) \left[\frac{100}{\%CO(2)} \right]$$

- c. The values used in the equations under subsection (F)(1) above are derived as follows:

$E(Q)$ = pollutant emission, g/million cal (lb/million Btu).

C = pollutant concentration, g/dscm (lb/dscf), determined by multiplying the average concentration (ppm) for each hourly period by 4.16×10^{-5} M g/dscm per ppm (2.64×10^{-9} M lb/dscf per ppm) where M = pollutant molecular weight, g/g-mole (lb/lb-mole), $M = 64$ for sulfur dioxide and 46 for oxides of nitrogen.

$C(ws)$ = pollutant concentrations at stack conditions, g/wscm (lb/wscf), determined by multi-

plying the average concentration (ppm) for each one-hour period by 4.15×10^{-5} M lb/wscm per ppm (2.59×10^{-5} M lb/wscf per ppm) where M = pollutant molecular weight, g/g mole (lb/lb mole). $M = 64$ for sulfur dioxide and 46 for nitrogen oxides.

$\%O(2)$, $\%CO(2)$ = Oxygen or carbon dioxide volume (expressed as percent) determined with equipment specified under subsection (D)(1)(d).

$F, F(c)$ = A factor representing a ratio of the volume of dry flue gases generated to the calorific value of the fuel combusted (F), a factor representing a ratio of the volume of carbon dioxide generated to the calorific value of the fuel combusted ($F(c)$), respectively. Values of F and $F(c)$ are given in 40 CFR 60.45(f) (Chapter 1).

$F(w)$ = A factor representing a ratio of the volume of wet flue gases generated to the calorific value of the fuel combusted. Values of $F(w)$ are given in Reference Method 19 of the Arizona Testing Manual.

$B(wa)$ = Proportion by volume of water vapor in the ambient air. Approval may be given for determination of $B(wa)$ by on-site instrumental measurement provided that the absolute accuracy of the measurement technique can be demonstrated to be within $\pm 0.7\%$ water vapor. Estimation methods for $B(wa)$ are given in Reference Method 19 of the Arizona Testing Manual.

$B(ws)$ = Proportion by volume of water vapor in the stack gas.

2. For sulfuric acid plants as defined in R18-2-101, the owner or operator shall:
 - a. Establish a conversion factor three times daily according to the procedures of 40 CFR 60.84(b) (Chapter 1),
 - b. Multiply the conversion factor by the average sulfur dioxide concentration in the flue gases to obtain average sulfur dioxide emissions in Kg/metric ton (lb/short ton), and
 - c. Report the average sulfur dioxide emission for each averaging period in excess of the applicable emission standard in the quarterly summary.
3. For nitric acid plants, the owner or operator shall:
 - a. Establish a conversion factor according to the procedures of 40 CFR 60.73(b) (Chapter 1),
 - b. Multiply the conversion factor by the average nitrogen oxides concentration in the flue gases to obtain the nitrogen oxides emissions in the units of the applicable standard,
 - c. Report the average nitrogen oxides emission for each averaging period in excess of applicable emission standard in the quarterly summary.
4. The Director may allow data reporting or reduction procedures varying from those set forth in this Section if the owner or operator of a source shows to the satisfaction of the Director that his procedures are at least as accurate as those in this Section. Such procedures may include but are not limited to the following:
 - a. Alternative procedures for computing emission averages that do not require integration of data (e.g., some facilities may demonstrate that the variability

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of their emissions is sufficiently small to allow accurate reduction of data based upon computing averages from equally spaced data points over the averaging period).

- b. Alternative methods of converting pollutant concentration measurements to the units of the emission standards.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Editorial correction, subsection (C), paragraph (1), subparagraph (d) (Supp. 80-2). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-313 renumbered without change as R18-2-313 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 7 A.A.R. 1164, effective February 15, 2001 (Supp. 01-1).

R18-2-314. Quality Assurance

Facilities subject to the permit requirements of this Article shall submit a quality assurance plan to the Director that meets the requirements of R18-2-311(D)(3) within 12 months of the effective date of this Section. Facilities subject to the requirements of R18-2-313 shall submit a quality assurance plan as specified in the permit.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-314 renumbered without change as R18-2-314 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4).

R18-2-315. Posting of Permit

- A. Any person who has been granted an individual or general permit shall post such permit or a certificate of permit issuance on location where the equipment is installed in such a manner as to be clearly visible and accessible. All equipment covered by the permit shall be clearly marked with one of the following:
 1. The current permit number,
 2. A serial number or other equipment number that is also listed in the permit to identify that piece of equipment.
- B. A copy of the complete permit shall be kept on the site.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-315 renumbered without change as R18-2-315 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4).

R18-2-316. Notice by Building Permit Agencies

All agencies of the county or political subdivisions of the county that issue or grant building permits or approvals shall examine the plans and specifications submitted by an applicant for a permit or approval to determine if an air pollution permit will possibly be required under the provisions of this Chapter. If it appears that an air pollution permit will be required, the agency or political subdivision shall give written notice to the applicant to contact the Director and shall furnish a copy of that notice to the Director.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-316 renumbered without change as R18-2-316 (Supp. 87-3).

R18-2-317. Facility Changes Allowed Without Permit Revi-**sions - Class I**

- A. A facility with a Class I permit may make changes that contravene an express permit term without a permit revision if all of the following apply:
 1. The changes are not modifications under any provision of Title I of the Act or under A.R.S. § 49-401.01(24);
 2. The changes do not exceed the emissions allowable under the permit whether expressed therein as a rate of emissions or in terms of total emissions;
 3. The changes do not violate any applicable requirements or trigger any additional applicable requirements;
 4. The changes satisfy all requirements for a minor permit revision under R18-2-319(A);
 5. The changes do not contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements; and
 6. The changes do not constitute a minor NSR modification.
- B. The substitution of an item of process or pollution control equipment for an identical or substantially similar item of process or pollution control equipment shall qualify as a change that does not require a permit revision, if the substitution meets all of the requirements of subsections (A), (D), and (E).
- C. Except for sources with authority to operate under general permits, permitted sources may trade increases and decreases in emissions within the permitted facility, as established in the permit under R18-2-306(A)(12), if an applicable implementation plan provides for the emissions trades without applying for a permit revision and based on the seven working days notice prescribed in subsection (D). This provision is available if the permit does not provide for the emissions trading as a minor permit revision.
- D. For each change under subsections (A) through (C), a written notice by certified mail or hand delivery shall be received by the Director and the Administrator a minimum of seven working days in advance of the change. Notifications of changes associated with emergency conditions, such as malfunctions necessitating the replacement of equipment, may be provided less than seven working days in advance of the change but must be provided as far in advance of the change or, if advance notification is not practicable, as soon after the change as possible.
- E. Each notification shall include:
 1. When the proposed change will occur;
 2. A description of the change;
 3. Any change in emissions of regulated air pollutants;
 4. The pollutants emitted subject to the emissions trade, if any;
 5. The provisions in the implementation plan that provide for the emissions trade with which the source will comply and any other information as may be required by the provisions in the implementation plan authorizing the trade;
 6. If the emissions trading provisions of the implementation plan are invoked, then the permit requirements with which the source will comply; and
 7. Any permit term or condition that is no longer applicable as a result of the change.
- F. The permit shield described in R18-2-325 shall not apply to any change made under subsections (A) through (C). Compliance with the permit requirements that the source will meet using the emissions trade shall be determined according to requirements of the implementation plan authorizing the emissions trade.

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- G. Except as otherwise provided for in the permit, making a change from one alternative operating scenario to another as provided under R18-2-306(A)(11) shall not require any prior notice under this Section.
- H. The Director shall make available to the public monthly summaries of all notices received under this Section.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-317 renumbered without change as R18-2-317 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-317.01. Facility Changes that Require a Permit Revision - Class II

- A. The following changes at a source with a Class II permit shall require a permit revision:
1. A change that would trigger a new applicable requirement or violate an existing applicable requirement.
 2. Establishment of, or change in, an emissions cap under R18-2-306.02;
 3. A change that will require a case-by-case determination of an emission limitation or other standard, or a source-specific determination of ambient impacts, or a visibility or increment analysis;
 4. A change that results in emissions that are subject to monitoring, recordkeeping or reporting under R18-2-306(A)(3), (4), or (5) if the emissions cannot be measured or otherwise adequately quantified by monitoring, recordkeeping, or reporting requirements already in the permit;
 5. A change that will authorize the burning of used oil, used oil fuel, hazardous waste, or hazardous waste fuel, or any other fuel not currently authorized by the permit;
 6. A change that requires the source to obtain a Class I permit;
 7. Replacement of an item of air pollution control equipment listed in the permit with one that does not have the same or better pollutant removal efficiency;
 8. Establishment or revision of a limit under R18-2-306.01;
 9. Increasing operating hours or rates of production above the permitted level;
 10. A change that relaxes monitoring, recordkeeping, or reporting requirements, except when the change results:
 - a. From removing equipment that results in a permanent decrease in actual emissions, if the source keeps onsite records of the change in a log that satisfies Appendix 3 of this Chapter and if the requirements that are relaxed are present in the permit solely for the equipment that was removed; or
 - b. From a change in an applicable requirement; and
 11. A minor NSR modification.
- B. A source with a Class II permit may make any physical change or change in the method of operation without revising the source's permit unless the change is specifically prohibited in the source's permit or is a change described in subsection (A). A change that does not require a permit revision may still be subject to requirements in R18-2-317.02.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R.

4074, effective September 22, 1999 (Supp. 99-3).

Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-317.02. Procedures for Certain Changes that Do Not Require a Permit Revision - Class II

- A. Except for a physical change or change in the method of operation at a Class II source requiring a permit revision under R18-2-317.01, or a change subject to logging or notice requirements in subsections (B) or (C), a change at a Class II source shall not be subject to revision, notice, or logging requirements under this Chapter.
- B. Except as otherwise provided in the conditions applicable to an emissions cap created under R18-2-306.02, the following changes may be made if the source keeps onsite records of the changes according to Appendix 3:
1. Implementing an alternative operating scenario, including raw material changes;
 2. Changing process equipment, operating procedures, or making any other physical change if the permit requires the change to be logged;
 3. Engaging in any new insignificant activity listed in the definition of insignificant activities in R18-2-101 but not listed in the permit;
 4. Replacing an item of air pollution control equipment listed in the permit with an identical (same model, different serial number) item. The Director may require verification of efficiency of the new equipment by performance tests; and
 5. A change that results in a decrease in actual emissions if the source wants to claim credit for the decrease in determining whether the source has a net emissions increase for any purpose. The logged information shall include a description of the change that will produce the decrease in actual emissions. A decrease that has not been logged is creditable only if the decrease is quantifiable, enforceable, and otherwise qualifies as a creditable decrease.
- C. Except as provided in the conditions applicable to an emissions cap created under R18-2-306.02, the following changes may be made if the source provides written notice to the Department in advance of the change as provided below:
1. Replacing an item of air pollution control equipment listed in the permit with one that is not identical but that is substantially similar and has the same or better pollutant removal efficiency: seven days. The Director may require verification of efficiency of the new equipment by performance tests;
 2. A physical change or change in the method of operation that increases actual emissions more than 10% of the major source threshold for any conventional pollutant but does not require a permit revision: seven days;
 3. Replacing an item of air pollution control equipment listed in the permit with one that is not substantially similar but that has the same or better efficiency: 30 days. The Director may require verification of efficiency of the new equipment by performance tests;
 4. A change that would trigger an applicable requirement that already exists in the permit: 30 days unless otherwise required by the applicable requirement;
 5. A change that amounts to reconstruction of the source or an affected facility: seven days. For purposes of this subsection, reconstruction of a source or an affected facility shall be presumed if the fixed capital cost of the new components exceeds 50% of the fixed capital cost of a

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comparable entirely new source or affected facility and the changes to the components have occurred over the 12 consecutive months beginning with commencement of construction; and

6. A change that will result in the emissions of a new regulated air pollutant above an applicable regulatory threshold but that does not trigger a new applicable requirement for that source category: 30 days. For purposes of this requirement, an applicable regulatory threshold for a conventional air pollutant shall be 10% of the applicable major source threshold for that pollutant.
- D. For each change under subsection (C), the written notice shall be by certified mail or hand delivery and shall be received by the Director the minimum amount of time in advance of the change. Notifications of changes associated with emergency conditions, such as malfunctions necessitating the replacement of equipment, may be provided with less than required notice, but must be provided as far in advance of the change, or if advance notification is not practicable, as soon after the change as possible. The written notice shall include:
 1. When the proposed change will occur,
 2. A description of the change,
 3. Any change in emissions of regulated air pollutants, and
 4. Any permit term or condition that is no longer applicable as a result of the change.
- E. A source may implement any change in subsection (C) without the required notice by applying for a minor permit revision under R18-2-319 and complying with R18-2-319(D)(2) and (G).
- F. The permit shield described in R18-2-325 shall not apply to any change made under this Section, other than implementation of an alternate operating scenario under subsection (B)(1).
- G. Notwithstanding any other part of this Section, the Director may require a permit to be revised for any change that, when considered together with any other changes submitted by the same source under this Section over the term of the permit, constitutes a change under R18-317.01(A).
- H. If a source change is described under both subsections (B) and (C), the source shall comply with subsection (C). If a source change is described under both subsection (C) and R18-2-317.01(B), the source shall comply with R18-2-317.01(B).
- I. A copy of all logs required under subsection (B) shall be filed with the Director within 30 days after each anniversary of the permit issue date. If no changes were made at the source requiring logging, a statement to that effect shall be filed instead.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3).

Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-318. Administrative Permit Amendments

- A. Except for provisions pursuant to Title IV of the Act, an administrative permit amendment is a permit revision that does any of the following:
 1. Corrects typographical errors;
 2. Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;
 3. Requires more frequent monitoring or reporting by the permittee;
 4. Allows for a change in ownership or operational control of a source as approved under R18-2-323 where the

Director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility coverage, and liability between the current and new permittee has been submitted to the Director;

- B. Administrative permit amendments to Title IV provisions of the permit shall be governed by regulations promulgated by the Administrator under Title IV of the Act.
- C. The Director shall take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request, and for Class I permits may incorporate such changes without providing notice to the public or affected states provided that it designates any such permit revisions as having been made pursuant to this Section.
- D. The Director shall submit a copy of Class I permits revised under this Section to the Administrator.
- E. Except for administrative permit amendments involving a transfer under R18-2-323, the source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-318 renumbered without change as R18-2-318 (Supp. 87-3). Amended subsection (A) effective December 1, 1988 (Supp. 88-4). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4).

R18-2-318.01. Annual Summary Permit Amendments for Class II Permits

The Director may amend any Class II permit annually without following R18-2-321 in order to incorporate changes reflected in logs or notices filed under R18-2-317.02. The amendment shall be effective to the anniversary date of the permit. The Director shall make available to the public for any source:

1. A complete record of logs and notices sent to the Department under R18-2-317.02; and
2. Any amendments or revisions to the source's permit.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3).

R18-2-319. Minor Permit Revisions

- A. Minor permit revision procedures may be used only for those changes at a Class I source that satisfy all of the following:
 1. Do not violate any applicable requirement;
 2. Do not involve substantive changes to existing monitoring, reporting, or recordkeeping requirements in the permit;
 3. Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination of ambient impacts, or an analysis of impacts on visibility or maximum increases allowed under R18-2-218;
 4. Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed in order to avoid an applicable requirement to which the source would otherwise be subject. The terms and conditions include:
 - a. A federally enforceable emissions cap that the source would assume to avoid classification as a modification under any provision of Title I of the Act; and

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- b. An alternative emissions limit approved under regulations promulgated under the section 112(i)(5) of the Act.
 - 5. Are not modifications under any provision of Title I of the Act;
 - 6. Are not changes in fuels not represented in the permit application or provided for in the permit;
 - 7. Are not minor NSR modifications subject to R18-2-334; and
 - 8. Are not required to be processed as a significant permit revision under R18-2-320.
- B.** Minor permit revision procedures shall be used for the following changes at a Class II source:
- 1. A change that triggers a new applicable requirement if all of the following apply:
 - a. The change is not a minor NSR modification subject to R18-2-334;
 - b. A case-by-case determination of an emission limitation or other standard is not required; and
 - c. The change does not require the source to obtain a Class I permit.
 - 2. A change that increases emissions above the permitted level unless the increase otherwise creates a condition that requires a significant permit revision;
 - 3. A change in fuel from fuel oil or coal, to natural gas or propane, if not authorized in the permit;
 - 4. A change that results in emissions subject to monitoring, recordkeeping, or reporting under R18-2-306(A)(3),(4), or (5) and that cannot be measured or otherwise adequately quantified by monitoring, recordkeeping, or reporting requirements already in the permit;
 - 5. A decrease in the emissions permitted under an emissions cap unless the decrease requires a change in the conditions required to enforce the cap or to ensure that emissions trades conducted under the cap are quantifiable and enforceable; and
 - 6. Replacement of an item of air pollution control equipment listed in the permit with one that does not have the same or better efficiency.
- C.** As approved by the Director, minor permit revision procedures may be used for permit revisions involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that the minor permit revision procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by the Administrator.
- D.** An application for minor permit revision shall be on the standard application form provided under R18-2-304(B) and include the following:
- 1. A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;
 - 2. For Class I sources, and any source that is making the change immediately after it files the application, the source's suggested draft permit;
 - 3. Certification by a responsible official, consistent with standard permit application requirements, that the proposed revision meets the criteria for use of minor permit revision procedures and a request that the procedures be used;
- E.** EPA and affected state notification. For Class I permits, within five working days of receipt of an application for a minor permit revision, the Director shall notify the Administrator and affected states of the requested permit revision in accordance with R18-2-307.
- F.** For Class I permits, the Director shall not issue a final permit revision until after the Administrator's 45-day review period or until the Administrator has notified the Director that the Administrator will not object to issuance of the permit revision, whichever is first, although the Director may approve the permit revision before that time. Within 90 days of the Director's receipt of an application under minor permit revision procedures, or 15 days after the end of the Administrator's 45-day review period, whichever is later, the Director shall do one or more of the following:
- 1. Issue the permit revision as proposed,
 - 2. Deny the permit revision application,
 - 3. Determine that the proposed permit revision does not meet the minor permit revision criteria and should be reviewed under the significant revision procedures, or
 - 4. Revise the proposed permit revision and transmit to the Administrator the new proposed permit revision as required in R18-2-307.
- G.** The source may make the change proposed in its minor permit revision application immediately after it files the application. After a Class I source makes a change allowed by the preceding sentence, and until the Director takes any of the actions specified in subsection (F), the source shall comply with both the applicable requirements governing the change and the proposed revised permit terms and conditions. During this time period, the Class I source need not comply with the existing permit terms and conditions it seeks to modify. However, if the Class I source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to revise may be enforced against it.
- H.** The permit shield under R18-2-325 shall not extend to minor permit revisions.
- I.** Notwithstanding any other part of this Section, the Director may require a permit to be revised under R18-2-320 for any change that, when considered together with any other changes submitted by the same source under this Section or R18-2-317.02 over the life of the permit, do not satisfy subsection (A) for Class I sources or subsection (B) for Class II sources.
- J.** The Director shall make available to the public monthly summaries of all applications for minor permit revisions.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-319 renumbered without change as R18-2-319 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-320. Significant Permit Revisions

- A.** For Class I sources, a significant revision shall be used for an application requesting a permit revision that does not qualify as a minor permit revision or as an administrative amendment. A significant revision that is only required because of a change described in R18-2-319(A)(6) or (7) shall not be considered a significant permit revision under part 70 for the purposes of 40 CFR 64.5(a)(2). Every significant change in existing monitoring permit terms or conditions and every relaxation of report-

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ing or recordkeeping permit terms or conditions shall follow significant revision procedures.

- B.** A source with a Class II permit shall make the following changes only after the permit is revised following the public participation requirements of R18-2-330:
1. Establishing or revising a voluntarily accepted emission limitation or standard as described by R18-2-306.01 or R18-2-306.02, except a decrease in the limitation authorized by R18-2-319(B)(5);
 2. Making any change in fuel not authorized by the permit and that is not fuel oil or coal, to natural gas or propane;
 3. A change that is a minor NSR modification subject to R18-2-334;
 4. A change that relaxes monitoring, recordkeeping, or reporting requirements, except when the change results from:
 - a. Removing equipment that results in a permanent decrease in actual emissions, if the source keeps onsite records of the change in a log that satisfies Appendix 3 of this Chapter and if the requirements that are relaxed are present in the permit solely for the equipment that was removed; or
 - b. A change in an applicable requirement.
 5. A change that will cause the source to violate an existing applicable requirement including the conditions establishing an emissions cap;
 6. A change that will require any of the following:
 - a. A case-by-case determination of an emission limitation or other standard;
 - b. A source-specific determination of ambient impacts, or an analysis of impacts on visibility or maximum allowable increases allowed under R18-2-218; or
 - c. A case-by-case determination of a monitoring, recordkeeping, and reporting requirement.
 7. A change that requires the source to obtain a Class I permit.
- C.** Any modification to a major source of federally listed hazardous air pollutants, and any reconstruction of a source, or a process or production unit, under section 112(g) of the Act and regulations promulgated thereunder, shall follow significant permit revision procedures and any rules adopted under A.R.S. § 49-426.03.
- D.** Significant permit revisions shall meet all requirements of this Article for applications, public participation, review by affected states, and review by the Administrator that apply to permit issuance and renewal. Notwithstanding R18-2-330(C), the Director may provide notice for changes requiring a significant permit revision solely under subsections (B)(2), (4) or (6)(c) by posting a notice on the Department's web site, sending e-mails to persons who have requested electronic notification of the Department's proposed air quality permit actions and by mailing a copy of the notice as provided in R18-2-330(C)(1).
- E.** When an existing source applies for a significant permit revision to revise its permit from a Class II permit to a Class I permit, it shall submit a Class I permit application in accordance with R18-2-304. The Director shall issue the entire permit, and not just the portion being revised, in accordance with Class I permit content and issuance requirements, including requirements for public, affected state, and EPA review, contained in R18-2-307 and R18-2-330.

Historical Note

Adopted effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November

15, 1993 (Supp. 93-4). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 343, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-321. Permit Reopenings; Revocation and Reissuance; Termination**A. Reopening for Cause.**

1. Each issued permit shall include provisions specifying the conditions under which the permit shall be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:
 - a. Additional applicable requirements under the Act become applicable to a major source with a remaining permit term of three or more years. Such a reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended pursuant to R18-2-322(B). Any permit revision required pursuant to this subsection shall comply with provisions in R18-2-322 for permit renewal and shall reset the five-year permit term.
 - b. Additional requirements, including excess emissions requirements, become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the Class I permit.
 - c. The Director or the Administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.
 - d. The Director or the Administrator determines that the permit needs to be revised or revoked to assure compliance with the applicable requirements.
2. Proceedings to reopen and issue a permit, including appeal of any final action relating to a permit reopening, shall follow the same procedures as apply to initial permit issuance and shall, except for reopenings under subsection (A)(1)(a), affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.
3. Reopenings under subsection (A)(1) shall not be initiated before a notice of such intent is provided to the source by the Director at least 30 days in advance of the date that the permit is to be reopened, except that the Director may provide a shorter time period in the case of an emergency.
4. When a permit is reopened and revised pursuant to this Section, the Director may make appropriate revisions to the permit shield established pursuant to R18-2-325.

- B.** Within 10 days of receipt of notice from the Administrator that cause exists to reopen a Class I permit, the Director shall notify the source. The source shall have 30 days to respond to the Director. Within 90 days of receipt of notice from the Administrator that cause exists to reopen a permit, or within any extension to the 90 days granted by EPA, the Director

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shall forward to the Administrator and the source a proposed determination of termination, revision, or revocation and reissuance of the permit. Within 90 days of receipt of an EPA objection to the Director's proposal, the Director shall resolve the objection and act on the permit.

- C. The Director may issue a notice of termination of a permit or registration issued pursuant to this Chapter if:
1. The Director has reasonable cause to believe that the permit or registration was obtained by fraud or misrepresentation.
 2. The person applying for the permit or registration failed to disclose a material fact required by the application form or the regulation applicable to the permit or registration, of which the applicant had or should have had knowledge at the time the application was submitted.
 3. The terms and conditions of the permit or registration have been or are being violated.
- D. If the Director issues a notice of termination under this Section, the notice shall be served on the permittee by certified mail, return receipt requested. The notice shall include a statement detailing the grounds for the revocation and a statement that the permittee is entitled to a hearing.

Historical Note

Adopted effective September 22, 1983 (Supp. 83-5). Former Section R9-3-321 renumbered without change as R18-2-321 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-322. Permit Renewal and Expiration

- A. A permit being renewed is subject to the same procedural requirements, including any for public participation and affected states and Administrator review, that would apply to that permit's initial issuance.
- B. Except as provided in R18-2-303(A), permit expiration terminates the source's right to operate unless a timely application for renewal that is sufficient under A.R.S. § 41-1064 has been submitted in accordance with R18-2-304. Any testing that is required for renewal shall be completed before the proposed permit is issued by the Director.
- C. The Director shall act on an application for a permit renewal within the same time-frames as on an initial permit.

Historical Note

Adopted effective September 22, 1983 (Supp. 83-5). Former Section R9-3-322 renumbered without change as R18-2-322 (Supp. 87-3). Amended effective December 1, 1988 (Supp. 88-4). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4).

R18-2-323. Permit Transfers

- A. Except as provided in A.R.S. § 49-429 and subsection (B), a Class I or II permit may be transferred to another person if the person who holds the permit gives notice to the Director in writing at least 30 days before the proposed transfer. The notice shall contain the following:
1. The permit number and expiration date;
 2. The name, address, and telephone number of the current permit holder;
 3. The name, address and telephone number of the person to receive the permit;
 4. The name and title of the individual within the organization who is accepting responsibility for the permit along

with a signed statement by that person indicating such acceptance;

5. A description of the equipment to be transferred;
 6. A written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee;
 7. Provisions for the payment of any fees pursuant to R18-2-326 or R18-2-501 that will be due and payable before the effective date of transfer;
 8. Sufficient information about the source's technical and financial capabilities of operating the source to allow the Director to make the decision in subsection (B) including:
 - a. The qualifications of each person principally responsible for the operation of the source;
 - b. A statement by the chief financial officer of the new permittee that it is financially capable of operating the facility in compliance with the law, and the information that provides the basis for that statement;
 - c. A brief description of any action for the enforcement of any federal or state law, or any county, city, or local government ordinance relating to the protection of the environment, instituted against any person employed by the new permittee and principally responsible for operating the facility during the five years preceding the date of application. In lieu of this description, the new permittee may submit a copy of the certificate of disclosure or 10-K form required under A.R.S. § 49-109, or a statement that this information has been filed in compliance with A.R.S. § 49-109.
- B. The Director shall deny the transfer if the Director determines that the organization receiving the permit is not capable of operating the source in compliance with A.R.S. Title 49, Chapter 3, Article 2, the provisions of this Chapter or the provisions of the permit. Notice of the denial shall be sent to the original permit holder by certified mail stating the reason for the denial within 10 working days of the Director's receipt of the application. If the transfer is not denied within 10 working days after receipt of the notice, it shall be deemed approved.
- C. To appeal the transfer denial:
1. Both the transferor and transferee shall petition the Office of Administrative Hearings in writing for a public hearing; and
 2. All parties shall follow the appeal process for a permit.
- D. The Director shall make available to the public monthly summaries of all notices received under this Section.

Historical Note

Adopted effective September 22, 1983 (Supp. 83-5). Former Section R9-3-323 renumbered without change as R18-2-323 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 12 A.A.R. 4698, effective February 3, 2007 (Supp. 06-4).

R18-2-324. Portable Sources

- A. A portable source that will operate for the duration of its permit solely in one county that has established a local air pollution control program pursuant to A.R.S. § 49-479 shall obtain a permit from that county. A portable source with a county permit shall not operate in any other county. A portable source that has a permit issued by the Director and obtains a county permit shall request that the Director terminate the permit.

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Upon issuance of the county permit, the permit issued by the Director is no longer valid.

- B.** A portable source which has a county permit but proposes to operate outside that county shall obtain a permit from the Director. A portable source that has a permit issued by a county and obtains a permit issued by the Director shall request that the county terminate the permit. Upon issuance of a permit by the Director, the county permit is no longer valid. Before commencing operation in the new county, the source shall notify the Director and the control officer who has jurisdiction in the county that includes the new location according to subsection (C).
- C.** A portable source may be transferred from one location to another provided that the owner or operator of such equipment notifies the Director and any control officer who has jurisdiction over the geographic area that includes the new location of the transfer prior to the transfer. The notification required under this subsection shall include:
1. A description of the equipment to be transferred including the permit number for such equipment;
 2. A description of the present location;
 3. A description of the new location;
 4. The date on which the equipment is to be moved; and
 5. The date on which operation of the equipment will begin at the new location.
- D.** Any permit for a portable source shall contain conditions that will assure compliance with all applicable requirements at all authorized locations.

Historical Note

Adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-325. Permit Shields

- A.** Each Class I or II permit issued under this Chapter shall specifically identify all federal, state, and local air pollution control requirements applicable to the source at the time the permit is issued. The permit shall state that compliance with the conditions of the permit shall be deemed compliance with any applicable requirement as of the date of permit issuance, provided that such applicable requirements are included and expressly identified in the permit. The Director may include in a permit determinations that other requirements specifically identified are not applicable. Any permit under this Chapter that does not expressly state that a permit shield exists shall not provide such a shield.
- B.** Nothing in this Section or in any permit shall alter or affect the following:
1. The provisions of Section 303 of the Act (emergency orders), including the authority of the Administrator under that Section;
 2. The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance;
 3. The applicable requirements of the acid rain program, consistent with Section 408(a) of the Act;
 4. The ability of the Administrator or the Director to obtain information from a source pursuant to Section 114 of the Act, or any provision of state law;
 5. The authority of the Director to require compliance with new applicable requirements adopted after the permit is issued.

- C.** In addition to the provisions of R18-2-321, a permit may be reopened by the Director and the permit shield revised when it is determined that standards or conditions in the permit are based on incorrect information provided by the applicant.

Historical Note

Emergency rule adopted effective September 17, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency rule re-adopted without change effective December 16, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency expired; text deleted (Supp. 93-1). New Section adopted effective November 15, 1993 (Supp. 93-4).

R18-2-326. Fees Related to Individual Permits

- A.** Source Categories. The owner or operator of a source required to have an air quality permit from the Director shall pay the fees described in this Section unless authorized to operate under a general permit issued under Article 5. The fees are based on a source being classified in one of the following three categories:
1. Class I Title V sources are those required or that elect to have a permit under R18-2-302(B)(1).
 2. Class II Title V sources are those required to have a permit under R18-2-302(B)(2) and that are subject to new source performance standards or national emission standards for hazardous air pollutants.
 3. Class II Non-Title V sources are those required to have a permit under R18-2-302(B)(2) and that are not subject to new source performance standards or national emission standards for hazardous air pollutants.
- B.** Fees for Permit Actions.
1. The owner or operator of a Class I Title V source, Class II Title V source, or Class II Non-Title V source shall pay to the Director the following:
 - a. \$133.50 per hour, adjusted annually under subsection (H), for all permit processing time required for a billable permit action; and
 - b. The actual costs of public notice conducted according to R18-2-330.
 2. The Director may require periodic payment of permit processing fees based on the most recent accounting of time spent processing the permit including any fees for contractors.
 3. Upon completion of permit processing activities other than issuance or denial of the permit or permit revision, the Director shall send notice of the decision to the applicant along with a final itemized bill. The maximum fee for any billable permit action for a non-Title V source is \$25,000. Except as provided in subsection (G), the Director shall not issue a permit or permit revision until the final bill is paid in full.
- C.** Class I Title V Fees. The owner or operator of a Class I Title V source that has undergone initial startup by January 1 shall annually pay to the Director an administrative fee plus an emissions-based fee as follows:
1. The applicable administrative fee from the table below, as adjusted annually under subsection (H). The fee is due by February 1 or 60 days after the Director mails the invoice under subsection (F), whichever is later.

Class I Title V Source Category	Administrative Fee
Aerospace	\$20,800
Air Curtain Destructors	\$750

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Cement Plants	\$63,690
Combustion/Boilers	\$15,480
Compressor Stations	\$12,730
Electronics	\$20,490
Expandable Foam	\$14,680
Foundries	\$19,520
Landfills	\$15,960
Lime Plants	\$60,160
Copper & Nickel Mines	\$15,000
Gold Mines	\$15,000
Mobile Home Manufacturing	\$14,830
Paper Mills	\$20,480
Paper Coaters	\$15,480
Petroleum Products Terminal Facilities	\$22,730
Polymeric Fabric Coaters	\$20,480
Reinforced Plastics	\$15,480
Semiconductor Fabrication	\$26,930
Copper Smelters	\$63,690
Utilities - Fossil Fuel Fired Except Coal	\$16,440
Utilities - Coal Fired	\$32,570
Vitamin/Pharmaceutical Manufacturing	\$15,800
Wood Furniture	\$15,480
Others	\$20,490
Others with Continuous Emissions Monitoring	\$20,490

2. An emissions-based fee of \$38.25 per ton of actual emissions of all regulated pollutants emitted during the previous calendar year ending 12 months earlier. The fee is adjusted annually under subsection (C)(2)(d) and due by February 1 or 60 days after the Director mails the invoice under subsection (F), whichever is later.
- For purposes of this Section, "actual emissions" means the quantity of all regulated pollutants emitted during the calendar year, as determined by the annual emissions inventory under R18-2-327.
 - For purposes of this Section, regulated pollutants consist of the following:
 - Nitrogen oxides and any volatile organic compounds;
 - Conventional air pollutants, except carbon monoxide and ozone;
 - Any pollutant that is subject to any standard promulgated under Section 111 of the Act, including fluorides, sulfuric acid mist, hydrogen sulfide, total reduced sulfur, and reduced sulfur compounds; and
 - Any federally listed hazardous air pollutant.
 - For purposes of this Section, the following emissions of regulated pollutants are excluded from a source's actual emissions:
 - Emissions of any regulated pollutant from the source in excess of 4,000 tons per year;
 - Emissions of any regulated pollutant already included in the actual emissions for the source, such as a federally listed hazardous air pollutant that is already accounted for as a VOC or as PM₁₀;

- Emissions from insignificant activities listed in the permit application for the source under R18-2-304(F)(8);
 - Fugitive emissions of PM₁₀ from activities other than crushing, belt transfers, screening, or stacking; and
 - Fugitive emissions of VOC from solution-extraction units.
- d. The Director shall adjust the rate for emission-based fees every November 1, after December 4, 2007, by multiplying \$38.25 by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2007. The Consumer Price Index for any year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of that year.

- D. Class II Title V Fees. The owner or operator of a Class II Title V source that has undergone initial startup by January 1 shall pay the applicable administrative fee from the table below, adjusted under subsection (H), for that calendar year, and annually thereafter. The fee is due by February 1 or 60 days after the Director mails the invoice under subsection (F), whichever is later.

Class II Title V Source Category	Administrative Fee
Synthetic minor sources, except portable sources	Administrative fee from Class I Title V table for category
Stationary	\$8,070
Portables	\$8,070
Small Source	\$750

- E. Class II Non-Title V Fees. The owner or operator of a Class II Non-Title V source that has undergone initial startup by January 1 shall pay the applicable inspection fee from the table below, adjusted under subsection (H), for that calendar year, and annually thereafter. The fee is due by February 1 or 60 days after the Director mails the invoice under subsection (F), whichever is later.

Class II Non-Title V Source Category	Inspection Fee
Stationary	\$5,230
Portables	\$5,230
Gasoline Service Stations	\$750

- F. The Director shall mail the owner or operator of each source an invoice for all fees due under subsections (C), (D), or (E) by December 1.
- G. Any person who receives a final itemized bill from the Director under this Section for a billable permit action may request an informal review of the hours billed and may pay the bill under protest as provided below:
- The request shall be made in writing, and received by the Director within 30 days of the date of the final bill. Unless the Director and person agree otherwise, the informal review shall take place within 30 days after the Director's receipt of the request. The Director shall arrange the date and location of the informal review with the person at least 10 business days before the informal review. The Director shall review whether the amounts of time billed are correct and reasonable for the tasks

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involved. The Director shall mail his or her decision on the informal review to the person within 10 business days after the informal review date.

2. The Director's decision after informal review shall become final unless, within 30 days after person's receipt of the informal review decision, the person requests a hearing under R18-1-202.
 3. If the final itemized bill is paid under protest, the Director shall take final action on the permit or permit revision.
- H.** The Director shall adjust the hourly rate every November 1, to the nearest 10 cents per hour, after December 4, 2007, by multiplying \$133.50 by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2007. The Director shall adjust the administrative or inspection fees listed in subsections (C), (D), and (E) every November 1, to the nearest \$10, beginning December 4, 2007, by multiplying the administrative or inspection fee by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2007. The Consumer Price Index for any year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of that year.
- I.** An applicant for a Class I or Class II permit or permit revision may request that the Director provide accelerated processing of the application by providing the Director written notice 60 days before filing the application. The request shall be accompanied by an initial fee of \$15,000. The fee is non-refundable to the extent of the Director's costs for accelerating the processing if the Director undertakes the accelerated processing described below:
1. If an applicant requests accelerated permit processing, the Director may, to the extent practicable, undertake to process the permit or permit revision according to the following schedule:
 - a. For applications for initial Class I and II permits under R18-2-302 or significant permit revisions under R18-2-320, the Director shall issue or deny the proposed permit or permit revision within 120 days after the Director determines that the application is complete.
 - b. For minor permit revisions under R18-2-319, the Director shall issue or deny the permit revision within 60 days after receiving a complete application.
 2. At any time after an applicant requests accelerated permit processing, the Director may require additional advance payments based on the most recent estimate of additional costs.
 3. Upon completion of permit processing activities but before issuance or denial of the permit or permit revision, the Director shall send notice of the decision to the applicant along with a final bill. The maximum fee for any billable permit action for a non-Title V source is \$25,000. The final bill shall include all regular permit processing and other fees due, and, in addition, the difference between the cost of accelerating the permit application, including any costs incurred by the Director in contracting for, hiring, or supervising the work of outside consultants, and all advance payments submitted for accelerated processing. In the event all payments made exceed actual accelerated permit costs, the Director shall refund the excess advance payments. Nothing in this subsection affects the public participation requirements of R18-2-

330, or EPA and affected state review as required under R18-2-307 or R18-2-319.

- J.** Inactive Sources. The owner or operator of a permitted source that has undergone initial startup but was shut down for the entire preceding year shall pay 50 percent of the administrative or inspection fee required under subsections (C), (D), or (E). The owner or operator of a source claiming inactive status under this subsection shall submit a letter to the Director by December 15 of the calendar year for which the source was inactive. Termination of a permit does not relieve a source of any past fees due.
- K.** If an applicant uses the Tier 4 method for conducting a risk management analysis (RMA) according to R18-2-1708(B), the applicant shall pay any costs incurred by the Director in contracting for, hiring or supervising work of outside consultants.
- L.** Transition.
1. Subsections (A) through (J) of this Section are effective December 4, 2007. The first administrative or inspection fees are due on February 1, 2008.
 2. Except as provided in subsection (b), all fees incurred after December 4, 2007, are payable in accordance with the rates contained in this Section.
 - a. Emission-based fees for calendar year 2006 shall be billed at \$38.25 per ton and be due February 1, 2008.
 - b. The hourly rates and maximum fees for a new permit or permit revision are those in effect when the application for the permit or revision is determined to be complete.
 - c. Fees accrued but not yet paid before the effective date of this Section remain as obligations to be paid to the Department.

Historical Note

Emergency rule adopted effective September 17, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency rule re-adopted without change effective December 16, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency expired; text deleted (Supp. 93-1). New Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 7 A.A.R. 5670, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 10 A.A.R. 4767, effective November 4, 2004 (Supp. 04-4). Amended by final rulemaking at 13 A.A.R. 4379, effective December 4, 2007 (Supp. 07-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-326.01. Expired**Historical Note**

New Section made by exempt rulemaking at 16 A.A.R. 844, effective July 1, 2010 (Supp. 10-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 613, effective February 14, 2017 (Supp. 17-1).

R18-2-327. Emissions Inventory Questionnaire and Emissions Statement

- A.** Emissions Inventory Questionnaire Requirements
1. Every source subject to permit requirements under this Chapter shall complete and submit to the Director an emissions inventory questionnaire as follows:
 - a. Sources Requiring a Class I Permit under R18-2-302(B). Sources requiring a Class I permit under R18-2-302(B) shall complete and submit to the

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Director an emissions inventory questionnaire no later than June 1 of each year.

- b. Sources Requiring a Class II Permit under R18-2-302(B)
 - i. Sources requiring a Class II permit under R18-2-302(B) shall complete and submit to the Director an emissions inventory questionnaire no later than June 1 every three years beginning June 1, 2021.
 - ii. At the Director's request, sources requiring a Class II permit under R18-2-302(B) may be required to complete and submit emissions inventory questionnaires in addition to the triennial emissions inventory questionnaire required under subsection (A)(1)(b)(i). The Director shall notify the owner or operator of the source in writing of the decision to require additional emissions inventory questionnaires.
2. These requirements apply whether or not a permit has been issued and whether or not a permit application has been filed.
3. The emissions inventory questionnaire shall be on an electronic or paper form provided by the Director and shall include the following information for the previous calendar year:
 - a. The source's name, description, mailing address, contact person and contact person phone number, and physical address and location, if different than the mailing address.
 - b. Process information for the source, including design capacity, throughput, operations schedule, and emissions control devices, their description and efficiencies.
 - c. The actual quantity of emissions from permitted emission points and fugitive emissions as provided in the permit, including documentation of the method of measurement, calculation, or estimation, determined pursuant to subsection (C), of the following regulated air pollutants:
 - i. Any single regulated air pollutant in a quantity greater than 1 ton or the amount listed for the pollutant in the definition of "significant" in R18-2-101(131)(a) or (b), whichever is less.
 - ii. Any combination of regulated air pollutants in a quantity greater than 2 1/2 tons.
 - d. A certification by a responsible official of truth, accuracy, and completeness. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
4. An amendment to an emissions inventory questionnaire, containing the documentation required by subsection (A)(3), shall be submitted to the Director by any source whenever it discovers or receives notice, within two years of the original submittal, that incorrect or insufficient information was submitted to the Director by a previous emissions inventory questionnaire. The amendment shall be submitted to the Director within 30 days of discovery or receipt of notice. If the incorrect or insufficient information resulted in an incorrect annual emissions fee, the Director shall require that additional payment be made or shall apply an amount as a credit to a future annual emissions fee. The submittal of an amendment under this sub-

section shall not subject the owner or operator to an enforcement action or a civil or criminal penalty if the original submittal of incorrect or insufficient information was not due to willful neglect.

5. The Director may require submittal of supplemental emissions inventory questionnaires for air contaminants pursuant to A.R.S. §§ 49-422, 49-424, and 49-426.03 through 49-426.08.

B. Emissions Statement Requirements

1. Any stationary source located in an ozone nonattainment area that has actual emissions of 25 tons or more of nitrogen oxides (NO_x) or volatile organic compounds (VOCs) during the calendar year shall complete and submit to the Director an emissions statement no later than June 1 of the following year, except as provided in subsection (B)(5).
2. The emissions statement shall be on an electronic or paper form provided by the Director and shall require the following information for the previous calendar year:
 - a. The source's name, description, mailing address, contact person and contact person phone number, and physical address and location, if different than the mailing address.
 - b. Process information for the source, including design capacity, throughput, operations schedule, and emissions control devices, their description and efficiencies.
 - c. Actual emissions of NO_x and VOC including documentation of the method of measurement, calculation, or estimation, determined pursuant to subsection (C).
 - d. A certification by a responsible official of truth, accuracy, and completeness. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
3. If either NO_x or VOC annual emissions are greater than or equal to 25 tons, the other pollutant shall be included in the emissions statement even if less than 25 tons.
4. An amendment to an emissions statement, containing the documentation required by subsection (B)(2), shall be submitted to the Director by any source whenever it discovers or receives notice, within two years of the original submittal, that incorrect or insufficient information was submitted to the Director by a previous emissions statement. The amendment shall be submitted to the Director within 30 days of discovery or receipt of notice. The submittal of an amendment under this subsection shall not subject the owner or operator to an enforcement action or a civil or criminal penalty if the original submittal of incorrect or insufficient information was not due to willful neglect.
5. A source that submits an emissions inventory questionnaire under subsection (A) is exempt from subsection (B) requirements for that submission year.

C. Emissions Estimation Methodology

1. Actual quantities of emissions shall be determined using the following emission factors or data.
 - a. Whenever available, emissions estimates shall either be calculated from continuous emissions monitors certified pursuant to 40 CFR 75, Subpart C and referenced appendices, or data quality assured pursuant to Appendix F of 40 CFR 60.

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- b. When sufficient data pursuant to subsection (C)(1)(a) is not available, emissions estimates shall be calculated from data from source performance tests conducted pursuant to R18-2-312 in the calendar year being reported or, when not available, conducted in the most recent calendar year representing the operating conditions of the year being reported.
 - c. When sufficient data pursuant to subsections (C)(1)(a) or (b) is not available, emissions estimates shall be calculated using emissions factors from EPA Publication No. AP-42 "Compilation of Air Pollutant Emission Factors," Volume I: Stationary Point and Area Sources, Fifth Edition, 1995, U.S. Environmental Protection Agency, Research Triangle Park, NC, including Supplements A through F and all updates published through July 1, 2011 (and no future editions). AP-42 is incorporated by reference and is on file with the Department of Environmental Quality and can be obtained from the Government Printing Office, 732 North Capitol Street, NW, Washington, D.C. 20401, telephone (202) 512-1800, or by downloading the document from the website for the EPA Clearinghouse for Emission Inventories and Emission Factors.
 - d. When sufficient data pursuant to subsections (C)(1)(a) through (c) is not available, emissions estimates shall be calculated from material balance using engineering knowledge of process.
 - e. When sufficient data pursuant to subsections (C)(1)(a) through (d) is not available, emissions estimates shall be calculated by equivalent methods approved by the Director. The Director shall only approve methods that are demonstrated as accurate and reliable as one of the methods in subsections (C)(1)(a) through (d).
2. Actual quantities of emissions calculated under subsection (C) shall be determined on the basis of actual operating hours, production rates, in-place process control equipment, operational process control data, and types of materials processed, stored, or combusted.

Historical Note

Emergency rule adopted effective September 17, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency rule re-adopted without change effective December 16, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency expired; text deleted (Supp. 93-1). New Section adopted effective November 15, 1993 (Supp. 93-4). Amended effective December 7, 1995 (Supp. 95-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1). Amended by final rulemaking at 26 A.A.R. 3092, effective January 19, 2021 (Supp. 20-4.)

R18-2-328. Conditional Orders

- A. The Director may grant to any person a conditional order for each air pollution source which allows such person to vary from any provision of A.R.S. Title 49, Chapter 3, Article 2, or this Chapter, for any non-federally enforceable requirement of a permit issued pursuant to this Chapter if the Director makes each of the following findings:
 - 1. Issuance of the conditional order will not endanger public health or the environment, impede attainment or maintenance of the national ambient air quality standards, or constitute a violation of the Act; and
 - 2. Either of the following is true:
 - a. There has been a breakdown of equipment or upset of operations beyond the control of the petitioner which causes the source to be out of compliance with the requirements of this Chapter; the source was in compliance with the requirements of this Chapter before the breakdown or upset, and the breakdown or upset may be corrected within a reasonable time;
 - b. There is no reasonable relationship between the economic and social cost of, and benefits to be obtained from, achieving compliance.
- B. The following procedures shall apply to a person seeking a conditional order:
- 1. The person shall file a petition for a conditional order with the Director. The petition shall contain at a minimum:
 - a. A description of the breakdown or upset;
 - b. A description of corrective action being undertaken to bring the source back into compliance;
 - c. An estimate of emissions related to the breakdown or upset;
 - d. A compliance schedule with a date of final compliance and interim dates as appropriate;
 - e. A detailed analysis of the economic and social costs and benefits of achieving compliance with the requirement for which the variance is sought, if the petition is based on subsection (A)(2)(b).
 - 2. If the issuance of the conditional order requires a public hearing pursuant to R18-2-330, the Director shall set the hearing date within 30 days after the filing of the petition and the hearing shall be held within 60 days after the filing of the petition.
 - 3. Notice of the filing of a petition for a conditional order and of the hearing date on said petition shall be published in the manner provided in A.R.S. § 49-444 and R18-2-330.
- C. Decisions on petitions for a conditional order shall be made as follows:
- 1. For any conditional order that requires a revision to the SIP, the Director shall comply with the requirements contained in 40 CFR 51, Subpart F.
 - 2. For any other conditional order, the Director shall grant or deny the petition with such terms and conditions as are listed in subsection (E)(2) within 30 days after the conclusion of any required hearing, or, if no hearing is held, within 60 days after the filing of the petition.
- D. A fee to cover the costs of processing conditional orders may be charged by the Director prior to issuance consistent with R18-2-326(I) or (J). The fee shall be deposited in the permit administration fund established in A.R.S. § 49-455.
- E. The terms of a conditional order or its renewal shall conform to the following:
- 1. A conditional order issued by the Director shall be valid for such period as the Director prescribes but in no event for more than one year in the case of a source that is required to obtain a permit pursuant to this Chapter and Title V of the Act, and three years in the case of any other source that is required to obtain a permit pursuant to this Chapter.

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2. The terms and conditions which are imposed as a condition to the granting or the continued existence of a conditional order shall include:
 - a. A detailed plan for completion of corrective steps needed to conform to the provisions of A.R.S. Title 49, Chapter 3, Article 2, this Chapter, and the requirements of any permit issued pursuant to this Chapter;
 - b. A requirement that necessary construction shall begin as expeditiously as practicable and proceed as specified in the compliance schedule;
 - c. Written reports, at least quarterly, of the status of the source and construction progress;
 - d. The right of the Director to make periodic inspection of the facilities for which the conditional order is granted;
 - e. Such additional terms and conditions as the Director finds necessary to meet the requirements of this Section and A.R.S. § 49-437.
3. A holder of a conditional order may petition the Director to renew the order. The total term of the initial period and all renewals shall not exceed three years from the date of initial issuance of the order. Petitions for renewal may be filed at any time not more than 60 days nor less than 30 days prior to the expiration of the order. The Director, within 30 days of receipt of a petition, shall renew the conditional order for one year if the petitioner is in compliance and conforming with the terms and conditions imposed. The Director may refuse to renew the conditional order if, after a public hearing held within 30 days of receipt of a petition, the Director finds that the petitioner is not in compliance and conforming with the terms and conditions of the conditional order. If, after a period of three years from the date of original issuance, the petitioner is not in compliance and conforming with the terms and conditions, the Director may renew a conditional order for a total term of two additional years only if the Director finds that failure to comply and conform is due to conditions beyond the control of such petitioner.
4. If the Director amends or adopts any rule imposing conditions on the operation of an air pollution source which have become effective as to the source by reason of the action of the Director or otherwise, and which require the implementation of control strategies necessitating the installation of additional or different air pollution control equipment, the Director may renew a conditional order for an additional term. The term of the renewal shall be governed by the preceding subsections of this Section, except that the total term of the renewal shall not exceed two years.
5. A conditional order issued by the Director shall be effective when issued unless:
 - a. The conditional order varies from the requirements of the applicable implementation plan, in which case the conditional order shall be submitted to the Administrator as a revision to the applicable implementation plan pursuant to Section 110(I) of the Act and shall become effective upon approval by the Administrator.
 - b. The conditional order varies from the requirements of a permit issued for a facility that is required to obtain a permit pursuant to Title V of the Act, in which case the conditional order shall be submitted to the Administrator if required by Section 505 of

the Act and shall be effective at the end of the review period specified in such section, unless objected to within such period by the Administrator.

- F. Violation of the terms and conditions of the conditional order shall subject the source to suspension or revocation of the conditional order in accordance with A.R.S. § 49-441.

Historical Note

Adopted effective November 15, 1993 (Supp. 93-4).

R18-2-329. Permits Containing the Terms and Conditions of Federal Delayed Compliance Orders (DCO) or Consent Decrees

- A. The terms and conditions of either a delayed compliance order (DCO) or consent decree shall be incorporated into a permit through a permit revision. In the event the permit expires prior to the expiration of the DCO or consent decree, the DCO or consent decree shall be incorporated into any permit renewal.
- B. The owner or operator of a source subject to a DCO or consent decree shall submit to the Director a quarterly report of the status of the source and construction progress and copies of any reports to the Administrator required under the order or decree. The Director may require additional reporting requirements and conditions in permits issued under this Article.
- C. For the purpose of this Chapter, sources subject to a consent decree issued by a federal court shall meet the same requirements as those subject to a DCO.

Historical Note

Adopted effective November 15, 1993 (Supp. 93-4).

R18-2-330. Public Participation

- A. The Director shall provide public notice, an opportunity for public comment, and an opportunity for a hearing before taking any of the following actions:
 1. The issuance or denial of a permit or permit renewal,
 2. The issuance or denial of a significant permit revision,
 3. The revocation and reissuance or reopening of a permit,
 4. The grant of any conditional orders pursuant to R18-2-328,
 5. The issuance or denial of a registration for the construction of a source, except as provided in R18-2-302.01(B)(5).
- B. The Director shall provide public notice of receipt of complete applications for permits or permit revisions subject to Article 4 of this Chapter by publishing a notice in a newspaper of general circulation in the county where the source is or will be located.
- C. The Director shall provide the notice required pursuant to subsection (A) as follows:
 1. The Director shall publish the notice once each week for two consecutive weeks in two newspapers of general circulation in the county where the source is or will be located.
 2. The Director shall mail a copy of the notice to persons on a mailing list developed by the Director consisting of those persons who have requested in writing to be placed on such a mailing list.
 3. The notice shall include the following:
 - a. Identification of the affected facility;
 - b. Name and address of the permittee or applicant;
 - c. Name and address of the permitting authority processing the permit action;
 - d. The activity or activities involved in the permit action;

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- e. The emissions change involved in any permit revisions;
 - f. The air contaminants to be emitted;
 - g. If applicable, that a notice of confidentiality has been filed under R18-2-305;
 - h. If applicable, that the source has submitted a risk management analysis under R18-2-1708;
 - i. A statement that any person may submit written comments, or a written request for a public hearing, or both, on the proposed permit action, along with the deadline for such requests or comments;
 - j. The name, address, and telephone number of a person from the Department from whom additional information may be obtained;
 - k. Locations where the materials identified in subsection (D) may be reviewed and the times at which they shall be available for public inspection.
 - l. The Director shall include a statement in the public notice if the permit or permit revision would result in the generation of emission reduction credits under R18-2-1204, or the utilization of emission reduction credits under R18-2-1206.
- D. By no later than the date notice is first published under subsection (A), the Department shall make copies of the following materials available at a public location in the same county as the stationary source that is the subject of the application and at the closest Department office:
- 1. The application;
 - 2. The proposed permit or permit revision, if applicable;
 - 3. The Department's analysis in support of the grant or denial of the permit or permit revision; and
 - 4. All other materials available to the Director that are relevant to the permit decision.
- E. The Director shall hold a public hearing to receive comments on petitions for conditional orders which would vary from requirements of the applicable implementation plan. For all other actions involving a proposed permit, the Director shall hold a public hearing only upon written request. If a public hearing is requested, the Director shall schedule the hearing and publish notice as described in A.R.S. § 49-444 and subsection (D). The Director shall give notice of any public hearing at least 30 days in advance of the hearing.
- F. At the time the Director publishes the first notice under subsection (C)(1), the applicant shall post a notice containing the information required in subsection (C)(3) at the site where the source is or may be located. Consistent with federal, state, and local law, the posting shall be prominently placed at a location under the applicant's legal control, adjacent to the nearest public roadway, and visible to the public using the public roadway. If a public hearing is to be held, the applicant shall place an additional posting providing notice of the hearing. Any posting shall be maintained until the public comment period is closed.
- G. The Director shall provide at least 30 days from the date of its first notice for public comment to receive comments and requests for a hearing. The Director shall keep a record of the commenters and of the issues raised during the public participation process and shall prepare written responses to all comments received. At the time a final proposed permit is submitted to EPA, in the case of a Class I permit, or a final decision is made, in the case of a Class II permit, the record and copies of the Director's responses shall be made available to the applicant and all commenters.

Historical Note

Adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1). R18-2-330 has been corrected to include subsection (D)(12), which was omitted when the Section was amended in the 02-1 supplement (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-331. Material Permit Conditions

- A. For the purposes of A.R.S. §§ 49-464(G) and 49-514(G), a "material permit condition" shall mean a condition which satisfies all of the following:
- 1. The condition is in a permit or permit revision issued by the Director or a control officer after November 15, 1993.
 - 2. The condition is identified within the permit as a material permit condition.
 - 3. The condition is one of the following:
 - a. An enforceable emission standard imposed to avoid classification as a major modification or major source or to avoid triggering any other applicable requirement;
 - b. A requirement to install, operate, or maintain a maximum achievable control technology or hazardous air pollutant reasonably available control technology required under Article 17 of this Chapter;
 - c. A requirement for the installation or certification of a monitoring device;
 - d. A requirement for the installation of air pollution control equipment;
 - e. A requirement for the operation of air pollution control equipment;
 - f. An opacity standard required by Section 111 or Title I, Part C or D of the Act.
 - 4. Violation of the condition is not covered by A.R.S. § 49-464(A) through (F), or (H) through (J) or A.R.S. § 49-514(A) through (F), or (H) through (J).
- B. For the purposes of subsections (A)(3)(c), (d), and (e), a permit condition shall not be material where the failure to comply resulted from circumstances which were outside the control of the source. As used in this Section, "circumstances outside the control of the source" shall mean circumstances where the violation resulted from a sudden and unavoidable breakdown of the process or the control equipment, resulted from unavoidable conditions during a start up or shut down or resulted from upset of operations.
- C. For purposes of this Section, the term "emission standard" shall have the meaning specified in A.R.S. §§ 49-464(U) and 49-514(T).

Historical Note

Adopted effective November 15, 1993 (Supp. 93-4). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2).

R18-2-332. Stack Height Limitation

- A. The degree of emission limitation required of any source for control of any pollutant shall not be affected by so much of the source's stack height that exceeds good engineering practice or by any other dispersion technique, except as provided in subsection (B). This Section does not require the plan to restrict, in any manner, the actual stack height of any source.
- B. Subsection (A) shall not apply to:

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1. Stacks in existence, or dispersion techniques implemented, on or before December 31, 1970, unless the stationary source or emission unit emitting pollutants through the stack, or employing the dispersion technique, was constructed, reconstructed or underwent a major modification after December 31, 1970; or
 2. Coal-fired steam electric generating units, subject to the provisions of Section 118 of the Act which commenced operation before July 1, 1957, with stacks constructed under a construction contract awarded before February 8, 1974.
- C. Good engineering practice stack height is the greater of the following heights:
1. 213.25 feet (65 meters) measured from the ground-level elevation at the base of the stack;
 2. The result of one of the following equations, where "Hg" = good engineering practice stack height measured from the ground-level elevation at the base of the stack; "H" = height of nearby structures measured from the ground-level elevation at the base of the stack; and "L" = lesser dimension (height or projected width) of nearby structures:
 - a. For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable preconstruction permits or approvals required under 40 CFR 51 and 52, $H_g = 2.5H$, provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation; or
 - b. For all other stacks, $H_g = H + 1.5L$, provided that EPA, the Director, or local control agency may require the use of a field study or fluid model to verify good engineering practice stack height for the source;
 3. The height demonstrated by a fluid model or a field study approved by the reviewing agency, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.
- D. As used in this Section:
1. For a specific structure or terrain feature, "nearby" means:
 - a. For purposes of applying the formulae in subsection (C)(2), that distance up to five times the lesser of the height or the width dimension of a structure but not greater than 0.8 km (1/2 mile).
 - b. For conducting demonstrations under subsection (C)(3), not greater than 0.8 km (1/2 mile). An exception is that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height (Ht) of the feature, not to exceed 2 miles if such feature achieved a height (Ht) 0.8 km from the stack that is at least 40% of the good engineering practice stack height determined by the formula provided in subsection (C)(2)(b), or 85 feet (26 meters), whichever is greater, as measured from the ground-level elevation at the base of the stack.
 2. "Excessive concentrations" means:
 - a. For sources seeking credit for stack height exceeding that established under subsection (C)(2), a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than a national ambient air quality standard. For sources subject to R18-2-406, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than the applicable maximum allowable increase contained in R18-2-218. The allowable emission rate to be used in making demonstrations under subsection (C)(3) shall be prescribed by the new source performance standard which is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Director, an alternative emission rate shall be established in consultation with the source owner or operator;
 - b. For sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under subsection (C)(2), either:
 - i. A maximum ground-level concentration due in whole or in part to downwash, wakes, or eddy effects as provided in subsection (D)(2)(a), except that emission rate specified by any applicable SIP (or, in the absence of such a limit, the actual emission rate) shall be used; or
 - ii. The actual presence of a local nuisance caused by the existing stack, as determined by the Director; and
 - c. For sources seeking credit after January 12, 1979, for a stack height determined under subsection (C)(2), where the Director requires the use of a field study or fluid model to verify good engineering practice stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in subsection (C)(2), a maximum ground-level concentration due in whole or in part to downwash, wakes, or eddy effects that is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.
- E. Before the Director issues a permit or permit revision under R18-2-334 or Article 4 to a source based on a good engineering practice stack height that exceeds the height allowed by subsections (B)(1) or (2), the Director shall notify the public of the availability of the demonstration study and provide opportunity for a public hearing in accordance with the requirements of R18-2-330.

Historical Note

Adopted effective November 15, 1993 (Supp. 93-4).
 Amended by final rulemaking at 23 A.A.R. 333, effective
 March 21, 2017 (Supp. 17-1).

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R18-2-333. Acid Rain

- A.** 40 CFR 72, 74, 75 and 76 and all accompanying appendices, adopted as of June 28, 2013, (and no future amendments) are incorporated by reference as applicable requirements. These standards are on file with the Department and shall be applied by the Department. These standards can be obtained from the U.S. Government Printing Office, Superintendent of Documents, bookstore.gpo.gov, Mail Stop: SSOP IDCC-SSOM, Washington, D.C. 20402-9328.
- B.** When used in 40 CFR 72, 74, 75 or 76, "Permitting Authority" means the Arizona Department of Environmental Quality and "Administrator" means the Administrator of the United States Environmental Protection Agency.
- C.** If the provisions or requirements of the regulations incorporated in this Section conflict with any of the remaining portions of this Title, the regulations incorporated in this Section apply and take precedence.

Historical Note

Adopted effective October 7, 1994 (Supp. 94-4).
 Amended effective December 7, 1995 (Supp. 95-4).
 Amended effective December 4, 1997 (Supp. 97-4).
 Amended by final rulemaking at 5 A.A.R. 3221, effective August 12, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 4170, effective October 11, 2000 (Supp. 00-4). Amended by final rulemaking at 8 A.A.R. 2543, effective May 24, 2002 (Supp. 02-2). Amended by final rulemaking at 10 A.A.R. 3281, effective September 27, 2004 (Supp. 04-3). Amended by final rulemaking at 11 A.A.R. 5504, effective February 4, 2006 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 4199, effective January 5, 2008 (Supp. 07-4). Amended by final expedited rulemaking at 21 A.A.R. 2747, effective December 13, 2015 (Supp. 15-4).

R18-2-334. Minor New Source Review

- A.** Applicability.
1. Except as provided in subsection (A)(4), this Section shall apply to the following activities:
 - a. Construction of any new Class I or Class II source, including the construction of any source requiring a Class II permit under R18-2-302.01(C)(4); or
 - b. Any minor NSR modification to a Class I or Class II source.
 2. This Section shall apply to a regulated minor NSR pollutant emitted by a new stationary source subject to this Section, if the source will have the potential to emit that pollutant at an amount equal to or greater than the permitting exemption threshold.
 3. This Section shall apply to an increase in emissions of a regulated minor NSR pollutant from a minor NSR modification, if the modification would increase the source's potential to emit that pollutant by an amount equal to or greater than the permitting exemption threshold.
 4. This Section shall not apply to the emissions of a pollutant from any of the activities identified in this subsection, if the emissions of that pollutant are subject to Article 4 of this Chapter.
- B.** No person shall begin actual construction of a new stationary source, or minor NSR modification, subject to this Section without first obtaining a permit, a permit revision, a proposed final permit, or a proposed final permit revision from the Director in accordance with R18-2-304.
- C.** The Director shall not issue a proposed final Class I permit or permit revision or a Class II permit or permit revision subject

to this Section to a person proposing to construct a new source or make a minor NSR modification unless the source or modification meets one of the following conditions for each regulated minor NSR pollutant subject to this Section:

1. The owner or operator elects to implement RACT.
 - a. In the case of a new source, the owner or operator shall implement RACT for each emissions unit that has the potential to emit a regulated minor NSR pollutant in an amount equal to or greater than 20% of the permitting exemption threshold.
 - b. In the case of a minor NSR modification, the owner or operator shall implement RACT for each emissions unit that will experience an increase in the potential to emit a regulated minor NSR pollutant equal to or greater than 20% of the permitting exemption threshold.
 - c. When it is technically feasible and otherwise consistent with the definition of RACT to apply the same devices, systems, process modifications, work practices or other apparatus or techniques to a group of emissions units, that group of emissions units shall be treated as a single emissions unit for purposes of subsections (C)(1)(a) and (b). The following are examples of situations to which this subsection (may) apply:
 - i. Emissions from a group of emissions units can be vented to a single control device.
 - ii. A low-VOC coating can be used in several spray-painting booths.
2. An ambient air quality assessment demonstrates that emissions from the source or minor NSR modification will not interfere with attainment or maintenance of a national ambient air quality standard in any area.
 - a. An owner or operator may elect to have the Director perform a screening model of its emissions. If the results of the screening model indicate that the source or minor NSR modification will interfere with attainment or maintenance of a national ambient air quality standard, the owner or operator may perform a more refined model to make the demonstration required by this subsection.
 - b. The requirements of this subsection shall be satisfied, if the results of the screening or more refined model conducted pursuant to subsection (B)(2)(a) demonstrate either of the following:
 - i. Ambient concentrations resulting from emissions from the source or modification combined with existing concentrations of regulated minor NSR pollutants will not interfere with attainment or maintenance of a national ambient air quality standard.
 - ii. Emissions from the source or minor modification will have an ambient impact below the significance levels as defined in R18-2-401.
 - c. The assessment required by this subsection shall take into account any limitations, controls or emissions decreases that are or will be enforceable in the permit or permit revision for the source.
- D.** RACT Determinations.
 1. Except as otherwise provided in this subsection, the Director shall determine RACT on the basis of a case-by-case analysis performed by the permit applicant of the emission reduction methods available for each emission

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- unit subject to the RACT requirement under subsection (C)(1).
2. The Director shall accept a requirement proposed by a permit applicant as RACT under subsection (C)(1) if it complies with the most recently adopted of the following guidelines or standards in effect at the time of the application:
 - a. A control technique guideline issued by the Administrator under section 108(f)(1) of the Act.
 - b. An emissions standard established or revised by the Administrator for the same type of source under section 111 or 112 of the Act after November 15, 1990.
 - c. An applicable requirement of this Chapter or of air quality control regulations adopted by a County under A.R.S. § 49-479 that has been specifically identified as constituting RACT.
 - d. A RACT standard imposed on the same type of source by a general permit.
 - e. A RACT standard imposed on the same type of source under this Section no more than 10 years before submission of the application by the permit applicant. To facilitate identification of previously imposed RACT standards, the Director shall establish an online database of RACT determinations made under this Section.
- E.** Notwithstanding an election to adopt RACT under subsection (C)(1), a permit applicant subject to this Section shall conduct an ambient air quality impact assessment under subsection (C)(2) upon the Director's request. The Director shall make such a request, if there is reason to believe that a source or minor NSR modification could interfere with attainment or maintenance of a national ambient air quality standards. In making that determination, the Director shall take into consideration:
1. The source's emission rates.
 2. The location of emission units within the facility and their proximity to the ambient air.
 3. The terrain in which the source is or will be located.
 4. The source type.
 5. The location and emissions of nearby sources.
 6. Background concentrations of regulated minor NSR pollutants.
- F.** The Director shall deny an application for a Class I permit or permit revision or a Class II permit or permit revision subject to this Section, if an assessment conducted pursuant to subsection (C)(2) demonstrates that the source or modification will interfere with attainment or maintenance of a national ambient air quality standard.
- G.** A copy of the notice required by R18-2-330 for permits or significant permit revisions subject to this Section must also be sent to the Administrator through the appropriate regional office, and to all other state and local air pollution control agencies having jurisdiction in the region in which the source subject to the permit or permit revision will be located. The notice also must be sent to any other agency in the region having responsibility for implementing the procedures required under 40 CFR 51, Subpart I.
- H.** All modeling required pursuant to this Section shall be conducted in accordance with 40 CFR 51, Appendix W as of June 30, 2017 (and no future amendments or additions).
- I.** The Director shall specify those conditions in the permit that are implemented pursuant to this Section. The specified conditions shall be included in subsequent permit renewals unless modified pursuant to this Section or Article 4 of this Chapter.
- J.** The issuance of a permit or permit revision under this Section shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local, state, or federal law.

Historical Note

New Section made by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1). Amended by final rulemaking at 25 A.A.R. 3630, effective February 1, 2020 (Supp. 19-4).

ARTICLE 4. PERMIT REQUIREMENTS FOR NEW MAJOR SOURCES AND MAJOR MODIFICATIONS TO EXISTING MAJOR SOURCES

R18-2-401. Definitions

The following definitions apply to this Article:

1. "Adverse impact on visibility" means visibility impairment that interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of a federal Class I area, as determined according to R18-2-410. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with times of visitor use of the federal Class I area and the frequency and timing of natural conditions that reduce visibility. This term does not include effects on integral vistas.
2. "Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with subsections (2)(a) through (d).
 - a. For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the five-year period immediately preceding when the owner or operator begins actual construction of the project. The Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation.
 - i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.
 - ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.
 - iii. For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.
 - iv. The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subsection (2)(a)(ii).
 - b. For any existing emissions unit (other than an electric utility steam generating unit), baseline actual

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emissions means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Administrator for a permit required under 40 CFR 52.21 or by the Director for a permit required under the state implementation plan, whichever is earlier, except that the 10-year period shall not include any period earlier than November 15, 1990.

- i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.
- ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period. This provision applies to excess emissions associated with a malfunction.
- iii. The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major source must currently comply, had such major source been required to comply with such limitations during the consecutive 24-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under 40 CFR 63, the baseline actual emissions need only be adjusted if the state of Arizona has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G).
- iv. For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units affected by the project. A different consecutive 24-month period may be used for each regulated NSR pollutant.
- v. The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subsection (2)(b)(ii) or (iii).
- c. For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit.
- d. For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures in subsection (2)(a), for other existing emissions units in accordance with the procedures contained in subsection (2)(b), and for new emis-

sions units in accordance with the procedures contained in subsection (2)(c).

3. "Basic design parameter" means:
 - a. Except as provided in subsection (3)(c), for a process unit at a steam electric generating facility, the owner or operator may select as its basic design parameters either maximum hourly heat input and maximum hourly fuel consumption rate or maximum hourly electric output rate and maximum steam flow rate. When establishing fuel consumption specifications in terms of weight or volume, the minimum fuel quality based on Btu content shall be used for determining the basic design parameters for a coal-fired electric utility steam generating unit.
 - b. Except as provided in subsection (3)(c), the basic design parameters for any process unit that is not at a steam electric generating facility are maximum rate of fuel or heat input, maximum rate of material input, or maximum rate of product output. Combustion process units will typically use maximum rate of fuel input. For sources having multiple end products and raw materials, the owner or operator should consider the primary product or primary raw material when selecting a basic design parameter.
 - c. If the owner or operator believes the basic design parameters in subsections (3)(a) and (b) are not appropriate for a specific industry or type of process unit, the owner or operator may propose to the Director an alternative basic design parameters for the source's process unit. If the Director approves of the use of an alternative basic design parameters, the Director shall issue a permit that is legally enforceable that records such basic design parameters and requires the owner or operator to comply with such parameters.
 - d. The owner or operator shall use credible information, such as results of historic maximum capability tests, design information from the manufacturer, or engineering calculations, in establishing the magnitude of the basic design parameters specified in subsections (3)(a) and (b).
 - e. If design information is not available for a process unit, then the owner or operator shall determine the process unit's basic design parameters using the maximum value achieved by the process unit in the five-year period immediately preceding the planned activity.
 - f. Efficiency of a process unit is not a basic design parameter.
 - g. The replacement activity shall not cause the process unit to exceed any emission limitation, or operational limitation that has the effect of constraining emissions, that applies to the process unit and that is legally enforceable.
4. "Complete" means, in reference to an application for a permit or permit revision, that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the Department from requesting or accepting any additional information.
5. "Dispersion technique" means any technique that attempts to affect the concentration of a pollutant in the ambient air by any of the following:

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- a. Using that portion of a stack that exceeds good engineering practice stack height;
- b. Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or
- c. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams that increases the exhaust gas plume rise. This shall not include any of the following:
 - i. The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.
 - ii. The merging of exhaust gas streams under any of the following conditions:
 - (1) The source owner or operator demonstrates that the facility was originally designed and constructed with the merged gas streams;
 - (2) After July 8, 1985, the merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant, applying only to the emission limitation for that pollutant; or
 - (3) Before July 8, 1985, the merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the Department shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the Department shall deny credit for the effects of the merging in calculating the allowable emissions for the source.
 - iii. Smoke management in agricultural or silvicultural prescribed burning programs.
 - iv. Episodic restrictions on residential woodburning and open burning.
 - v. Techniques that increase final exhaust gas plume rise if the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.
6. "Existing emissions unit" is any emissions unit that is currently in existence and that is not a new emissions unit. A replacement unit is an existing emissions unit.
7. "Federal Class I area" means an area designated as Class I under R18-2-217.
8. "High terrain" means any area having an elevation of 900 feet or more above the base of the stack of a source.
9. "Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice, or of achieving at least comparable reductions at lower cost in terms of energy, economics, or nonair quality environmental impacts.
10. "Low terrain" means any area other than high terrain.
11. "Lowest achievable emission rate" (LAER) means, for any source, the more stringent rate of emissions based on one of the following:
 - a. The most stringent emissions limitation that is contained in any implementation plan approved or promulgated under sections 110 or 172 of the Act for the class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that the limitation is not achievable; or
 - b. The most stringent emissions limitation that is achieved in practice by the class or category of stationary source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. The application of this term shall not permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under the applicable new source performance standards.
12. "Major emissions unit" means:
 - a. Any emissions unit that emits or has the potential to emit 100 tons per year or more of the PAL pollutant in an attainment area; or
 - b. Any emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant for nonattainment areas. For example, in accordance with the definition of major stationary source in section 182(c) of the Act, an emissions unit would be a major emissions unit for VOC if the emissions unit is located in a serious ozone nonattainment area and it emits or has the potential to emit 50 or more tons of VOC per year.
13. "Major source" is defined as follows:
 - a. For purposes of determining the applicability of R18-2-403 through R18-2-405 or R18-2-411, major source means any stationary source that emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant, except that the following thresholds shall apply in areas subject to subpart 2, subpart 3 or subpart 4 of part D, Title I of the Act:

Pollutant Emitted	Nonattainment Pollutant and Classification	Quantity Threshold tons/year or more
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Carbon Monoxide (CO)	CO, Serious, if stationary sources contribute significantly to CO levels in the area as determined under rules issued by the Administrator	50
VOC	Ozone, Serious	50
VOC	Ozone, Severe	25
PM ₁₀	PM ₁₀ , Serious	70
PM _{2.5}	PM _{2.5} Serious	70
PM _{2.5} precursors identified in R18-2-101(124)(a)	PM _{2.5} Serious	70
NO _x	Ozone, Serious	50
NO _x	Ozone, Severe	25

- b. For purposes of determining the applicability of R18-2-406 through R18-2-408 or R18-2-410, major source means any stationary source that emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant if the source is classified as a categorical source, or 250 tons per year or more of any regulated NSR pollutant if the source is not classified as a categorical source;
 - c. A major source includes a physical change that would occur at a stationary source, not otherwise qualifying under subsection (13)(a) or (b) as a major source, if the change would constitute a major source by itself.
 - d. A major source that is major for VOC or nitrogen oxides shall be considered major for ozone.
 - e. The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this Article whether it is a major source, unless the source belongs to a section 302(j) category.
14. "Mandatory federal Class I area" means an area identified in R18-2-217(B).
 15. "New emissions unit" means any emissions unit which is (or will be) newly constructed and which has existed for less than two years from the date such emissions unit first operated.
 16. "Plantwide applicability limitation" or "PAL" means an emission limitation that is based on the baseline actual emissions of all emissions units at the stationary source that emit or have the potential to emit the PAL pollutant, expressed in tons per year, for a pollutant at a major source, that is enforceable as a practical matter and established source-wide in accordance with this Section.
 17. "PAL allowable emissions" means "allowable emissions" as defined in R18-2-101, except that the allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.
 18. PAL effective date generally means the date of issuance of the PAL permit. However, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.
 19. "PAL effective period" means the period beginning with the PAL effective date and ending 10 years later.
 20. "PAL major modification" means any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.
 21. "PAL permit" means the permit issued by the Director that establishes a PAL for a major source under Article 3 or 4 of this Chapter.
 22. "PAL pollutant" means the pollutant for which a PAL is established at a major source.
 23. "Projected actual emissions" means:
 - a. The maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated NSR pollutant during any 12-month period in the 60 calendar months following the date the unit resumes regular operation after the project, or in any 12-month period in the 120 calendar months following that date if the project involves increasing the design capacity or potential to emit of any emissions unit for that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major source.
 - b. In determining the projected actual emissions before beginning actual construction, the owner or operator of the major source:
 - i. Shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the county, state or federal regulatory authorities, and compliance plans under these regulations; and
 - ii. Shall include fugitive emissions to the extent quantifiable;
 - iii. Shall include emissions associated with start-ups, shutdowns, and malfunctions; and
 - iv. Shall exclude, only for calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or
 - c. In lieu of using the method set out subsections 23(b)(i) through (iv), the owner or operator may elect to use the emissions unit's potential to emit, in tons per year.
 24. "Replacement unit" means an emissions unit for which all the criteria listed in subsections (24)(a) through (d) are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced.
 - a. The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.
 - b. The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

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- c. The replacement does not alter the basic design parameters of the process unit.
 - d. The replaced emissions unit is permanently removed from the major source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.
25. "Resource recovery project" means any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse. Only energy conversion facilities that utilize solid waste that provides more than 50% of the heat input shall be considered a resource recovery project under this Article.
26. "Significant emissions unit" means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit.
27. "Significance levels" means the following ambient concentrations for the enumerated pollutants:

Averaging Time					
Pollutant	Annual	24-Hour	8-Hour	3-Hour	1-Hour
SO ₂	1 µg/m ³	5 µg/m ³		25 µg/m ³	
NO ₂	1 µg/m ³				
CO			0.5 mg/m ³		2 mg/m ³
PM ₁₀	1 µg/m ³	5 µg/m ³			
PM _{2.5} federal Class I area	0.06 µg/m ³	0.07 µg/m ³			
PM _{2.5} federal Class II area	0.3 µg/m ³	1.2 µg/m ³			
PM _{2.5} federal Class III area	0.3 µg/m ³	1.2 µg/m ³			

Except for the annual pollutant concentrations, the Department shall deem that exceedance of significance levels has occurred when the ambient concentration of the above pollutant is exceeded more than once per year at any one location. If the concentration occurs at a specific location and at a time when the national ambient air quality standards for the pollutant are not violated, the significance level does not apply.

28. "Small emissions unit" means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Former Section R9-3-401 renumbered without change as Section R18-2-401 (Supp. 87-3). Section R18-2-401 renumbered to R18-2-601. New Section R18-2-401 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22,

1999 (Supp. 99-3). Typographical error corrected in R18-2-401(9)(a) (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 1134, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-402. General

- A. The preconstruction review requirements of this Article shall apply to the construction of any new major source or any project at an existing major source.
- B. The requirements of R18-2-403 through R18-2-410 apply to the construction of any new major source or any major modification of any existing major source, except as this Article otherwise provides.
- C. No person shall begin actual construction of a new major source or a major modification subject to the requirements of R18-2-403 through R18-2-410 without first obtaining a proposed final permit from the Director, pursuant to R18-2-307(A)(2), stating that the major source or major modification shall meet those requirements.
- D. The requirements of this Article apply to projects at major sources in accordance with the following principles.
- Except as otherwise provided in subsection (E), a project is a major modification for a regulated NSR pollutant if it causes both a significant emissions increase and a significant net emissions increase. The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.
 - The procedure for calculating before beginning actual construction whether a significant emissions increase will occur depends upon the types of emissions units being modified as set forth in subsections (D)(3) through (6). The procedure for calculating before beginning actual construction whether a significant net emissions increase will occur at the major source is set forth in the definition of net emissions increase in R18-2-101. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.
 - Actual-to-projected-actual applicability test for projects that only involve existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions, for each existing emissions unit, equals or exceeds the significant amount for that pollutant.
 - Actual-to-potential applicability test for projects that only involve new emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit from each new emissions unit following completion of the project and the baseline actual emissions of these units before the project equals or exceeds the significant amount for that pollutant.
 - [Reserved.]
 - Hybrid applicability test for projects that involve both new emissions units and existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in subsections (D)(3) through (D)(4), as applicable with

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respect to each emissions unit, equals or exceeds the significant amount for that pollutant.

- E. Any major source with a PAL for a regulated NSR pollutant shall comply with R18-2-412.
- F. This subsection applies with respect to any regulated NSR pollutant emitted from projects at existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility, within the meaning of subsection (F)(6), that a project that is not a part of a major modification may result in a significant emissions increase of such pollutant and the owner or operator elects to use the method specified in R18-2-401(23)(b)(i) through (iv) of the definition of projected actual emissions for calculating projected actual emissions.
 - 1. Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:
 - a. A description of the project;
 - b. Identification of the emissions unit(s) with emissions of a regulated NSR pollutant that could be affected by the project;
 - c. A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions the amount of emissions excluded under R18-2-401(23)(b)(iv) of the definition of projected actual emissions, and an explanation for why such amount was excluded; and
 - d. Any netting calculations, if applicable.
 - 2. If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in subsection (F)(1) to the Director. Nothing in this subsection shall be construed to require the owner or operator of such a unit to obtain any determination from the Director before beginning actual construction.
 - 3. The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in subsection (F)(1)(b); and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of five years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit. For purposes of this subsection, fugitive emissions (to the extent quantifiable) shall be monitored if the emissions unit is part of a section 302(j) category or if the emissions unit is located at a major stationary source that belongs to a section 302(j) category.
 - 4. The owner or operator shall submit a report to the Director if for a calendar year the annual emissions, in tons per year, from the project identified in subsection (F)(1) exceed the sum of the baseline actual emissions, as documented and maintained under subsection (F)(1)(c), by a significant amount for that regulated NSR pollutant, and if the emissions differ from the preconstruction projection as documented and maintained under subsection (F)(1)(c). The owner or operator shall submit the report to the Director within 60 days after the end of the calendar year. The report shall contain the following:
 - a. The name, address and telephone number of the major source;
 - b. The annual emissions as calculated pursuant to subsection (F)(3); and
 - c. Any other information that the owner or operator wishes to include in the report, such as an explanation as to why the emissions differ from the preconstruction projection.
 - 5. Notwithstanding subsection (F)(4), if any existing emissions unit identified in subsection (F)(1)(b) is an electric utility steam generating unit, the owner or operator shall submit a report to the Director within 60 days after the end of each calendar year during which the owner or operator must generate records under subsection (F)(3). The report shall document the unit's post-project annual emissions during the calendar year that preceded submission of the report.
 - 6. A "reasonable possibility" under subsection (F) occurs when the owner or operator calculates the project to result in one of the following:
 - a. A projected actual emissions increase of at least 50% of the amount that is a significant emissions increase (without reference to the amount that is a significant net emissions increase) for the regulated NSR pollutant.
 - b. A projected actual emissions increase that, added to the amount of emissions excluded under subsection R18-2-401(23)(b)(iv) of the definition of projected actual emissions, sums to at least 50% of the amount that is a significant emissions increase (without reference to the amount that is a significant net emissions increase) for the regulated NSR pollutant. For a project for which a reasonable possibility occurs only within the meaning of subsection (F)(6)(b), and not also within the meaning of subsection (F)(6)(a), subsections (F)(2) through (5) do not apply to the project.
 - 7. The owner or operator of the source shall make the information required to be documented and maintained under subsection (F) available for review upon request for inspection by the Department or the general public.
- G. An application for a permit or permit revision under this Article, other than a PAL permit pursuant to R18-2-412, shall not be considered complete unless the application demonstrates that:
 - 1. The requirements in subsection (H) are met;
 - 2. The more stringent of the applicable new source performance standards or the existing source performance standards in Article 7 of this Chapter are applied to the proposed new major source or major modification of a major source;
 - 3. The visibility requirements contained in R18-2-410 are satisfied;
 - 4. All applicable provisions of Article 3 of this Chapter are met;
 - 5. The new major source or major modification will be in compliance with whatever emission limitation, design, equipment, work practice or operational standard, or combination thereof is applicable to the source or modification. The degree of emission limitation required for control of any pollutant under this Article shall not be affected in any manner by:
 - a. Stack height in excess of GEP stack height except as provided in R18-2-332; or

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- b. Any other dispersion technique, unless implemented prior to December 31, 1970;
 - 6. The new major source or major modification will not exceed the applicable standards for hazardous air pollutants contained in this Chapter;
 - 7. The new major source or major modification will not exceed the limitations, if applicable, on emission from nonpoint sources contained in Article 6 of this Chapter;
 - 8. The new major source or major modification will not have an adverse impact on visibility, as determined according to R18-2-410.
- H.** Except for assessing air quality impacts within federal Class I areas, the air impact analysis required to be conducted as part of a permit application shall initially consider only the geographical area located within a 50 kilometer radius from the point of greatest emissions for the new major source or major modification. The Director, on his own initiative or upon receipt of written notice from any person shall have the right at any time to request an enlargement of the geographical area for which an air quality impact analysis is to be performed by giving the person applying for the permit or permit revision written notice thereof, specifying the enlarged radius to be so considered. In performing an air impact analysis for any geographical area with a radius of more than 50 kilometers, the person applying for the permit or permit revision may use monitoring or modeling data obtained from major sources having comparable emissions or having emissions which are capable of being accurately used in such demonstration, and which are subjected to terrain and atmospheric stability conditions which are comparable or which may be extrapolated with reasonable accuracy for use in such demonstration.
- I.** The Director shall comply with following requirements with respect to an application for a permit or permit revision subject to this Article:
- 1. Within 60 days after receipt of the application, or any addition to the application, the Director shall advise the applicant of any deficiency. The date of receipt of a complete application shall be, for the purpose of this Section, the date on which the Director receives all required information. The permit application shall not be deemed complete if the Director fails to meet the requirements of this subsection.
 - 2. Within one year after receipt of a complete application, the Director shall do all of the following:
 - a. Make a preliminary determination as to whether the permit or permit revision should be granted or denied.
 - b. Make the application, all materials the applicant submitted, the preliminary determination, and materials relating to the application available under R18-2-330(D).
 - c. Notify the public of the application, the preliminary determination and the opportunity for a public hearing and to submit written comments in accordance with R18-2-330(C). In the case of an application subject to R18-2-406, the notice shall include the degree of consumption of the maximum allowable increases allowed under R18-2-218 that is expected to occur as a result of emissions from the proposed source or modification.
 - d. Take final action on the application by denying the permit or permit revision or issuing a proposed final permit or permit revision.
 - e. Notify the applicant in writing of the approval or denial and make the notification, comments on the proposed action, and materials supporting the final action available for public inspection at the location where materials relating to the proposed action were placed under R18-2-330(D).
 - 3. A copy of any notice required by R18-2-330 and subsection (I)(2)(c) shall be sent to the permit applicant, to the Administrator, and to the following officials and agencies having cognizance over the location where the proposed major source or major modification would occur:
 - a. The air pollution control officer, if one exists, for the county wherein the proposed or existing source that is the subject of the permit or permit revision application is located;
 - b. The county manager for the county wherein the proposed or existing source that is the subject of the permit or permit revision application is located;
 - c. The city or town managers of the city or town which contains, and any city or town the boundaries of which are within 5 miles of, the location of the proposed or existing source that is the subject of the permit or permit revision application;
 - d. Any regional land use planning agency with authority for land use planning in the area where the proposed or existing source that is the subject of the permit or permit revision application is located; and
 - e. Any state, Federal Land Manager, or Indian governing body whose lands may be affected by emissions from the proposed source or modification.
- J.** The authority to construct and operate a new major source or major modification under a permit or permit revision issued under this Article shall terminate if the owner or operator does not commence the proposed construction or major modification within 18 months of issuance or if, during the construction or major modification, the owner or operator suspends work for more than 18 months. The Director may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

Historical Note

Amended effective August 6, 1976 (Supp. 76-4). Former Section R9-3-402 repealed, new Section R9-3-402 adopted effective May 14, 1979 (Supp. 79-1). Amended and adopted by reference Open Burning Guidelines for Air Pollution Control effective September 22, 1983 (Supp. 83-5). Former Section R9-3-402 renumbered without change as Section R18-2-402 (Supp. 87-3). Section R18-2-402 renumbered to R18-2-602, new Section R18-2-402 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-403. Permits for Sources Located in Nonattainment Areas

- A.** Except as provided in subsections (C) through (G) below, no permit or permit revision shall be issued under this Article to a person proposing to construct a new major source or make a

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major modification that is major for the pollutant for which the area is designated nonattainment unless:

1. The person demonstrates that the new major source or the major modification will meet an emission limitation which is the lowest achievable emission rate (LAER) for that source for that regulated NSR pollutant.
 2. The person demonstrates that all existing major sources owned or operated by that person (or any entity controlling, controlled by, or under common control with that person) in the state are in compliance with, or on a schedule of compliance for, all conditions contained in permits of each of the sources and all other applicable emission limitations and standards under the Act and this Chapter.
 3. The person demonstrates that emission reductions for the specific pollutant(s) from source(s) in existence in the allowable offset area of the new major source or major modification (whether or not under the same ownership) meet the offset requirements of R18-2-404.
 4. The Administrator has not determined that the applicable implementation plan is not being adequately implemented for the nonattainment area in which the proposed source is to be constructed or modified in accordance with the requirements in this Section.
- B.** No permit or permit revision under this Article shall be issued to a person proposing to construct a new major source or make a major modification to a major source located in a nonattainment area unless:
1. The person performs an analysis of alternative sites, sizes, production processes, and environmental control techniques for such new major source or major modification; and
 2. The Director determines that the analysis demonstrates that the benefits of the new major source or major modification significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.
- C.** At such time that a particular source or modification becomes a major source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as restriction on hours of operation, then the requirements of this Section shall apply to the source or modification as though construction had not yet commenced on the source or modification.
- D.** Secondary emissions shall not be considered in determining the potential to emit of a new source or modification and therefore whether the new source or modification is major. However, if a new source or modification is subject to this Section on the basis of its direct emissions, a permit or permit revision under this Article to construct the new source or modification shall be denied unless the requirements of R18-2-403(A)(3) and R18-2-404 are met for reasonably quantifiable secondary emissions caused by the new source or modification.
- E.** A permit to construct a new major source or major modification shall be denied unless the conditions specified in subsections (A)(1), (2), and (3) are met for fugitive emissions caused by the new source or modification. However, these conditions shall not apply to a new major source or major modification that would be a major source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential emissions of the source or modification, and the source does not belong to a section 302(j) category.

- F.** The requirements of subsection (A)(3) shall not apply to temporary emissions units, such as pilot plants, portable facilities that will be relocated outside of the nonattainment area and the construction phase of a new source, if those units will operate for no more than 24 months in the nonattainment area, are otherwise in compliance with the requirement to obtain a permit under this Chapter and are in compliance with the conditions of that permit.
- G.** A decrease in actual emissions shall be considered in determining the potential of a new source or modification to emit only to the extent that the Director has not relied on it in issuing any permit or permit revision under this Article or the state has not relied on it in demonstrating attainment or reasonable further progress.
- H.** The Director shall transmit to the Administrator a copy of each permit application relating to a major stationary source or major modification under this Section. Within 30 days of the issuance of any permit under this Section, the Director shall also submit control technology information from the permit to the Administrator for the purposes listed in Section 173(d) of the Act.
- I.** The issuance of a permit or permit revision under this Article in accordance with this Section shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local, state, or federal law.

Historical Note

Former Section R9-3-403 repealed, new Section R9-3-403 adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-403 renumbered without change as Section R18-2-403 (Supp. 87-3). Section R18-2-403 renumbered to R18-2-603, new Section R18-2-403 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-404. Offset Standards

- A.** Increased emissions by a major source or major modification subject to R18-2-403 of each pollutant for which the area has been designated as nonattainment and for which the source or modification is classified as major shall be offset by real reductions in the actual emissions of the pollutant. Offsets shall be for the same regulated NSR Pollutant. Except as provided in R18-2-405 and subsection (J), the ratio of the total actual reductions to the emissions increase shall be at least 1 to 1.
- B.** Except as provided in subsections (B)(1) or (2), for sources and modifications subject to this Section, the baseline for determining credit for emissions reductions is the emissions limit for the source generating the offset credit under the applicable implementation plan in effect at the time the application for a permit or permit revision is filed.
1. The offset baseline shall be the actual emissions of the source from which offset credit is obtained where either of the following conditions is satisfied:
 - a. The demonstration of reasonable further progress and attainment of ambient air quality standards is based upon the actual emissions of sources located within a designated nonattainment area for which the preconstruction review program was adopted.
 - b. The applicable implementation plan does not contain an emissions limitation for that source or source category.

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2. Where the emissions limit under the applicable implementation plan allows greater emissions than the potential to emit of the source, emissions offset credit will be allowed only for control below this potential.
- C. For an existing fuel combustion source, emissions offset credit shall be based on the allowable emissions under the applicable implementation plan for the type of fuel being burned at the time the application to construct is filed. If the existing source commits to switch to a cleaner fuel at some future date, emissions offset credit based on the allowable or actual emissions for the fuels involved is not acceptable, unless the permit for the existing source is conditioned to require the use of a specified alternative control measure which would achieve the same degree of emissions reduction should the source switch back to a fuel generating higher emissions. The owner or operator of the existing source must demonstrate that adequate long-term supplies of the new fuel are available before granting emissions offset credit for fuel switches.
- D. Offset Credit for Shutdowns.
 1. Emissions reductions achieved by shutting down an existing emission unit or curtailing production or operating hours may be credited for offsets if they meet both of the following conditions.
 - a. The reductions are surplus, permanent, quantifiable, and federally enforceable.
 - b. The shutdown or curtailment occurred after the last day of the base year for the SIP planning process. For purposes of this subsection, the Director may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes the emissions from such previously shutdown or curtailed emission units. However, in no event may credit be given for shutdowns that occurred before August 7, 1977.
 2. Emissions reductions achieved by shutting down an existing emissions unit or curtailing production or operating hours and that do not meet the requirements in subsection (D)(1)(b) may be credited only if one of the following conditions is satisfied:
 - a. The shutdown or curtailment occurred on or after the date the construction permit application is filed.
 - b. The applicant can establish that the proposed new emissions unit is a replacement for the shutdown or curtailed emissions unit, and the emissions reductions achieved by the shutdown or curtailment met the requirements of subsection (D)(1)(a).
- E. No emissions credit may be allowed for replacing one hydrocarbon compound with another of lesser reactivity, except for those compounds listed in Table 1 of EPA's "Recommended Policy on Control of Volatile Organic Compounds," 42 FR 35314 (July 8, 1977).
- F. All emission reductions claimed as offset credits shall be federally enforceable by the time a proposed final permit is issued to the owner or operator of the major source subject to this Section and shall be in effect by the time the new or modified source subject to the permit commences operation.
- G. The owner or operator of a major source or major modification subject to this Section must obtain offset credits from the same source or from other sources in the same nonattainment area, except that the Director may allow the owner or operator to obtain offset credits from another nonattainment area if both of the following conditions are satisfied:
 1. The other area has an equal or higher nonattainment classification than the area in which the source is located.
 2. Emissions from such other area contribute to a violation of the national ambient air quality standard in the nonattainment area in which the source is located.
- H. Credit for an emissions reduction can be claimed to the extent that the Director has not relied on it in issuing any permit under this Article, R18-2-334, or the state has not relied on it in a demonstration of attainment or reasonable further progress.
- I. The total tonnage of increased emissions, in tons per year, resulting from a major modification that must be offset under this Section shall be determined by summing the difference between the allowable emissions after the modification and the actual emissions before the modification for each emissions unit.
- J. In ozone nonattainment areas classified as marginal, total emissions of VOC and oxides of nitrogen from other sources shall offset those proposed or permitted from the major source or major modification by a ratio of at least 1.10 to 1. In ozone nonattainment areas classified as moderate, total emissions of VOC and oxides of nitrogen from other sources shall offset those proposed or permitted from the major source or major modification by a ratio of at least 1.15 to 1. New major sources and major modifications in serious and severe ozone nonattainment areas shall comply with this Section and R18-2-405.

Historical Note

Former Section R9-3-404 repealed, new Section R9-3-404 adopted effective May 14, 1979 (Supp. 79-1).

Amended by adding subsection (C) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-404 renumbered without change as Section R18-2-404 (Supp. 87-3).

Amended subsection (C) effective December 1, 1988 (Supp. 88-4). Section R18-2-404 renumbered to R18-2-604, new Section R18-2-404 adopted effective November 15, 1993 (Supp. 93-4). Amended effective February 28, 1995 (Supp. 95-1). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1). Amended by final expedited rulemaking at 28 A.A.R. 1135 (May 27, 2022), with an immediate effective date of May 4, 2022 (Supp. 22-2).

R18-2-405. Special Rule for Major Sources of VOC or Nitrogen Oxides in Ozone Nonattainment Areas Classified as Serious or Severe

- A. Applicability. The provisions of this Section only apply to stationary sources of VOC or nitrogen oxides in ozone nonattainment areas classified as serious or severe. Unless otherwise provided in this Section, all requirements of Articles 3 and 4 of this Chapter apply.
- B. "Significant" means, in reference to an emissions increase or a net emissions increase, any increase in actual emissions of volatile organic compounds or nitrogen oxides that would result from any physical change in, or change in the method of operation of, a major source, if the emissions increase of volatile organic compounds or nitrogen oxides exceeds 25 tons per year.
- C. For any major source that emits or has the potential to emit less than 100 tons of VOC or oxides of nitrogen per year, a

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physical or operational change that results in a significant increase in VOC or oxides of nitrogen, respectively, from any discrete operation, unit, or other pollutant emitting activity at the source shall constitute a major modification, except that the increase shall not constitute a major modification, if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of VOC or oxides of nitrogen, as applicable, from other operations, units or activities at the source at an internal offset ratio of at least 1.3 to 1. If the owner or operator does not make such an election, the change shall constitute a major modification but BACT shall be substituted for LAER when applying R18-2-403(A)(1) to the major modification.

- D. For any stationary source that emits or has the potential to emit 100 tons or more of VOC or oxides of nitrogen per year, a physical or operational change that results in any significant increase in VOC from any discrete operation, unit or other pollutant emitting activity at the source or oxides of nitrogen, respectively, shall constitute a major modification except that if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of VOC or oxides of nitrogen, as applicable, from other operations, units or activities within the source at an internal offset ratio of at least 1.3 to 1, R18-2-403(A)(1) shall not apply to the change.
- E. For any new major source or major modification that is classified as major because of emissions or potential to emit VOC or nitrogen oxides in an ozone nonattainment area classified as serious, the increase in emissions of these pollutants from the source or modification shall be offset at a ratio of 1.2 to 1. The offset shall be made in accordance with the provisions of R18-2-404.
- F. For any new major source or major modification that is classified as such because of emissions or potential to emit VOC or nitrogen oxides in an ozone nonattainment area classified as severe, the increase in emissions of these pollutants from the source or modification shall be offset at a ratio of 1.3 to 1. These offsets shall be made in accordance with the provisions of R18-2-404.

Historical Note

Former R9-3-405, Other industries, renumbered R9-3-406, new Section adopted effective September 17, 1975 (Supp. 75-1). Former Section R9-3-405 repealed, new Section R9-3-405 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Former Section R9-3-405 renumbered without change as Section R18-2-405 (Supp. 87-3). Section R18-2-405 renumbered to R18-2-605, new Section R18-2-405 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-406. Permit Requirements for Sources Located in Attainment and Unclassifiable Areas

- A. Except as provided in subsections (B) through (J) and R18-2-408 (Innovative control technology), no permit or permit revision under this Article shall be issued to a person proposing to construct a new major source or make a major modification to a major source that would be constructed in an area designated as attainment or unclassifiable for any regulated NSR pollutant unless the source or modification meets the following conditions:

1. A new major source shall apply best available control technology (BACT) for each regulated NSR pollutant for which the potential to emit is significant.
2. A major modification shall apply BACT for each regulated NSR pollutant for which the project would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.
3. For phased construction projects, the determination of BACT shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of BACT for the source.
4. BACT shall be determined on a case-by-case basis and may constitute application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment, clean fuels, or innovative fuel combustion techniques, for control of such pollutant. In no event shall such application of BACT result in emissions of any pollutant, which would exceed the emissions allowed by any applicable new source performance standard or national emission standard for hazardous air pollutants or by the applicable implementation plan. If the Director determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice, or operation and shall provide for compliance by means which achieve equivalent results.
5. The person applying for the permit or permit revision under this Article performs an air impact analysis and monitoring as specified in R18-2-407, and the analysis demonstrates that allowable emission increases from the proposed new major source or major modification, in conjunction with all other applicable emission increases or reductions, including secondary emissions, would not cause or contribute to concentrations of conventional air pollutants in violation of:
 - a. Any national ambient air quality standard in any air quality control region; or
 - b. Any applicable maximum increase allowed under R18-2-218 over the baseline concentration in any area.
6. Air quality models:
 - a. All estimates of ambient concentrations required under this Section shall be based on the applicable air quality models, databases, and other requirements specified in 40 CFR 51, Appendix W, "Guideline On Air Quality Models," as of June 30, 2017 (and no future amendments or editions), which shall be referred to hereinafter as "Guideline" and is adopted by reference and is on file with the Department.

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- b. Where an air quality impact model specified in the "Guideline" is not applicable, the model may be modified or another model substituted. Such a change shall be subject to notice and opportunity for public comment under R18-2-330. Written approval of the EPA Administrator shall be obtained for any modification or substitution.
- B.** This Section and R18-2-407 shall not apply to a new major source or major modification to a source with respect to a particular pollutant if the person applying for the permit or permit revision under this Article demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment for the pollutant. This exemption shall not apply to an area designated nonattainment for a revoked national ambient air quality standard in 40 CFR 81.
- C.** This Section, R18-2-407, and R18-2-410(B), (F), and (G) shall not apply to a new major source or a major modification if the source or modification would be a major source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential emissions of the source or modification, and the source does not belong to a section 302(j) category.
- D.** This Section, R18-2-407, and R18-2-410(B), (F), and (G) shall not apply to a new major source or major modification to a source when the owner or operator of the source is a nonprofit health or educational institution.
- E.** This Section, R18-2-407, and R18-2-410(B), (F) and (G) shall not apply to a portable source which would otherwise be a new major source or major modification to an existing source if all of the following conditions are satisfied:
1. The portable source proposes to relocate and will operate for no more than 24 months at its new location.
 2. The source is subject to a permit or permit revision issued under this Section or 40 CFR 52.21.
 3. The source is in compliance with the conditions of that permit or permit revision.
 4. Emissions from the source will not impact a federal Class I area or an area where an applicable maximum increase allowed under R18-2-218 is known to be violated.
 5. Reasonable notice is given to the Director prior to the relocation identifying the proposed new location and the probable duration of operation at the new location at least 10 calendar days in advance of the proposed relocation, unless a different time duration is previously approved by the Director.
- F.** Subsection (A)(5), R18-2-407, and R18-2-410(B) shall not apply to a proposed major source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from the source, or the net emissions increase of that pollutant from the modification, would be temporary and impact no federal Class I area and no area where a maximum increase allowed under R18-2-218 is known to be violated.
- G.** Subsection (A)(5), R18-2-407, and R18-2-410(B) as they relate to any maximum allowable increase for a Class II area shall not apply to a modification of a major stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each regulated NSR pollutant from the modification after the application of best available control technology would be less than 50 tons per year.
- H.** Subsection (A)(5)(b) shall not apply to a stationary source or modification with respect to any maximum increase allowed for nitrogen oxides under R18-2-218 if the owner or operator of the source or modification submitted an application for a permit under the applicable permit program approved or promulgated under the Act before the provisions embodying the maximum allowable increase took effect as part of the state implementation plan and the Director subsequently determined that the application as submitted before that date was complete.
- I.** Subsection (A)(5)(b) shall not apply to a stationary source or modification with respect to any maximum increase allowed for PM₁₀ under R18-2-218 if the owner or operator of the source or modification submitted an application for a permit under the applicable permit program approved under the Act before the provisions embodying the maximum allowable increases for PM₁₀ took effect as part of the state implementation plan and the Director subsequently determined that the application as submitted before that date was complete. Instead, subsection (A)(5)(b) shall apply with respect to the maximum allowable increases for total suspended particulate as in effect on the date the application was submitted.
- J.** Subsection (A)(5)(a) shall not apply to a stationary source or modification with respect to the national ambient air quality standards for PM_{2.5} in effect on March 18, 2013 if either of the following is true:
1. The Director determined a permit application subject to this Section was complete on or before December 14, 2012. Instead, subsection (A)(5)(a) shall apply with respect to the national ambient air quality standards for PM_{2.5} in effect at the time the Director determined the permit application to be complete.
 2. The Director first published before March 18, 2013 a public notice of a proposed permit subject to this Section. Instead, subsection (A)(5)(a) shall apply with respect to the national ambient air quality standards for PM_{2.5} in effect at the time of first publication of the public notice.
- K.** Subsection (A)(5)(a) shall not apply to a stationary source or modification with respect to the revised national ambient air quality standards for ozone published on October 26, 2015 if:
1. The Director has determined the permit application subject to this Section to be complete on or before October 1, 2015. Instead, subsection (A)(5)(a) shall apply with respect to the national ambient air quality standards for ozone in effect at the time the Director determined the permit application to be complete.
 2. The Director has first published, before December 25, 2015, a public notice of a preliminary determination or draft permit for the permit application subject to this Section. Instead, subsection (A)(5)(a) shall apply with respect to the national ambient air quality standards for ozone in effect at the time the Director determined the permit application to be complete.
- L.** The owner or operator of a proposed source or modification shall submit all information necessary to perform any analysis or make a determination required under this Section. The owner or operator shall also provide information regarding:
1. The air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact, and
 2. The air quality impacts and the nature and extent of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977, in the area the source or modification would affect.
- M.** The issuance of a permit or permit revision under this Article in accordance with this Section shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local, state, or federal law.

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- N. At such time that a particular source or modification becomes a major source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this Section shall apply to the source or modification as though construction had not yet commenced on the source or modification.

Historical Note

Former Section R9-3-405, renumbered effective September 17, 1975 (Supp. 75-1). Former Section R9-3-406 repealed, new Section R9-3-406 adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-406 renumbered without change as Section R18-2-406 (Supp. 87-3). Section R18-2-406 renumbered to R18-2-606, new Section R18-2-406 adopted effective November 15, 1993 (Supp. 93-4). Amended effective February 28, 1995 (Supp. 95-1). The references to R18-2-101(97)(a) in subsection (A)(1) and (2) amended to reference R18-2-101(104)(a) (Supp. 99-3). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1). Amended by final rulemaking at 25 A.A.R. 3630, effective February 1, 2020 (Supp. 19-4).

R18-2-407. Air Quality Impact Analysis and Monitoring Requirements

- A. Any application for a permit or permit revision under R18-2-406 to construct a new major source or major modification to a major source shall contain an analysis of ambient air quality in the area that the new major source or major modification would affect for each of the following pollutants:
1. For the new source, each pollutant that it would have the potential to emit in a significant amount;
 2. For the modification, each pollutant for which it would result in a significant net emissions increase.
- B. With respect to any such pollutant for which no national ambient air quality standard exists, the analysis shall contain all air quality monitoring data as the Director determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of the pollutant would affect.
- C. With respect to any such pollutant (other than nonmethane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.
- D. In general, the continuous air quality monitoring data that is required shall have been gathered over a period of at least one year and shall represent at least the year preceding receipt of the application, except that, if the Director determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year (but not to be less than four months), the data that is required shall have been gathered over at least that shorter period.
- E. The owner or operator of a proposed stationary source or modification to a source of volatile organic compounds who satisfies all conditions of 40 CFR 51, Appendix S, Section IV, may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under subsections (B), (C), and (D) above.

- F. Post-construction monitoring. The owner or operator of a new major source or major modification shall, after construction of the source or modification, conduct such ambient monitoring as the Director determines is necessary to determine the effect emissions from the new source or modification may have, or are having, on air quality in any area.
- G. Operations of monitoring stations. The owner or operator of a new major source or major modification shall meet the requirements of 40 CFR 58, Appendix B, during the operation of monitoring stations for purposes of satisfying subsections (B) through (F) above.
- H. The requirements of subsections (B) through (G) above shall not apply to a new major source or major modification to an existing source with respect to monitoring for a particular pollutant if:
1. The emissions increase of the pollutant from the new source or the net emissions increase of the pollutant from the modification would cause, in any area, air quality impacts less than the following amounts:
 - a. Carbon Monoxide - 575 $\mu\text{g}/\text{m}^3$, eight-hour average;
 - b. Nitrogen dioxide - 14 $\mu\text{g}/\text{m}^3$, annual average;
 - c. $\text{PM}_{2.5}$ - 0 $\mu\text{g}/\text{m}^3$, 24-hour average;
 - d. PM_{10} - 10 $\mu\text{g}/\text{m}^3$, 24-hour average;
 - e. Sulfur dioxide - 13 $\mu\text{g}/\text{m}^3$, 24-hour average;
 - f. Lead - 0.1 $\mu\text{g}/\text{m}^3$, 3-month average;
 - g. Fluorides - 0.25 $\mu\text{g}/\text{m}^3$, 24-hour average;
 - h. Total reduced sulfur - 10 $\mu\text{g}/\text{m}^3$, one-hour average;
 - i. Hydrogen sulfide - 0.04 $\mu\text{g}/\text{m}^3$, one-hour average;
 - j. Reduced sulfur compounds - 10 $\mu\text{g}/\text{m}^3$, one-hour average;
 - k. Ozone - net emissions increases of less than 100 tons per year of volatile organic compounds or oxides of nitrogen;
 2. The concentrations of the pollutant in the area that the new source or modification would affect are less than the concentrations listed in subsection (H)(1); or
 3. The pollutant is not listed in subsection (H)(1).

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-407 renumbered without change as Section R18-2-407 (Supp. 87-3). Section R18-2-407 renumbered to R18-2-607, new Section R18-2-407 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-408. Innovative Control Technology

- A. Notwithstanding the provisions of R18-2-406(A)(1) through (3), the owner or operator of a proposed new major source or major modification may request that the Director approve a system of innovative control technology rather than the best available control technology requirements otherwise applicable to the new source or modification.
- B. The Director shall approve the installation of a system of innovative control technology if the following conditions are met:
1. The owner or operator of the proposed source or modification satisfactorily demonstrates that the proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;
 2. The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under R18-2-406(A)(1) or (2) by a

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date specified in the permit or permit revision under this Article for the source. Such date shall not be later than four years from the time of start-up or seven years from the issuance of a permit or permit revision under this Article;

3. The source or modification would meet requirements equivalent to those in R18-2-406(A) based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified in the permit or permit revision under this Article.
 4. Before the date specified in the permit or permit revision under this Article, the source or modification would not:
 - a. Cause or contribute to any violation of an applicable national ambient air quality standard; or
 - b. Impact any area where an applicable maximum increase allowed under R18-2-208 is known to be violated.
 5. All other applicable requirements including those for public participation have been met.
 6. The Director receives the consent of the governors of other affected states.
 7. The requirements of R18-2-410 for federal Class I areas will be met for all periods during the life of the source or modification.
- C. The Director shall withdraw any approval to employ a system of innovative control technology made under this Section if:
1. The proposed system fails by the specified date to achieve the required continuous emissions reduction rate; or
 2. The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or
 3. The Director decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.
- D. If the new source or major modification fails to meet the required level of continuous emissions reduction within the specified time period, or if the approval is withdrawn in accordance with subsection (C) above, the Director may allow the owner or operator of the source or modification up to an additional three years to meet the requirement for the application of best available control technology through use of a demonstrated system of control.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Former Section R9-3-408 renumbered without change as Section R18-2-408 (Supp. 87-3). Section R18-2-408 renumbered to R18-2-608, new Section R18-2-408 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-409. Air Quality Models

- A. Where the Director requires a person requesting a permit or permit revision under this Article to perform air quality impact modeling to obtain such permit or permit revision under this Article, the modeling shall be performed in a manner consistent with the Guideline specified in R18-2-406(A)(6)(a).
- B. Where the person requesting a permit or permit revision under this Article can demonstrate that an air quality impact model specified in the Guideline is inappropriate, the model may be modified or another model substituted. However, before such

modification or substitution can occur, the Director shall make a written finding that:

1. No model in the Guideline is appropriate for a particular permit or permit revision under this Article under consideration, or
 2. The data base required for the appropriate model in the Guideline is not available, and
 3. The model proposed as a substitute or modification is likely to produce results equal or superior to those obtained by models in the Guideline, and
 4. The model proposed as a substitute or modification has been approved by the Administrator.
- C. The substitution or modification of an air quality model under this Section shall be included in the public notice under R18-2-330(C).

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-409 renumbered without change as Section R18-2-409 (Supp. 87-3). Section R18-2-409 renumbered to R18-2-609, new Section R18-2-409 adopted effective November 15, 1993 (Supp. 93-4).

R18-2-410. Visibility and Air Quality Related Value Protection

- A. Applicability.
 1. All of the requirements of this Section apply to a new major source or major modification that would be constructed in an area that is designated attainment or unclassifiable.
 2. Subsections (B) to (D) apply to the following:
 - a. A new major source or major modification that may have an impact on any integral vista of a mandatory federal Class I area, if it is identified in accordance with 40 CFR 51.304 by the Federal Land Manager at least twelve months before submission of a complete permit application for the source or modification, except where the Federal Land Manager has provided notice and opportunity for public comment on the integral vista, in which case the review must include impacts on any integral vista identified at least six months before submission of a complete permit application. This subsection shall not apply if the Director determines under 40 CFR 51.304(d) that the identification was not in accordance with the identification criteria.
 - b. A new major source or major modification that proposes to locate in an area designated as nonattainment and that may have an impact on visibility in any mandatory federal Class I area.
- B. Application Requirements. Any application for a permit or permit revision to construct a major source or major modification subject to this Section shall contain:
 1. An analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the new source or modification and general commercial, residential, industrial, and other growth associated with the new source or modification. The applicant need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.
 2. An analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial, and other growth associated with the new source or modification.
- C. Notification Requirements.

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1. The Director shall provide written notice of the application for a permit or permit revision subject to this Section to the Administrator, the Federal Land Manager and the federal official charged with direct responsibility for management of any lands within any Class I area that may be affected by the source or modification. The notice shall be provided within 30 days of receipt of the application and at least 60 days before any public hearing on the application. The notice shall:
 - a. Include a copy of the application and all information relevant to the permit or permit revision under this Article;
 - b. Include an analysis of the anticipated impacts of the proposed source on visibility in any federal Class I area; and
 - c. Provide for no less than a 30-day period within which written comments may be submitted.
 2. The Director shall notify the individuals identified in subsection (C)(1) within 30 days of receipt of any advance notification of any such permit or permit revision.
 3. The Director shall notify the individuals identified in subsection (C)(1) of the preliminary determination for the application under R18-2-402(I)(2)(c) and shall make available any materials used in making that determination.
 4. The Director shall provide notice to the administrator of every action related to the consideration of such permit or permit revision.
- D. Consideration of Federal Land Manager Analysis.**
1. The Federal Land Manager and the federal official charged with direct responsibility for management of federal Class I areas have an affirmative responsibility to protect the air quality related values, including visibility, of any such areas and to consider, in consultation with the Administrator, whether a proposed source or modification would have an adverse impact on such values.
 2. The Director shall consider any analysis performed by the Federal Land Manager and provided within 30 days of the notification required by subsection (C)(1) that shows that a proposed new major stationary source or major modification may have an adverse impact on visibility in a federal Class I area or integral vista.
 3. In considering the analysis, the Director shall ensure that the source's emissions will be consistent with making reasonable progress toward the national visibility goal referred to in 40 CFR 51.300(a), taking into account the costs of compliance, the time necessary for compliance, the energy and nonair quality environmental impacts of compliance, and the useful life of the source.
 4. If the Director concurs with the analysis, the Director shall deny the permit or permit revision.
 5. If the Director finds that the analysis does not demonstrate to the satisfaction of the Director that an adverse impact on visibility will result in the federal Class I area or integral vista, the Director shall, in the notice required by R18-2-402(I)(2)(c), either explain that decision or give notice as to where the explanation can be obtained.
- E. Federal Land Manager Analysis Showing Adverse Impact Despite Compliance with Maximum Allowable Increases for Class I Area.**
1. Within 30 days after the notification required by subsection (C)(3), the Federal Land Manager may present to the Director a demonstration that the emissions attributed to a new major source or major modification would have an adverse impact on visibility or other specifically defined air quality related values of any mandatory federal Class I area, even though the change in air quality resulting from emissions attributable to the source or modification will not cause or contribute to concentrations that exceed the maximum increases allowed for the area in R18-2-218.
- If the Director concurs with the demonstration, the Director shall not issue a permit or permit revision for the major source or major modification.
- F. Class I Variance with Federal Land Manager Concurrence.**
1. The owner or operator of a proposed source or modification may demonstrate to the Federal Land Manager that emissions from the source will have no adverse impact on the air quality related values (including visibility) of federal Class I areas, even though the change in air quality resulting from emissions from the source or modification are projected to cause or contribute to concentrations that exceed the maximum increases allowed for a Class I area under R18-2-218.
 2. If the Federal land manager concurs with the demonstration and so certifies to the Director, the Director may issue the permit, provided that:
 - a. Applicable requirements are otherwise met; and
 - b. The permit contains emission limits necessary to assure that emissions of sulfur dioxide, PM_{2.5}, PM₁₀, and nitrogen oxides will not cause increases in ambient concentrations of those pollutants exceeding the following maximum allowable increases over minor source baseline concentrations:
- | Pollutant | Maximum allowable increase (micrograms per cubic meter) |
|------------------------|---|
| PM _{2.5} : | |
| Annual arithmetic mean | 4 |
| 24-hr maximum | 9 |
| PM ₁₀ : | |
| Annual arithmetic mean | 17 |
| 24-hr maximum | 30 |
| Sulfur dioxide: | |
| Annual arithmetic mean | 20 |
| 24-hr maximum | 91 |
| 3-hr maximum | 325 |
| Nitrogen dioxide | |
| Annual arithmetic mean | 25 |
- G. Class I Sulfur Dioxide Variance by Governor with Concurrence by Federal Land Manager or President.**
1. The owner or operator of a proposed source or modification that cannot be approved under subsection (F) may demonstrate to the Governor that the source cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for a period of twenty-four hours or less applicable to any Class I area and, in the case of mandatory federal Class I areas, that a variance under this clause would not adversely affect the air quality related values of the area (including visibility). The Governor, after consideration of the Federal Land Manager's recommendation (if any) and subject to his concurrence, may, after notice and public hearing, grant a variance from the maximum allowable increase. If the

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variance is granted, the Director shall issue a permit or permit to the source or modification pursuant to the requirements of subsection (G)(3), provided that the applicable requirements of R18-2-406 are otherwise met.

2. In any case where the Governor recommends a variance in which the Federal Land Manager does not concur, the recommendations of the Governor and the Federal Land Manager shall be transmitted to the President. The President may approve the Governor's recommendation if the President finds that the variance is in the national interest. If the variance is approved, the Director shall issue a permit pursuant to subsection (G)(3), provided that the applicable requirements of R18-2-406 are otherwise met.
3. In the case of a permit issued pursuant to subsections (G)(1) or (G)(2) the source or modification shall comply with emission limitations necessary to assure that emissions of sulfur dioxide from the source or modification will not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations that would exceed the following maximum allowable increases over the baseline concentration and to assure that the emissions will not cause or contribute to concentrations that exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less for more than 18 days, not necessarily consecutive, during any annual period:

Maximum Allowable Increase [Micrograms per cubic meter]		
Period of exposure	Terrain areas	
	Low	High
24-hr maximum	36	62
3-hr maximum	130	221

- H. Visibility Monitoring. The Director may require monitoring of visibility in any federal Class I area near a proposed major source or major modification for such purposes and by such means as the Director deems necessary and appropriate.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-410 renumbered without change as Section R18-2-410 (Supp. 87-3). Section R18-2-410 renumbered to R18-2-610, new Section R18-2-410 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-411. Permit Requirements for Sources that Locate in Attainment or Unclassifiable Areas and Cause or Contribute to a Violation of Any National Ambient Air Quality Standard

- A. Except as provided in subsections (C) or (D), the Director shall deny a permit or permit revision to any major source or major modification that would locate in any attainment or unclassified area, if the source or modification would cause or contribute to a violation of any national ambient air quality standard.
- B. A major source or major modification will be considered to cause or contribute to a violation of a national ambient air quality standard when the source or modification would, at a minimum, cause an increase in the concentrations of a regulated NSR pollutant that exceeds the significance level at any locality that does not, or as a result of the increase would not, meet the standard.

- C. A proposed major source or major modification subject to subsection (A) may reduce the impact of its emissions upon air quality by obtaining sufficient emission reductions to, at a minimum, compensate for its adverse ambient impact where the major source or major modification would otherwise cause or contribute to a violation of any national ambient air quality standard.
- D. Subsection (A) shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as non-attainment pursuant to section 107 of the Act.

Historical Note

Adopted effective November 15, 1993 (Supp. 93-4). Section repealed by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). New Section made by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-412. PALs

- A. Applicability.
 1. The Director may approve the use of a PAL for any existing major source if the PAL meets the requirements of this Section.
 2. Any physical change in or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements of this Section, and complies with the PAL permit:
 - a. Is not a major modification for the PAL pollutant,
 - b. Does not have to be approved under R18-2-403 or R18-2-406, and
 - c. Is not subject to the provisions in R18-2-403(C) or R18-2-406(M).
 3. Except as provided under subsection (A)(2)(c), a major stationary source shall continue to comply with all applicable federal or state requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.
- B. Permit application requirements. As part of a permit application requesting a PAL, the owner or operator of a major source shall submit the following information to the Director for approval:
 1. A list of all emissions units at the source designated as small, significant or major based on their potential to emit. In addition, the owner or operator of the source shall indicate which, if any, federal or state applicable requirements, emission limitations, or work practices apply to each unit.
 2. Calculations of the baseline actual emissions (with supporting documentation). Baseline actual emissions shall include emissions associated not only with operation of the unit, but also emissions associated with the startup, shutdown and malfunction.
 3. The calculation procedures that the major source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by subsection (L)(1).
- C. General requirements for establishing PALs.
 1. The Director is allowed to establish a PAL at a major source, provided that at a minimum, the following requirements are met:

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- a. The PAL shall impose an annual emission limitation in tons per year, that is enforceable as a practical matter, for the entire major source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month sum, rolled monthly). For each month during the first 11 months from the PAL effective date, the major source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.
 - b. The PAL shall be established in a PAL permit that meets the requirements in subsection (D).
 - c. The PAL permit shall contain all the requirements of subsection (F).
 - d. The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major source.
 - e. Each PAL shall regulate emissions of only one pollutant.
 - f. Each PAL shall have a PAL effective period of 10 years.
 - g. The owner or operator of the major source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in subsections (K) through (M) for each emissions unit under the PAL through the PAL effective period.
 2. At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant that occur during the PAL effective period creditable as decreases for purposes of offsets under R18-2-404 unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.
- D. Action on PAL permit application.** A PAL permit application shall be processed in accordance with one of the following:
1. As an initial Class I permit pursuant to R18-2-304.
 2. As a renewal of a Class I permit pursuant to R18-2-322.
 3. As a significant revision to a Class I permit pursuant to R18-2-320.
- E. Setting the 10-year actuals PAL level.**
1. Except as provided in subsection (E)(2), the PAL level for a major source shall be established as the sum of the baseline actual emissions of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant. When establishing the PAL level, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The Director shall specify a reduced PAL level(s) (in tons/yr) in the PAL permit to become effective on the future compliance date(s) of any applicable federal or state regulatory requirement(s) that the Director is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 ppm NO_x to a new rule limit of 30 ppm, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of such unit(s).
 2. For newly constructed units (which do not include modifications to existing units) on which actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in subsection (E)(1), the emissions must be added to the PAL level in an amount equal to the potential to emit of the units.
- F. Contents of the PAL permit.** The PAL permit must contain, at a minimum, the following information:
1. The PAL pollutant and the applicable source-wide emission limitation in tons per year.
 2. The PAL permit effective date and the expiration date of the PAL (PAL effective period).
 3. Specification in the PAL permit that if a major source owner or operator applies to renew a PAL in accordance with subsection (I) before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL permit is issued by the Director.
 4. A requirement that emission calculations for compliance purposes must include emissions from startups, shutdowns, and malfunctions.
 5. A requirement that, once the PAL expires, the major source is subject to the requirements of subsection (H).
 6. The calculation procedures that the major source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total as required by subsection (L)(1).
 7. A requirement that the major source owner or operator monitor all emissions units in accordance with the provisions under subsection (K).
 8. A requirement to retain the records required under subsection (L) onsite. Such records may be retained in an electronic format.
 9. A requirement to submit the reports required under subsection (M) by the required deadlines.
 10. Any other requirements that the Director deems necessary to implement and enforce the PAL.
- G. PAL effective period and reopening of the PAL permit.**
1. PAL effective period. The Director shall specify a PAL effective period of 10 years.
 2. Reopening of the PAL permit.
 - a. During the PAL effective period, the Director must reopen the PAL permit to:
 - i. Correct typographical/calculation errors made in setting the PAL or reflect a more accurate determination of emissions used to establish the PAL,
 - ii. Reduce the PAL if the owner or operator of the major source creates creditable emissions reductions for use as offsets under R18-2-404, and
 - iii. Revise the PAL to reflect an increase in the PAL as provided under subsection (J).
 - b. The Director shall have discretion to reopen the PAL permit for the following:
 - i. Reduce the PAL to reflect new federal applicable requirements with compliance dates after the PAL effective date;

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- ii. Reduce the PAL consistent with any other requirement, that is enforceable as a practical matter, and that the state may impose on the major source under the State Implementation Plan; and
 - iii. Reduce the PAL if the Director determines that a reduction is necessary to avoid causing or contributing to a violation of a national ambient air quality standard or a maximum increase allowed under R18-2-208, or to an adverse impact on an air quality related value that has been identified for a federal Class I area by a Federal Land Manager and for which information is available to the general public.
 - c. Except for the permit reopening in subsection (G)(2)(a)(i) for the correction of typographical/calculation errors that do not increase the PAL level, all other reopenings shall be carried out in accordance with the public participation requirements of subsection (D).
- H. Expiration of a PAL.** Any PAL that is not renewed in accordance with the procedures in subsection (I) shall expire at the end of the PAL effective period, and the following requirements shall apply.
- 1. Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the following procedures.
 - a. Within the time-frame specified for PAL renewals in subsection (I)(2), the major source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate) by distributing the PAL allowable emissions for the major source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as would be required under subsection (I)(5), such distribution shall be made as if the PAL had been adjusted.
 - b. The Director shall decide how the PAL allowable emissions will be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the Director determines is appropriate.
 - 2. Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The Director may approve the use of monitoring systems (source testing, emission factors, etc.) other than CEMS, CERMS, PEMS, or CPMS to demonstrate compliance with the allowable emission limitation.
 - 3. Until the Director issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under subsection (H)(1)(b), the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.
 - 4. Any physical change or change in the method of operation at the major source will be subject to the nonattainment major NSR requirements if such change meets the definition of major modification.
 - 5. The major source owner or operator shall continue to comply with any applicable requirements that may have applied either during the PAL effective period or before the PAL effective period except for those emission limitations that had been established pursuant to R18-2-403(C) or R18-2-406(H), but were eliminated by the PAL in accordance with subsection (A)(2)(c).
- I. Renewal of a PAL.**
- 1. The Director shall follow the procedures specified in subsection (D) in approving any request to renew a PAL for a major source, and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the Director.
 - 2. Application deadline. A major source owner or operator shall submit a timely application to the Director to request renewal of a PAL. A timely application is one that is submitted at least six months prior to, but not earlier than 18 months from, the date of permit expiration. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major source submits a complete application to renew the PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed PAL is issued.
 - 3. Application requirements. The application to renew a PAL permit shall contain the following information.
 - a. The information required in subsections (B)(1) through (3).
 - b. A proposed PAL level.
 - c. The sum of the potential to emit of all emissions units under the PAL (with supporting documentation).
 - d. Any other information the owner or operator wishes the Director to consider in determining the appropriate level for renewing the PAL.
 - 4. PAL adjustment. In determining whether and how to adjust the PAL, the Director shall consider the options outlined in subsections (I)(4)(a) and (b). However, in no case may any such adjustment fail to comply with subsection (I)(4)(c).
 - a. If the emissions level calculated in accordance with subsection (E) is equal to or greater than 80% of the PAL level, the Director may renew the PAL at the same level without considering the factors set forth in subsection (I)(4)(b); or
 - b. The Director may set the PAL at a level that the Director determines to be more representative of the source's baseline actual emissions, or that the Director determines to be more appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the Director in the Director's written rationale.
 - c. Notwithstanding subsections (I)(4)(a) and (b):
 - i. If the potential to emit of the major source is less than the PAL, the Director shall adjust the PAL to a level no greater than the potential to emit of the source; and
 - ii. The Director shall not approve a renewed PAL level higher than the current PAL, unless the PAL has been increased in accordance with subsection (J).

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5. If the compliance date for an applicable requirement that applies to the PAL source occurs during the PAL effective period, and if the Director has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or renewal of the source's Class I permit, whichever occurs first.
- J. Increasing a PAL during the PAL effective period.**
1. The Director may increase a PAL emission limitation only if the following requirements are met:
 - a. The owner or operator of the major source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions unit(s) contributing to the increase in emissions so as to cause the major source's emissions to equal or exceed its PAL.
 - b. As part of this application, the major source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT or LAER equivalent controls, plus the sum of the PAL allowable emissions of the new or modified emissions unit(s) exceeds the PAL. The level of control that would result from BACT or LAER equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT or LAER analysis at the time the application is submitted, as applicable for the particular PAL pollutant, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.
 - c. The owner or operator obtains a major NSR permit for all emissions unit(s) identified in subsection (J)(1)(a), regardless of the magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions unit(s) shall comply with any emissions requirements resulting from the major NSR process (for example, BACT), even though they have also become subject to the PAL or continue to be subject to the PAL.
 - d. The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.
 2. The Director shall calculate the new PAL level as the sum of the PAL allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT or LAER equivalent controls as determined in accordance with subsection (J)(1)(b), plus the sum of the baseline actual emissions of the small emissions units.
 3. The PAL permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of subsection (D).
- K. Monitoring requirements for PALs.**
1. General requirements.
 - a. Each PAL permit must contain enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.
 - b. The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in subsections (K)(2)(a) through (d) and must be approved by the Director.
 - c. Notwithstanding subsection (K)(1)(b), the owner or operator may also employ an alternative monitoring approach if approved by the Director as meeting the requirements of subsection (K)(1)(a).
 - d. Failure to use a monitoring system that meets the requirements of this Section renders the PAL invalid.
 2. Minimum performance requirements for approved monitoring approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in subsections (K)(3) through (9):
 - a. Mass balance calculations for activities using coatings or solvents,
 - b. CEMS,
 - c. CPMS or PEMS, and
 - d. Emission factors.
 3. Mass balance calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet the following requirements:
 - a. Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;
 - b. Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and
 - c. Where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the Director determines there is site-specific data or a site-specific monitoring program to support another content within the range.
 4. CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:
 - a. CEMS must comply with applicable Performance Specifications found in 40 CFR 60, Appendix B; and
 - b. CEMS must sample, analyze and record data at least every 15 minutes while the emissions unit is operating.
 5. CPMS or PEMS. An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:

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- a. The CPMS or the PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the PAL pollutant emissions across the range of operation of the emissions unit; and
 - b. Each CPMS or PEMS must sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the Director, while the emissions unit is operating.
- 6. Emission factors. An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:
 - a. All emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;
 - b. The emissions unit shall operate within the designated range of use for the emission factor, if applicable; and
 - c. If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within six months of PAL permit issuance, unless the Director determines that testing is not required.
- 7. A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the PAL permit.
- 8. Notwithstanding the requirements in subsections (K)(3) through (7), where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the Director shall, at the time of permit issuance:
 - a. Establish default value(s) for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating point(s), or
 - b. Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameter(s) and the PAL pollutant emissions is a violation of the PAL.
- 9. Re-validation. All data used to establish the PAL pollutant must be re-validated through performance testing or other scientifically valid means approved by the Director. Such testing must occur at least once every five years after issuance of the PAL.
- L. Recordkeeping requirements.
 - 1. The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of this Section and with the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for five years from the date of such record.
 - 2. The PAL permit shall require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus five years:
 - a. A copy of the PAL permit application and any applications for revisions to the PAL, and
 - b. Each annual certification of compliance pursuant to R18-2-309(2) and the data relied on in certifying compliance.
- M. Reporting and notification requirements. The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the Director in accordance with R18-2-306(A)(5). The reports shall meet the following requirements:
 - 1. Semi-annual report. The semi-annual report shall be submitted to the Director within 30 days of the end of each reporting period. This report shall contain the following information:
 - a. The identification of owner and operator and the permit number.
 - b. Total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded pursuant to subsection (L)(1).
 - c. All data relied upon, including, but not limited to, any Quality Assurance or Quality Control data, in calculating the monthly and annual PAL pollutant emissions.
 - d. A list of any emissions units modified or added to the major source during the preceding six-month period.
 - e. The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken.
 - f. A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by subsection (K)(7).
 - g. A certification by the responsible official consistent with R18-2-304(I).
 - 2. Deviation report. The major source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL permit requirements, including periods where no monitoring is available, in accordance with R18-2-306(A)(5). The reports shall contain the following information:
 - a. The identification of owner and operator and the permit number,
 - b. The PAL permit requirement that experienced the deviation or that was exceeded,
 - c. Emissions resulting from the deviation or the exceedance, and
 - d. A certification by the responsible official consistent with R18-2-304(I).
 - 3. Re-validation results. The owner or operator shall submit to the Director the results of any re-validation test or method within three months after completion of such test or method.

Historical Note

New Section made by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

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ARTICLE 5. GENERAL PERMITS

R18-2-501. Applicability

- A. The Director may issue general permits for a facility class that contains 10 or more facilities that are similar in nature, have substantially similar emissions, and would be subject to the same or substantially similar requirements governing operations, emissions, monitoring, reporting, or recordkeeping. "Similar in nature" refers to facility size, processes, and operating conditions.
- B. The Director may issue general permits, in accordance with subsection (A), with emission limitations, controls, or other requirements that meet the requirements of R18-2-306.01. A source that seeks to vary from such a general permit, and obtain an emission limitation, control, or other requirement not contained in that general permit, shall apply for a permit pursuant to Article 3 of this Chapter.
- C. General permits shall not be issued for affected sources except as provided in regulations promulgated by the Administrator under Title IV of the Act.
- D. Unless otherwise stated, the provisions of Article 3 shall apply to general permits.

Historical Note

Former Section R18-2-501 renumbered to R18-2-502, new Section R18-2-501 adopted effective September 26, 1990 (Supp. 90-3). Former Section R18-2-501 renumbered to R18-2-701; new Section adopted effective November 15, 1993 (Supp. 93-4). Amended effective August 1, 1995 (Supp. 95-3).

R18-2-502. General Permit Development

- A. The Director may issue a general permit on the Director's own initiative or in response to a petition.
- B. Any person may submit a petition to the Director requesting the issuance of a general permit for a defined class of facilities. The petition shall propose a particular class of facilities, and list the approximate number of facilities in the proposed class along with their size, processes, and operating conditions, and demonstrate how the class meets the criteria for a general permit as specified in R18-2-501 and A.R.S. § 49-426(H). The Director shall provide a written response to the petition within 120 days of receipt.
- C. General permits shall be issued for classes of facilities using the same engineering principles that applies to permits for individual sources and following the public notice requirements of R18-2-504.
- D. General permits shall include all of the following:
 - 1. All elements required by R18-2-306(A) except R18-2-306(A)(2)(b) and (6).
 - 2. The process for individual sources to apply for coverage under the general permit.
- E. General permits may include conditions imposed under R18-2-515.

Historical Note

Former Section R9-3-501 repealed, new Section R9-3-501 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (D) effective June 19, 1981 (Supp. 81-3). Amended subsections (C) and (D) effective February 2, 1982 (Supp. 82-1). Amended subsection (D) effective May 25, 1982 (Supp. 82-3). Former Section R9-3-501 renumbered without change as Section R18-2-501 (Supp. 87-3). Former Section R18-2-502 repealed, new Section

R18-2-502 renumbered from R18-2-501 and amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-502 renumbered to R18-2-702; new Section R18-2-502 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-503. Application for Coverage under General Permit

- A. Once the Director has issued a general permit, any source which is a member of the class of facilities covered by the general permit may apply to the Director for authority to operate under the general permit. At the time the Director issues a general permit, the Director may also establish a specific application form with filing instructions for sources in the category covered by the general permit. Applicants shall complete the specific application form or, if a specific form has not been adopted, the standard application form provided under R18-2-304(B). The specific application form shall, at a minimum, require the applicant to submit the following information:
 - 1. Information identifying and describing the source, its processes, and operating conditions in sufficient detail to allow the Director to determine qualification for, and to assure compliance with, the general permit.
 - 2. A compliance plan that meets the requirements of R18-2-514.
- B. For sources required to obtain a permit under Title V of the Act, the Director shall provide the Administrator with a permit application summary form and any relevant portion of the permit application and compliance plan. To the extent possible, this information shall be provided in computer-readable format compatible with the Administrator's national database management system.
- C. The Director shall act on the application for coverage under a general permit as expeditiously as possible. The source may operate under the terms of the applicable general permit during that time. The Director may defer acting on an application under this subsection (if) the Director has provided notice of intent to renew or not renew the permit.
- D. The Director shall deny an application for coverage from any Class I source that is subject to case-by-case standards or requirements.
- E. Upon notification from the Director of the availability of a web portal to apply for and obtain a general permit, an applicant shall file all applications and conduct all transactions related to the general permit through the portal.

Historical Note

Former Section R9-3-503 repealed, new Section R9-3-503 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (C), paragraph (6) effective June 19, 1981 (Supp. 81-3). Amended subsection (C) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-503 renumbered without change as Section R18-2-503 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-503 renumbered to R18-2-703; new Section R18-2-503 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-504. Public Notice

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- A. This Section applies to issuance, revision, or renewal of a general permit.
- B. The Director shall provide public notice for any proposed new general permit, for any revision of an existing general permit, and for renewal of an existing general permit.
- C. The Director shall publish notice of the proposed general permit once each week for two consecutive weeks in a newspaper of general circulation in each county and shall provide at least 30 days from the date of the first notice for public comment. The notice shall describe the following:
 - 1. The proposed permit;
 - 2. The category of sources that would be affected;
 - 3. The air contaminants which the Director expects to be emitted by a typical facility in the class and the class as a whole;
 - 4. The Director's proposed actions and effective date for the actions;
 - 5. Locations where documents relevant to the proposed permit will be available during normal business hours;
 - 6. The name, address, and telephone number of a person within the Department who may be contacted for further information;
 - 7. The address where any person may submit comments or request a public hearing and the date and time by which comments or a public hearing request are required to be received;
 - 8. The process by which sources may obtain authorization to operate under the general permit.
- D. A copy of the notice required by subsection (C), shall be sent to the Administrator through the appropriate regional office, and to all other state and local air pollution control agencies in the state. The notice shall also be sent to any other agency in the state having responsibility for implementing the procedures required under 40 CFR 51, I. For general permits under which operation may be authorized in lieu of Class I permits, the Director shall provide the proposed final permit to the Administrator after public and affected state review. No Class I permit shall be issued if the Administrator properly objects to its issuance in writing within 45 days from receipt of the proposed final permit and any necessary supporting information from the Director.
- E. By no later than the date notice is first published under subsection (A), the Department shall make copies of the following materials available at a public location in each county and at each Department office:
 - 1. The proposed general permit;
 - 2. The Department's analysis in support of the grant of the general permit;
 - 3. All other materials available to the Director that are relevant to the permit decision.
- F. Written comments to the Director shall include the name of the person and the person's agent or attorney and shall clearly set forth reasons why the general permit should or should not be issued pursuant to the criteria for issuance in A.R.S. §§ 49-426 and 49-427 and this Chapter.
- G. At the time a general permit is issued, the Director shall make available a response to all relevant comments on the proposed permit raised during the public comment period and during any requested public hearing. The response shall specify which provisions, if any, of the proposed permit have been changed and the reason for the changes. The Director shall also notify in writing any petitioner and each person who has submitted written comments on the proposed general permit or requested notice of the final permit decision.

Historical Note

Former Section R9-3-504 repealed, new Section R9-3-504 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-504 renumbered without change as Section R18-2-504 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-504 renumbered to R18-2-704; new Section R18-2-504 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-505. General Permit Renewal

- A. The Director shall review and may renew general permits every five years. A source's authorization to operate under a general permit shall coincide with the term of the general permit regardless of when the authorization began during the five-year period, except as provided in R18-2-510(C). In addition to the public notice required to issue a proposed permit under R18-2-504, the Director shall notify in writing all sources who have been granted, or who have applications pending for, authorization to operate under the permit. The written notice shall describe the source's duty to reapply and may include requests for information required under the proposed permit.
- B. At the time a general permit is renewed, the Director shall notify in writing all sources who were granted coverage under the previous permit and shall require them to submit a timely renewal application. For purposes of general permits, a timely application is one that is submitted within the time-frame specified by the Director in the written notification. Until such time that a timely application is submitted, the source shall continue to comply with the previously issued general permit coverage. Upon submittal of a timely application, the source shall comply with the renewed permit. Failure to submit a timely application terminates the source's right to operate.

Historical Note

Former Section R9-3-1007 renumbered effective January 13, 1976 (Supp. 76-1). Former Section R9-3-505 repealed, new Section R9-3-505 adopted effective May 14, 1979 (Supp. 79-1). Editorial corrections, subsection (B), paragraph (5), and subsection (D), paragraph (1), subparagraph (d) (Supp. 80-2). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (B) effective May 28, 1982 (Supp. 82-3). Amended subsection (B) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-505 renumbered without change as Section R18-2-505 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-505 renumbered to R18-2-705; new Section R18-2-505 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-506. Relationship to Individual Permits

Any source covered under a general permit may request to be excluded from coverage by applying for an individual source permit. Coverage under the general permit shall terminate on the date the individual permit is issued.

Historical Note

Former Section R9-3-1008 renumbered effective January 13, 1976 (Supp. 76-1). Former Section R9-3-506 repealed, new Section R9-3-506 adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980

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(Supp. 80-4). Amended subsection (C), paragraph (1) effective June 19, 1981 (Supp. 81-3). Former Section R9-3-506 renumbered without change as Section R18-2-506 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-506 renumbered to R18-2-706; new Section R18-2-506 adopted effective November 15, 1993 (Supp. 93-4).

R18-2-507. Repealed**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-507 renumbered without change as Section R18-2-507 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-507 renumbered to R18-2-707; new Section R18-2-507 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Repealed by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-508. Repealed**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (B) effective May 28, 1982 (Supp. 82-3). Amended subsection (B) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-508 renumbered without change as Section R18-2-508 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-508 renumbered to R18-2-708; new Section R18-2-508 adopted effective November 15, 1993 (Supp. 93-4). Repealed by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-509. General Permit Appeals

Any person who filed a comment on a proposed general permit as provided in R18-2-504 may appeal the terms and conditions of the general permit, as they apply to the facility class covered under a general permit, by filing an appeal with the Office of Administrative Hearings within 30 days after receipt of notice that the general permit has been issued.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-509 renumbered without change as Section R18-2-509 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-509 renumbered to R18-2-709; new Section R18-2-509 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 12 A.A.R. 4698, effective February 3, 2007 (Supp. 06-4).

R18-2-510. Terminations of General Permits and Revocations of Authority to Operate under a General Permit

- A. The Director may terminate a general permit at any time if:
1. The Director has determined that the emissions from the sources in the facility class cause or contribute to ambient air quality standard violations which are not adequately addressed by the requirements in the general permit, or
 2. The Director has determined that the terms and conditions of the general permit no longer meet the requirements of A.R.S. §§ 49-426 and 49-427.

- B. The Director shall provide written notice to all sources operating under a general permit prior to termination of a general permit. Such notice shall include an explanation of the basis for the proposed action. Within 180 days of receipt of the notice of the expiration, termination or cancellation of any general permit, sources notified shall submit an application to the Director for an individual permit.
- C. The Director may require a source authorized to operate under a general permit to apply for and obtain an individual source permit at any time if the source is not in compliance with the terms and conditions of the general permit.
- D. If the Director revokes a source's authority to operate under a general permit pursuant to subsection (C), the Director shall notify the permittee by certified mail, return receipt requested. The notice shall include a statement detailing the grounds for the revocation of authority and a statement that the permittee is entitled to a hearing. A source previously authorized to operate under a general permit may operate under the terms of the general permit until the earlier of the date it submits a complete application for an individual permit, at which time it may operate under that application, or 180 days after receipt of the notice of revocation of authority to operate under the general permit.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsections (E)(3) and (E)(4) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-510 renumbered without change as Section R18-2-510 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-510 renumbered to R18-2-710; new Section R18-2-510 adopted effective November 15, 1993 (Supp. 93-4).

R18-2-511. Fees Related to General Permits

- A. Permit Processing Fee. The owner or operator of a source that applies for authority to operate under a general permit shall pay to the Director \$500 with the submittal of each application. This fee applies to the owner or operator of any source who intends to continue operating under the authority of a general permit that has been proposed for renewal. This fee also applies to requests for new Authorizations to Operate (ATOs) for new equipment.
- B. Administrative or Inspection Fee. The owner or operator of a source required to have a general permit, that has undergone initial startup by January 1, shall pay, for each calendar year, the applicable administrative or inspection fee from the table below, by February 1 or 60 days after the Director mails the invoice, whichever is later.

General Permit Source Category	Administrative Fee
Class I Title V General Permits	Administrative fee for category from R18-2-326(C)
Class II Title V Small Source	\$750
Other Class II Title V General Permits	\$4,520
	Inspection Fee
Class II Non-Title V Crematories	\$1,500
Other Class II Non-Title V General Permits	\$3,020

Historical Note

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Former Section R18-2-511 renumbered to R18-2-711; new Section R18-2-511 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 7 A.A.R. 5670, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 10 A.A.R. 4767, effective November 4, 2004 (Supp. 04-4). Amended by final rulemaking at 13 A.A.R. 4379, effective December 4, 2007 (Supp. 07-4).

R18-2-512. Changes to Facilities Granted Coverage under General Permits

- A. This Section applies to changes made at a facility that has been granted coverage under a general permit.
- B. Facility Changes that Require New Authorization to Operate. The following changes at a source that has been granted coverage under a general permit shall be made only after the source requests new authorization to operate from the Director:
 - 1. Adding new emissions units that require new authorization to operate,
 - 2. Installing replacement emissions units that require authorization to operate.
- C. Facility Changes that Do Not Require Authorization to Operate. The following changes at a source that has been granted coverage under a general permit shall be made only after the source provides notification to the Department:
 - 1. Adding new emissions units that do not require authorization to operate,
 - 2. Installing a replacement emissions unit with a higher capacity that does not require authorization to operate,
 - 3. Adding or replacing air pollution control equipment.
- D. A source that has been granted coverage under a general permit shall keep a record of any physical change or change in the method of operation that could affect emissions. The record shall include a description of the change and the date the change occurred.
- E. For sources that submit a request or notification under subsections (B) or (C), the applicant shall provide information identifying and describing the source, its processes, and operating conditions in sufficient detail to allow the Director to determine continued qualification for, and to assure compliance with, the general permit. The Director shall act on a request for new authority to operate under a general permit as expeditiously as possible. The source may operate under the terms of the applicable general permit during that time.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-512 renumbered without change as Section R18-2-512 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-712 effective November 15, 1993 (Supp. 93-4). New Section made by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-513. Portable Sources Covered under a General Permit

- A. This Section applies to sources that have been granted coverage under a general permit that allows for the operation of a source at more than one location.
- B. General permits developed by the Director for portable sources shall contain conditions that assure compliance with all applicable requirements at all authorized locations.

- C. Owners and operators that hold multiple coverages under the same general permit:
 - 1. Shall have separate coverage under the general permit for each location at which each portable source operates.
 - 2. Until the Director notifies permittees of the availability of a web portal under R18-2-503(E), may move equipment between portable sources without obtaining a new authorization to operate. At no time shall an owner or operator move equipment to a portable source if the move would cause emissions from the portable source to exceed emission limitations in the general permit. Equipment from a portable source covered by one general permit shall not be moved to a portable source covered by a different general permit, unless the owner or operator obtains a new authorization to operate under the general permit covering the new location.
 - 3. After the Director notifies permittees of the availability of a web portal under R18-2-503(E), must use the portal to obtain authorizations to operate for each location at which the equipment will operate.
- D. A portable source that will operate for the duration of its permit solely in one county that has established a local air pollution control program pursuant to A.R.S. § 49-479 shall obtain a permit from that county. A portable source with a county permit shall not operate in any other county. A portable source that has been granted coverage under a general permit that subsequently obtains a county permit shall request that the Director terminate the coverage under the general permit. Upon issuance of the county permit, the coverage under the general permit issued by the Director is no longer valid.
- E. A portable source which has a county permit but proposes to operate outside that county may obtain coverage under a general permit from the Director. A portable source that has a permit issued by a county and obtains coverage under a general permit issued by the Director shall request that the county terminate the permit. Upon issuance of coverage under a general permit by the Director, the county permit is no longer valid. Before commencing operation in the new county, the source shall notify the Director and the control officer who has jurisdiction in the county that includes the new location according to subsection (F).
- F. A portable source granted coverage under a general permit may be transferred from one location to another provided that the owner or operator of the portable source notifies the Director and any control officer who has jurisdiction over the geographic area that includes the new location of the transfer prior to the transfer. The notification required under this subsection (shall) include:
 - 1. A description of the equipment to be transferred including the permit number and as appropriate the Authorization-to-Operate number for each piece of equipment;
 - 2. A description of the present location;
 - 3. A description of the new location;
 - 4. The date on which the equipment is to be moved;
 - 5. The date on which operation of the equipment will begin at the new location;
 - 6. A complete list of all equipment requiring authorization to operate that may be located at the new location; and
 - 7. Revised emissions calculations demonstrating that the equipment at the new location continues to qualify for the general permit under which the portable source has coverage.

Historical Note

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Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Editorial correction, subsection (A), paragraph (2) (Supp. 80-2). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective May 28, 1982 (Supp. 82-3). Amended subsection (A) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-513 renumbered without change as Section R18-2-513 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-713 effective November 15, 1993 (Supp. 93-4). New Section made by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-514. General Permit Compliance Certification

- A. A compliance certification submitted by the owner or operator of a stationary source covered by a general permit shall be on a form provided by the Director and shall include the following information:
1. The source's name, mailing address, contact person and contact person phone number, permit number, compliance reporting period, and physical address and location, if different than the mailing address.
 2. A certification of truth, accuracy, and completeness signed by the facility's responsible officer.
 3. Process information for the source, including design capacity, operations schedule, hours of operation, and total production.
 4. Method of documenting compliance and the status of compliance with all recordkeeping, reporting, monitoring, and testing requirements and all emission limitations and standards imposed in the permit.
- B. Upon notification from the Director of the availability of a web portal to complete and submit a compliance certification, the owner or operator shall complete and submit all compliance certifications through the portal.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-514 renumbered without change as Section R18-2-514 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-714 effective November 14, 1993 (Supp. 93-4). New Section made by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-515. Minor NSR in General Permits

- A. A general permit may include emission standards designed to assure that a stationary source covered by the permit will comply with minor new source review under R18-2-334(C). The emission standards may consist of any combination of the following:
1. Limits designed to assure that emissions from a stationary source that is a member of the class of facilities covered by the permit will not interfere with attainment or maintenance of a NAAQS.
 2. Limits imposing reasonably available control technology.
- B. Except as provided in subsection (C), if a general permit includes emission standards under subsection (A), then any stationary source that is a member of the class of facilities covered by the permit or any minor NSR modification to such a source may comply with R18-2-334 by obtaining coverage under the permit.

- C. An owner or operator seeking coverage under a general permit in order to obtain authorization to construct or make a minor NSR modification to a stationary source shall instead apply for an individual permit, if the Department determines there is reason to believe the source or modification could interfere with attainment or maintenance of any national ambient air quality standard. In making this determination, the Department:
1. Shall consider the factors in R18-2-334(E)(1) to (6).
 2. Shall consider whether the dispersion characteristics of the source are likely to result in higher ambient concentrations of a conventional pollutant than the modeling assumptions used to establish an emission standard under subsection (A)(1).
 3. May apply a screening model to the source's emissions.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Section R9-3-515 will be repealed and new Section R9-3-515 adopted effective following the adoption of Article 7. Nonferrous Smelter Orders, filed September 18, 1979 for public hearing (Supp. 79-5). Section R9-3-515 adopted effective May 14, 1979, amended effective October 2, 1979 (Supp. 79-5). Article 7. Nonferrous Smelter Orders adopted effective January 8, 1980. Section R9-3-515 filed September 18, 1979 for public hearing and effective following the adoption of Article 7 now amended and effective January 8, 1980 (Supp. 80-1). Amended as an emergency effective March 6, 1980, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 80-2). Emergency adoption effective March 6, 1980 now adopted and amended effective July 9, 1980. Amended subsection (C), paragraph (1) effective August 29, 1980 (Supp. 80-4). Amended as an emergency effective October 9, 1980, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 80-5). Former emergency adoption effective October 9, 1980, now adopted and amended effective June 19, 1981 (Supp. 81-3). Amended subsection (B), paragraph (1) effective February 2, 1982 (Supp. 82-1). Amended effective May 25, 1982 (Supp. 82-3). Amended subsections ((C)(3) and (C)(5) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-515 renumbered without change as Section R18-2-515 (Supp. 87-3). Section amended and subsections (C)(1)(h) through (C)(7) renumbered to R18-2-515.01 and subsections (C)(8) through (C)(9) renumbered to R18-2-515.02 effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-715 effective November 15, 1993 (Supp. 93-4). New Section made by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-515.01. Renumbered**Historical Note**

Section R18-2-515.01 renumbered from R18-2-515(C)(1)(h) through (C)(7) and amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-715.01 effective November 15, 1993 (Supp. 93-4).

R18-2-515.02. Renumbered**Historical Note**

R18-2-515.02 renumbered from R18-2-515(C)(8) through (C)(9) and amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-715.02 effective November 15, 1993 (Supp. 93-4).

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R18-2-516. Renumbered**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective May 28, 1982 (Supp. 82-3). Amended subsection (A) effective September 22, 1983 (Supp. 83-4). Former Section R9-3-516 renumbered without change as Section R18-2-516 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-716 effective November 15, 1993 (Supp. 93-4).

R18-2-517. Renumbered**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Editorial correction, subsection (C), paragraph (1) (Supp. 80-1). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective May 28, 1982 (Supp. 82-3). Amended subsection (A) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-517 renumbered without change as Section R18-2-517 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-2). Renumbered to R18-2-717 effective November 15, 1993 (Supp. 93-4).

R18-2-518. Renumbered**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective May 28, 1982 (Supp. 82-3). Amended effective September 22, 1983 (Supp. 83-4). Former Section R9-3-518 renumbered without change as Section R18-2-518 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-718 effective November 15, 1993 (Supp. 93-4).

R18-2-519. Renumbered**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Editorial correction, subsection (A), paragraph (1) (Supp. 80-1). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-519 renumbered without change as Section R18-2-519 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-719 effective November 15, 1993 (Supp. 93-4).

R18-2-520. Renumbered**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Editorial correction, subsection (A), paragraph (1) (Supp. 80-2). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective May 28, 1982 (Supp. 82-3). Amended subsection (A) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-520 renumbered without change as Section R18-2-520 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-720 effective November 15, 1993 (Supp. 93-4).

R18-2-521. Renumbered**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective May 28, 1982 (Supp. 82-3). Amended subsection (A) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-521 renumbered without change as Section R18-2-521 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-721 effective November 15, 1993 (Supp. 93-4).

R18-2-522. Renumbered**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective May 28, 1982 (Supp. 82-3). Amended subsection (A) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-522 renumbered without change as Section R18-2-522 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-722 effective November 15, 1993 (Supp. 93-4).

R18-2-523. Renumbered**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-523 renumbered without change as Section R18-2-523 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-2). Renumbered to R18-2-723 effective November 15, 1993 (Supp. 93-4).

R18-2-524. Renumbered**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-524 renumbered without change as Section R18-2-524 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-724 effective November 15, 1993 (Supp. 93-4).

R18-2-525. Renumbered**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Editorial correction, subsection (B) (Supp. 79-6). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-525 renumbered without change as Section R18-2-525 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-725 effective November 15, 1993 (Supp. 93-4).

R18-2-526. Renumbered**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-526 renumbered without change as Section R18-2-526 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-726 effective November 15, 1993 (Supp. 93-4).

R18-2-527. Renumbered**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-527 renumbered without change as Section R18-2-527 (Supp. 87-3). Amended effective September

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26, 1990 (Supp. 90-3). Renumbered to R18-2-727 effective November 15, 1993 (Supp. 93-4).

R18-2-528. Renumbered**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-528 renumbered without change as Section R18-2-528 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-728 effective November 15, 1993 (Supp. 93-4).

R18-2-529. Renumbered**Historical Note**

Adopted effective September 22, 1983 (Supp. 83-5). Former Section R9-3-529 renumbered without change as Section R18-2-529 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-729 effective November 15, 1993 (Supp. 93-4).

R18-2-530. Renumbered**Historical Note**

Adopted effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-730 effective November 15, 1993 (Supp. 93-4).

ARTICLE 6. EMISSIONS FROM EXISTING AND NEW NONPOINT SOURCES**R18-2-601. General**

For purposes of this Article, any source of air contaminants which due to lack of an identifiable emission point or plume cannot be considered a point source, shall be classified as a nonpoint source. In applying this criteria, such items as air-curtain destructors, heater-planners, and conveyor transfer points shall be considered to have identifiable plumes. Any affected facility subject to regulation under Article 7 of this Chapter or Title 18, Chapter 2, Article 9, shall not be subject to regulation under this Article.

Historical Note

Former Section R9-3-601 repealed, new Section R9-3-601 adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-601 renumbered without change as Section R18-2-601 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-601 renumbered to R18-2-801, new Section R18-2-601 renumbered from R18-2-401 and amended effective November 15, 1993 (Supp. 93-4). Section updated to reflect corrected citation reference (Supp. 08-1).

R18-2-602. Unlawful Open Burning

A. In addition to the definitions contained in A.R.S. § 49-501, in this Section:

1. "Agricultural burning" means burning vegetative materials related to producing and harvesting crops and raising animals for the purpose of marketing for profit, or providing a livelihood, but does not include burning of household waste or prohibited materials. A person may conduct agricultural burns in fields, piles, ditch banks, fence rows, or canal laterals for purposes such as weed control, waste disposal, disease and pest prevention, or site preparation.
2. "Approved waste burner" means an incinerator constructed of fire resistant material with a cover or screen that is closed when in use, and has openings in the sides or top no greater than 1 inch in diameter.

3. "Class I Area" means any one of the Arizona mandatory federal Class I areas defined in A.R.S. § 49-401.01.
4. "Construction burning" means burning wood or vegetative material from land clearing, site preparation, or fabrication, erection, installation, demolition, or modification of any buildings or other land improvements, but does not include burning household waste or prohibited material.
5. "Dangerous material" means any substance or combination of substances that is capable of causing bodily harm or property loss unless neutralized, consumed, or otherwise disposed of in a controlled and safe manner.
6. "Delegated authority" means any of the following:
 - a. A county, city, town, air pollution control district, or fire district that has been delegated authority to issue open burning permits by the Director under A.R.S. § 49-501(E); or
 - b. A private fire protection service provider that has been assigned authority to issue open burning permits by one of the authorities in subsection (A)(6)(a).
7. "Director" means the Director of the Department of Environmental Quality, or designee.
8. "Emission reduction techniques" means methods for controlling emissions from open outdoor fires to minimize the amount of emissions output per unit of area burned.
9. "Flue," as used in this Section, means any duct or passage for air or combustion gases, such as a stack or chimney.
10. "Household waste" means any solid waste including garbage, rubbish, and sanitary waste from a septic tank that is generated from households including single and multiple family residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas, but does not include construction debris, landscaping rubble, or demolition debris.
11. "Independent authority to permit fires" means the authority of a county to permit fires by a rule adopted under Arizona Revised Statutes, Title 49, Chapter 3, Article 3, and includes only Maricopa, Pima, and Pinal counties.
12. "Open outdoor fire or open burning" means the combustion of material of any type, outdoors and in the open, where the products of combustion are not directed through a flue. Open outdoor fires include agricultural, residential, prescribed, and construction burning, and fires using air curtain destructors.
13. "Prohibited materials" means nonpaper garbage from the processing, storage, service, or consumption of food; chemically treated wood; lead-painted wood; linoleum flooring, and composite counter-tops; tires; explosives or ammunition; oleanders; asphalt shingles; tar paper; plastic and rubber products, including bottles for household chemicals; plastic grocery and retail bags; waste petroleum products, such as waste crankcase oil, transmission oil, and oil filters; transformer oils; asbestos; batteries; anti-freeze; aerosol spray cans; electrical wire insulation; thermal insulation; polyester products; hazardous waste products such as paints, pesticides, cleaners and solvents, stains and varnishes, and other flammable liquids; plastic pesticide bags and containers; and hazardous material containers including those that contained lead, cadmium, mercury, or arsenic compounds.
14. "Residential burning" means open burning of vegetative materials conducted by or for the occupants of residential

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dwelling, but does not include burning household waste or prohibited material.

15. "Prescribed burning" has the same meaning as in R18-2-1501.
- B.** Unlawful open burning. Notwithstanding any other rule in this Chapter, a person shall not ignite, cause to be ignited, permit to be ignited, allow, or maintain any open outdoor fire in a county without independent authority to permit fires except as provided in A.R.S. § 49-501 and this Section.
- C.** Open outdoor fires exempt from a permit. The following fires do not require an open burning permit from the Director or a delegated authority:
 1. Fires used only for:
 - a. Cooking of food,
 - b. Providing warmth for human beings,
 - c. Recreational purposes,
 - d. Branding of animals,
 - e. Orchard heaters for the purpose of frost protection in farming or nursery operations, and
 - f. The proper disposal of flags under 4 U.S.C. 1, § 8.
 2. Any fire set or permitted by any public officer in the performance of official duty, if the fire is set or permission given for the following purpose:
 - a. Control of an active wildfire; or
 - b. Instruction in the method of fighting fires, except that the person setting these fires must comply with the reporting requirements of subsection (D)(3)(f).
 3. Fire set by or permitted by the Director of Department of Agriculture for the purpose of disease and pest prevention in an organized, area-wide control of an epidemic or infestation affecting livestock or crops.
 4. Prescribed burns set by or assisted by the federal government or any of its departments, agencies, or agents, or the state or any of its agencies, departments, or political subdivisions, regulated under Article 15 of this Chapter.
- D.** Open outdoor fires requiring a permit.
 1. The following open outdoor fires are allowed with an open burning permit from the Director or a delegated authority:
 - a. Construction burning;
 - b. Agricultural burning;
 - c. Residential burning;
 - d. Prescribed burns conducted on private lands without the assistance of a federal or state land manager as defined under R18-2-1501;
 - e. Any fire set or permitted by a public officer in the performance of official duty, if the fire is set or permission given for the purpose of weed abatement, or the prevention of a fire hazard, unless the fire is exempt from the permit requirement under subsection (C)(3);
 - f. Open outdoor fires of dangerous material under subsection (E);
 - g. Open outdoor fires of household waste under subsection (F); and
 - h. Open outdoor fires that use an air curtain destructor, as defined in R18-2-101.
 2. A person conducting an open outdoor fire in a county without independent authority to permit fires shall obtain a permit from the Director or a delegated authority unless exempted under subsection (C). Permits may be issued for a period not to exceed one year. A person shall obtain a permit by completing an ADEQ-approved application form.
 3. Open outdoor fire permits issued under this Section shall include:
 - a. A list of the materials that the permittee may burn under the permit;
 - b. A means of contacting the permittee authorized by the permit to set an open fire in the event that an order to extinguish the open outdoor fire is issued by the Director or the delegated authority;
 - c. A requirement that burns be conducted during the following periods, unless otherwise waived or directed by the Director on a specific day basis:
 - i. Year-round: ignite fire no earlier than one hour after sunrise; and
 - ii. Year-round: extinguish fire no later than two hours before sunset;
 - d. A requirement that the permittee conduct all open burning only during atmospheric conditions that:
 - i. Prevent dispersion of smoke into populated areas;
 - ii. Prevent visibility impairment on traveled roads or at airports that result in a safety hazard;
 - iii. Do not create a public nuisance or adversely affect public safety;
 - iv. Do not cause an adverse impact to visibility in a Class I area; and
 - v. Do not cause uncontrollable spreading of the fire;
 - e. A list of the types of emission reduction techniques that the permittee shall use to minimize fire emissions.;
 - f. A reporting requirement that the permittee shall meet by providing the following information in a format provided by the Director for each date open burning occurred, on either a daily basis on the day of the fire, or an annual basis in a report to the Director or delegated authority due on March 31 for the previous calendar year:
 - i. The date of each burn;
 - ii. The type and quantity of fuel burned for each date open burning occurred;
 - iii. The fire type, such as pile or pit, for each date open burning occurred; and
 - iv. For each date open burning occurred, the legal location, to the nearest section, or latitude and longitude, to the nearest degree minute, or street address for residential burns;
 - g. A requirement that the person conducting the open burn notify the local fire-fighting agency or private fire protection service provider, if the service provider is a delegated authority, before burning. If neither is in existence, the person conducting the burn shall notify the state forester.;
 - h. A requirement that the permittee start each open outdoor fire using items that do not cause the production of black smoke;
 - i. A requirement that the permittee attend the fire at all times until it is completely extinguished;
 - j. A requirement that the permittee provide fire extinguishing equipment on-site for the duration of the burn;
 - k. A requirement that the permittee ensure that a burning pit, burning pile, or approved waste burner be at least 50 feet from any structure;

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- l. A requirement that the permittee have a copy of the burn permit on-site during open burning;
 - m. A requirement that the permittee not conduct open burning when an air stagnation advisory, as issued by the National Weather Service, is in effect in the area of the burn or during periods when smoke can be expected to accumulate to the extent that it will significantly impair visibility in Class I areas;
 - n. A requirement that the permittee not conduct open burning when any stage air pollution episode is declared under R18-2-220;
 - o. A statement that the Director, or any other public officer, may order that the burn be extinguished or prohibit burning during periods of inadequate smoke dispersion, excessive visibility impairment, or extreme fire danger; and
 - p. A list of the activities prohibited and the criminal penalties provided under A.R.S. § 13-1706.
4. The Director or a delegated authority shall not issue an open burning permit under this Section:
 - a. That would allow burning prohibited materials other than under a permit for the burning of dangerous materials;
 - b. If the applicant has applied for a permit under this Section to burn a dangerous material which is also hazardous waste under 40 CFR 261, but does not have a permit to burn hazardous waste under 40 CFR 264, or is not an interim status facility allowed to burn hazardous waste under 40 CFR 265; or
 - c. If the burning would occur at a solid waste facility in violation of 40 CFR 258.24 and the Director has not issued a variance under A.R.S. § 49-763.01.
- E.** Open outdoor fires of dangerous material. A fire set for the disposal of a dangerous material is allowed by the provisions of this Section, when the material is too dangerous to store and transport, and the Director has issued a permit for the fire. A permit issued under this subsection shall contain all provisions in subsection (D)(3) except for subsections (D)(3)(e) and (D)(3)(f). The Director shall permit fires for the disposal of dangerous materials only when no safe alternative method of disposal exists, and burning the materials does not result in the emission of hazardous or toxic substances either directly or as a product of combustion in amounts that will endanger health or safety.
- F.** Open outdoor fires of household waste. An open outdoor fire for the disposal of household waste is allowed by provisions of this Section when permitted in writing by the Director or a delegated authority. A permit issued under this subsection shall contain all provisions in subsection (D)(3) except for subsections (D)(3)(e) and (D)(3)(f). The permittee shall conduct open outdoor fires of household waste in an approved waste burner and shall either:
1. Burn household waste generated on-site on farms or ranches of 40 acres or more where no household waste collection or disposal service is available; or
 2. Burn household waste generated on-site where no household waste collection and disposal service is available and where the nearest other dwelling unit is at least 500 feet away.
- G.** Permits issued by a delegated authority. The Director may delegate authority for the issuance of open burning permits to a county, city, town, air pollution control district, or fire district. A delegated authority may not issue a permit for its own open burning activity. The Director shall not delegate authority to

issue permits to burn dangerous material under subsection (E). A county, city, town, air pollution control district, or fire district with delegated authority from the Director may assign that authority to one or more private fire protection service providers that perform fire protection services within the county, city, town, air pollution control district, or fire district. A private fire protection provider shall not directly or indirectly condition the issuance of open burning permits on the applicant being a customer. Permits issued under this subsection shall comply with the requirements in subsection (D)(3) and be in a format prescribed by the Director. Each delegated authority shall:

1. Maintain a copy of each permit issued for the previous five years available for inspection by the Director;
 2. For each permit currently issued, have a means of contacting the person authorized by the permit to set an open fire if an order to extinguish open burning is issued; and
 3. Annually submit to the Director by May 15 a record of daily burn activity, excluding household waste burn permits, on a form provided by the Director for the previous calendar year containing the information required in subsections (D)(3)(e) and (D)(3)(f).
- H.** The Director shall hold an annual public meeting for interested parties to review operations of the open outdoor fire program and discuss emission reduction techniques.
- I.** Nothing in this Section is intended to permit any practice that is a violation of any statute, ordinance, rule, or regulation.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Correction, subsection (C) repealed effective October 2, 1979, not shown (Supp. 80-1). Former Section R9-3-602 renumbered without change as Section R18-2-602 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-602 renumbered to R18-2-802, new Section R18-2-602 renumbered from R18-2-401 effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

R18-2-603. Repealed**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-603 renumbered without change as Section R18-2-603 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-603 renumbered to R18-2-803, new Section R18-2-603 renumbered from R18-2-403 effective November 15, 1993 (Supp. 93-4). Repealed effective October 8, 1996 (Supp. 96-4).

R18-2-604. Open Areas, Dry Washes, or Riverbeds

- A.** No person shall cause, suffer, allow, or permit a building or its appurtenances, or a building or subdivision site, or a driveway, or a parking area, or a vacant lot or sales lot, or an urban or suburban open area to be constructed, used, altered, repaired, demolished, cleared, or leveled, or the earth to be moved or excavated, without taking reasonable precautions to limit excessive amounts of particulate matter from becoming airborne. Dust and other types of air contaminants shall be kept to a minimum by good modern practices such as using an approved dust suppressant or adhesive soil stabilizer, paving, covering, landscaping, continuous wetting, detouring, barring access, or other acceptable means.

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- B. No person shall cause, suffer, allow, or permit a vacant lot, or an urban or suburban open area, to be driven over or used by motor vehicles, trucks, cars, cycles, bikes, or buggies, or by animals such as horses, without taking reasonable precautions to limit excessive amounts of particulates from becoming airborne. Dust shall be kept to a minimum by using an approved dust suppressant, or adhesive soil stabilizer, or by paving, or by barring access to the property, or by other acceptable means.
- C. No person shall operate a motor vehicle for recreational purposes in a dry wash, riverbed or open area in such a way as to cause or contribute to visible dust emissions which then cross property lines into a residential, recreational, institutional, educational, retail sales, hotel or business premises. For purposes of this subsection "motor vehicles" shall include, but not be limited to trucks, cars, cycles, bikes, buggies and 3-wheelers. Any person who violates the provisions of this subsection shall be subject to prosecution under A.R.S. § 49-463.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-604 renumbered without change as Section R18-2-604 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-604 renumbered to R18-2-804, new Section R18-2-604 renumbered from R18-2-404 and amended effective November 15, 1993 (Supp. 93-4).

R18-2-605. Roadways and Streets

- A. No person shall cause, suffer, allow or permit the use, repair, construction or reconstruction of a roadway or alley without taking reasonable precautions to prevent excessive amounts of particulate matter from becoming airborne. Dust and other particulates shall be kept to a minimum by employing temporary paving, dust suppressants, wetting down, detouring or by other reasonable means.
- B. No person shall cause, suffer, allow or permit transportation of materials likely to give rise to airborne dust without taking reasonable precautions, such as wetting, applying dust suppressants, or covering the load, to prevent particulate matter from becoming airborne. Earth or other material that is deposited by trucking or earth moving equipment shall be removed from paved streets by the person responsible for such deposits.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-605 renumbered without change as Section R18-2-605 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-605 renumbered to R18-2-805, new Section R18-2-605 renumbered from R18-2-405 effective November 15, 1993 (Supp. 93-4).

R18-2-606. Material Handling

No person shall cause, suffer, allow or permit crushing, screening, handling, transporting or conveying of materials or other operations likely to result in significant amounts of airborne dust without taking reasonable precautions, such as the use of spray bars, wetting agents, dust suppressants, covering the load, and hoods to prevent excessive amounts of particulate matter from becoming airborne.

Historical Note

Section R18-2-606 renumbered from R18-2-406 effective November 15, 1993 (Supp. 93-4).

R18-2-607. Storage Piles

- A. No person shall cause, suffer, allow, or permit organic or inorganic dust producing material to be stacked, piled, or otherwise stored without taking reasonable precautions such as chemical stabilization, wetting, or covering to prevent excessive amounts of particulate matter from becoming airborne.
- B. Stacking and reclaiming machinery utilized at storage piles shall be operated at all times with a minimum fall of material and in such manner, or with the use of spray bars and wetting agents, as to prevent excessive amounts of particulate matter from becoming airborne.

Historical Note

Section R18-2-607 renumbered from R18-2-407 effective November 15, 1993 (Supp. 93-4).

R18-2-608. Mineral Tailings

No person shall cause, suffer, allow, permit construction of, or otherwise own or operate, mineral tailing piles without taking reasonable precautions to prevent excessive amounts of particulate matter from becoming airborne. Reasonable precautions shall mean wetting, chemical stabilization, revegetation or such other measures as are approved by the Director.

Historical Note

Section R18-2-608 renumbered from R18-2-408, new Section R18-2-408 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 228, effective March 7, 2009 (Supp. 09-1).

R18-2-609. Agricultural Practices

A person shall not cause, suffer, allow, or permit the performance of agricultural practices outside the Phoenix and Yuma planning areas, as defined in 40 CFR 81.303, which is incorporated by reference in R18-2-210, including tilling of land and application of fertilizers without taking reasonable precautions to prevent excessive amounts of particulate matter from becoming airborne.

Historical Note

Section R18-2-609 renumbered from R18-2-409 effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 6 A.A.R. 2009, effective May 12, 2000 (Supp. 00-2). Amended by final rulemaking at 11 A.A.R. 2210, effective July 18, 2005 (Supp. 05-2).

R18-2-610. Definitions for R18-2-610.01, R18-2-610.02, and R18-2-610.03

The definitions in R18-2-101 and the following definitions apply to R18-2-610.01, R18-2-610.02, and R18-2-610.03:

1. "Access restriction" means reducing PM emissions by reducing the number of trips driven on agricultural aprons and access roads by restricting or eliminating public access to noncropland or commercial farm roads with signs or physical obstruction at locations that effectively control access to the area.
2. "Aggregate cover" means reducing PM emissions and wind erosion and stabilizing soil by applying and maintaining gravel, concrete, recycled road base, caliche, or other similar material to noncropland or commercial farm roads. The aggregate should be clean, hard and durable, and should be applied and maintained to a depth sufficient to reduce PM emissions.
3. "Area A" means the area delineated according to A.R.S. § 49-541(1).
4. "Best management practice" (BMP) means a technique verified by scientific research, that on a case-by-case basis is practical, economically feasible, and effective in

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- reducing PM emissions from a regulated agricultural activity.
5. "Cessation of Night Tilling" means the discontinuation of tillage from sunset to sunrise on a day identified by the Maricopa or Pinal County Dust Control Forecast as being high risk of dust generation.
 6. "Chemical irrigation" means reducing a minimum of one ground operation across a commercial farm by applying a fertilizer, pesticide, or other agricultural chemical to cropland through an irrigation system, which reduces soil disturbance and increases efficiency of application.
 7. "Chips/ mulches" means reducing PM emissions and soil movement and preserving soil moisture by applying and maintaining nontoxic chemical or organic dust suppressants to a depth sufficient to reduce PM emissions. Materials shall meet all specifications required by federal, state, or local water agencies, and is not prohibited for use by any applicable regulations.
 8. "Combining tractor operations" means reducing soil compaction and a minimum of one tillage or ground operation across a commercial farm by using a tractor, implement, harvester, or other farming support vehicle to perform two or more tillage, cultivation, planting, or harvesting operations at the same time. If Equipment modification is also chosen as a BMP, and uses the same practices as described in this BMP, this action is considered one BMP.
 9. "Commercial farm" means 10 or more contiguous acres of land used for agricultural purposes within the boundary of the Maricopa PM nonattainment area and Maricopa County portion of Area A, a PM nonattainment area designated after June 1, 2009 as stated in A.R.S. § 49-457(O)(1)(f), or the Pinal County PM Nonattainment Area.
 10. "Commercial farm road" means a road that is unpaved, owned by a commercial farmer, and is used exclusively to service a commercial farm.
 11. "Commercial farmer" means an individual, entity, or joint operation in general control of a commercial farm.
 12. "Committee" means the Governor's Agricultural Best Management Practices Committee as established by A.R.S. § 49-457.
 13. "Conservation Tillage" means a tillage system that reduces a minimum of three tillage operations. This system reduces soil and water loss by planting into existing plant stubble on the field after harvest as well as managing the stubble so that it remains intact during the planting season.
 14. "Cover crop" means establishing cover crops that maintain a minimum of 60 percent ground cover. Native or volunteer vegetation that meets the minimum ground cover requirement is acceptable. Compliance shall be determined by the Line Transect Test Method, NRCS National Agronomy Manual, Subpart 503.51, Estimating Crop Residue Cover, amended through February 2011 (and no future editions).
 15. "Critical area planting" means reducing PM₁₀ emissions and wind erosion by planting trees, shrubs, vines, grasses, or other vegetative cover on noncropland in order to maintain at least 60 percent ground cover. Compliance shall be determined by the Line Transect Test Method, NRCS National Agronomy Manual, Subpart 503.51, Estimating Crop Residue Cover, amended through February 2011 (and no future editions).
 16. "Cropland" means land on a commercial farm that:
 - a. Is within the time-frame of final harvest to plant emergence, but does not include tillage activities;
 - b. Has been tilled in a prior year and is suitable for crop production, but is currently fallow; or
 - c. Is a turn-row.
 17. "Cross-wind ridges" means stabilizing soil and reducing PM emissions and wind erosion by creating soil ridges in a commercial farm by tillage or planting operations. Ridges should be at least four inches in height, and be aligned as perpendicular as possible to the prevailing wind direction.
 18. "Dust Control Forecast" means a forecast, which shall identify a low, moderate or high risk of dust generation for the next five consecutive days and shall be issued by noon on each day the forecast is generated. When developing these forecasts, the Department shall consider all of the following:
 - a. Projected meteorological conditions, including:
 - i. Wind speed and direction,
 - ii. Stagnation,
 - iii. Recent precipitation, and
 - iv. Potential for precipitation;
 - b. Existing concentrations of air pollution at the time of the forecast; and
 - c. Historic air pollution concentrations that have been observed during meteorological conditions similar to those that are predicted to occur in the forecast.
 19. "Equipment modification" means reducing PM emissions and soil erosion during tillage or ground operations by modifying and maintaining an existing piece of agricultural equipment, installing shielding equipment, modifying land planting and land leveling, matching the equipment to row spacing, or grafting to new varieties or technological improvements. If combining tractor operations is also chosen as a BMP, and uses the same practices as described in this BMP, this action is considered one BMP.
 20. "Fallow Field" means an area of land that is routinely cultivated, planted and harvested and is unplanted for one or more growing seasons or planting cycles, but is intended to be placed back in agricultural production.
 21. "Field Capacity" means the amount of water remaining in the soil two days after having been saturated and after free drainage has ceased.
 22. "Forage Crop" means a product grown for consumption by any domestic animal.
 23. "Genetically Modified" (GMO) means a living organism whose genetic material has been altered, changing one or more of its characteristics.
 24. "GPS: Global Position Satellite System" means using a satellite navigation system on farm equipment to calculate position in the field.
 25. "Green chop" means reducing soil compaction, soil disturbance and a minimum of one ground operation across a commercial farm by harvesting a Forage Crop without allowing it to dry in the field.
 26. "Ground operation" means an agricultural operation that is not a tillage operation, which involves equipment passing across the field. A ground operation includes harvest activities. A pass through the field may be a subset of a ground operation.
 27. "Harvest" means the time after planting up through harvest, including gathering mature crops from a commer-

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- cial farm, as well as all actions taken immediately after crop removal, such as cooling, sorting, cleaning, and packing.
28. "Integrated Pest Management" means reducing soil compaction and a minimum of one ground operation across a commercial farm for spraying by using a combination of techniques including organic, conventional, and biological farming practices to suppress pest problems.
 29. "Limited harvest activity" means performing no ground operations on a day identified by the Maricopa or Pinal County Dust Control Forecast to be high risk for dust generation.
 30. "Limited tillage activity" means performing no tillage operations on a day identified by the Maricopa or Pinal County Dust Control Forecast to be high risk for dust generation.
 31. "Maricopa PM nonattainment area" means the Phoenix planning area as defined in 40 CFR 81.303, which is incorporated by reference in R18-2-210.
 32. "Multi-year crop" means reducing PM emissions from wind erosion and a minimum of one tillage and ground operation across a commercial farm, by protecting the soil surface by growing a crop, pasture, or orchard that is grown, or will be grown, on a continuous basis for more than one year.
 33. "Noncropland" means any commercial farm land that:
 - a. Is no longer used for agricultural production;
 - b. Is no longer suitable for production of crops;
 - c. Is subject to a restrictive easement or contract that prohibits use for the production of crops; or
 - d. Includes a ditch, or ditch bank, equipment yard, storage yard, or well head.
 34. "NRCS" means the Natural Resource Conservation Service.
 35. "Organic material cover" means reducing PM emissions and wind erosion and preserving soil moisture by applying and maintaining cover material such as animal waste or plant residue, to a soil surface to reduce soil movement. Material shall be evenly applied and maintained to a depth sufficient to reduce PM emissions and coverage should be a minimum of 70 percent.
 36. "Permanent cover" means reducing PM emissions and wind erosion by maintaining a long-term perennial vegetative cover on cropland that is temporarily not producing a major crop. Perennial species such as grasses and/or legumes shall be used to establish at least 60 percent cover. Compliance shall be determined by the Line Transect Test Method, NRCS National Agronomy Manual, Subpart 503.51, Estimating Crop Residue Cover, amended through February 2011 (and no future editions).
 37. "Pinal County PM Nonattainment Area" means the West Pinal PM₁₀ planning area and the West Central PM_{2.5} planning area, as defined in 40 CFR 81.303, and incorporated by reference in R18-2-210.
 38. "Plant stubble" means stubble on the soil surface, which insulates soil to reduce evaporation of moisture, and also protects the soil from wind and water erosion.
 39. "Planting based on soil moisture" means reducing PM emissions and wind erosion by applying water or having enough moisture in the soil to germinate the seed prior to planting. Soil must have a minimum soil moisture content of 60% of field capacity at planting depth. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions).
 40. "PM" includes both particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR 50 Appendix L, or by an equivalent method designated according to 40 CFR 53; and particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method contained within 40 CFR 50 Appendix J or by an equivalent method designated in accordance with 40 CFR 53, as incorporated by reference in Appendix 2.
 41. "Precision Farming" means reducing the number of passes across a commercial farm by at least 12 inches per pass by using GPS to precisely guide farm equipment in the field.
 42. "Reduce vehicle speed" means reducing PM emissions and soil erosion from the operation of farm vehicles or farm equipment on noncropland or commercial farm roads at speeds not to exceed 15 mph. This can be achieved through installation of engine speed governors, signage, or speed control devices.
 43. "Reduced harvest activity" means reducing soil disturbance, soil and water loss, and the number of mechanical harvest passes by a minimum of one ground operation across a commercial farm, by means other than equipment modification or combining tractor operations.
 44. "Reduced tillage system" means reducing soil disturbance, soil and water loss, by using a single piece of equipment that reduces a minimum of three tillage operations, by means other than equipment modification or combining tractor operations.
 45. "Regulated agricultural activity" means a regulated agricultural activity as defined in A.R.S. § 49-457(O)(1)(a) through (O)(1)(d).
 46. "Regulated area" means the regulated area as defined in A.R.S. § 49-457(O)(6).
 47. "Residue management" means reducing PM emissions and wind erosion by maintaining a minimum of 60 percent ground cover of crop and other plant residues on a soil surface between the time of harvest of one crop and the commencement of tillage for a new crop. Compliance shall be determined by the Line Transect Test Method, NRCS National Agronomy Manual, Subpart 503.51, Estimating Crop Residue Cover, amended through February 2011 (and no future editions).
 48. "Sequential cropping" means reducing PM emissions and wind erosion by growing crops in a sequence or close rotation that limits the amount of time bare soil is exposed on a commercial farm to 30 days or less.
 49. "Shuttle System/Larger Carrier" means reducing one out of every four trips across a commercial farm by using multiple or larger bins/trailers to haul commodity from the field.
 50. "Significant Agricultural Earth Moving Activities" means either leveling activities conducted on a commercial farm that disturb the soil more than 4 inches below the surface, or the creation, maintenance and relocation of: ditches, canals, ponds, irrigation lines, tailwater recovery systems (agricultural sumps) and other water conveyances, not to include activities performed on cropland for tillage, ground operations or harvest.
 51. "Silt content test method" means the test method as described in Appendix 2.

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52. "Stabilization of soil prior to plant emergence" means reducing PM emissions by applying water to soil prior to crop emergence in order to cause the soil to form a visible crust.
53. "Surface roughening" means reducing PM emissions or wind erosion by manipulating a soil surface by means such as rough discing or tillage in order to produce or maintain clods on the land surface. Compliance shall be determined by NRCS Practice Code 609, Surface Roughening, amended through November 2008 (and no future editions).
54. "Synthetic particulate suppressant" means reducing PM emissions and wind erosion by providing a stabilized soil surface on noncropland or commercial farm roads with a manufactured product such as lignosulfate, calcium chloride, magnesium chloride, an emulsion of a petroleum product, an enzyme product, or polyacrylamide that is used to control particulate matter.
55. "Tillage" means any mechanical practice that physically disturbs the soil, and includes preparation for planting, such as plowing, ripping, or discing.
56. "Tillage based on soil moisture" means reducing PM emissions by irrigating fields to the depth of the proposed cut prior to soil disturbances or conducting tillage to coincide with precipitation. Soil must have a minimum soil moisture content of 40-60% of field capacity at planting depth. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions).
57. "Timing of a tillage operation" means reducing wind erosion and PM emissions by performing tillage operations that minimize the amount of time within 45 days.
58. "Tillage operation" means an agricultural operation that mechanically manipulates the soil for the enhancement of crop production. Examples include discing or bedding. A pass through the field may be a subset of a tillage operation.
59. "Track-out control system" means minimizing any and all material that adheres to and agglomerates on all vehicles and equipment from noncropland or commercial farm roads or and falls onto paved public roads or shoulders to paved public roads by using a device or system to remove mud or soil from a vehicle or equipment before the vehicle enters a paved public road. Devices such as a grizzly, a gravel pad or a wheel wash system can be used.
60. "Transgenic Crops" means reducing a minimum of one tillage or ground operation, the number of chemical spray applications, or soil disturbances by using plants that are genetically modified.
61. "Transplanting" means reducing a minimum of one ground operation across a commercial farm and minimizing soil disturbance by utilizing plants already in a growth state as compared to seeding.
62. "Unpaved vehicle or equipment traffic area" means any area of noncropland that is used for the fueling, servicing, receiving, transfer, parking or storing of equipment or vehicles.
63. "VDT" (Vehicle trips per day) means trips per day made by one vehicle, in one direction.
64. "Watering" means reducing PM emissions and wind erosion by applying water to noncropland or commercial farm road bare soil surfaces during periods of high traffic until the surfaces are visibly moist.
65. "Watering on a high risk day" means reducing PM emissions and wind erosion by applying water to commercial farm road bare soil surfaces until the surfaces are visibly moist, on a day forecast to be high risk for dust generation by the Maricopa or Pinal County Dust Control Forecast.
66. "Wind barrier" means reducing PM emissions and wind erosion by constructing a fence or structure, or providing a woody vegetative barrier by planting a row of trees or shrubs, perpendicular or across the prevailing wind direction to reduce wind speed by changing the pattern of air flow over the land surface. For fences and structures, the wind barrier shall have a density of no less than 50% and the height of the wind barrier must be proportionate to the downwind protected area. The downwind protected area is considered ten times the height of the wind barrier. For vegetative barriers, compliance shall be determined by NRCS Conservation Practice Standard, Code 380, Windbreak/Shelterbelt Establishment, amended through August 21, 2009 (and no future editions).

Historical Note

Former Section R18-2-610 renumbered to R18-2-612; new Section R18-2-610 adopted by final rulemaking at 6 A.A.R. 2009, effective May 12, 2000 (Supp. 00-2).

Amended by exempt rulemaking at 13 A.A.R. 4326, effective November 14, 2007 (Supp. 07-4). Amended by exempt rulemaking at 18 A.A.R. 137, effective December 29, 2011 (Supp. 11-4). Subsection (A) corrected at the request of the Department, Office File No. M12-133, filed April 5, 2012 (Supp. 11-4). Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

Amended by final exempt rulemaking at 27 A.A.R. 2747 (November 26, 2021), with an immediate effective date of November 3, 2021 (Supp. 21-4).

R18-2-610.01. Agricultural PM General Permit for Crop Operations; Maricopa County PM Nonattainment Area

- A. A commercial farmer within the Maricopa County PM Nonattainment Area shall implement at least two best management practices from each category to reduce PM emissions.
- B. A commercial farmer shall implement from the following best management practices, as described in subsection (A), to reduce PM emissions during tillage, harvest or ground operation activities:
 1. Chemical irrigation,
 2. Combining tractor operations,
 3. Equipment modification,
 4. Green Chop,
 5. Integrated Pest Management,
 6. Limited harvest activity,
 7. Limited tillage activity,
 8. Multi-year crop,
 9. Cessation of Night Tilling,
 10. Planting based on soil moisture,
 11. Precision Farming,
 12. Reduced harvest activity,
 13. Reduced tillage system,
 14. Tillage based on soil moisture,
 15. Timing of a tillage operation,
 16. Transgenic Crops,
 17. Transplanting,
 18. Shuttle System/Larger Carrier, or
 19. Conservation Tillage.

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- C. A commercial farmer shall implement from the following best management practices, as described in subsection (A), to reduce PM emissions from noncropland and commercial farm roads:
1. Access restriction,
 2. Aggregate cover,
 3. Wind barrier,
 4. Critical area planting,
 5. Organic material cover,
 6. Reduce vehicle speed,
 7. Synthetic particulate suppressant,
 8. Track-out control system, or
 9. Watering.
- D. A commercial farmer shall implement from the following best management practices, as described in subsection (A), to reduce PM emissions from cropland:
1. Wind barrier,
 2. Cover crop,
 3. Cross-wind ridges,
 4. Chips/mulches,
 5. Multi-year crop,
 6. Permanent cover,
 7. Stabilization of soil prior to plant emergence,
 8. Residue management,
 9. Sequential cropping, or
 10. Surface roughening.
- E. A commercial farmer shall implement from the following best management practices, as described in subsection (A), to reduce PM emissions when conducting Significant Agricultural Earth Moving Activities as defined in R18-2-610:
1. Apply water prior to conducting Significant Agricultural Earth Moving Activities and/or time Significant Agricultural Earth Moving Activities to coincide with precipitation. Soil must have a minimum soil moisture content of 50% of field capacity. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions);
 2. Apply water during Significant Agricultural Earth Moving Activities. Soil must have a minimum soil moisture content of 30% of field capacity. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions);
 3. Limit activities on a day identified by the Maricopa or Pinal County Dust Control Forecast to be high risk for dust generation; or
 4. Conduct Significant Agricultural Earth Moving Activities in a manner to reduce a minimum of one ground operation across a commercial farm by using equipment that is the most efficient means of moving the soil.
- F. From and after December 31, 2015, a commercial farmer who engages in a regulated agricultural activity shall complete and maintain a Best Management Practices Program General Permit Record Form demonstrating compliance with this Section. Thereafter, a new Best Management Practices Program General Permit Record Form shall be completed every year by March 31. The Form shall be provided to the Director within two business days of notice to the commercial farmer. The Best Management Practice Program General Permit Record Form shall include the following information:
1. The name of the commercial farmer, signature, and date signed;
 2. The mailing address or physical address of the commercial farm; and
 3. The best management practices selected for tillage, harvest, and ground operation activities, cropland, noncropland and commercial farm roads, and significant earth moving activities (if applicable).
- G. Records of any changes to the Best Management Practices identified in the most recently submitted Best Management Practices Program General Permit Record Form shall be kept by the commercial farmer onsite and made available for review by the Director within two business days of notice to the commercial farmer.
- H. A person may develop different practices to control PM emissions not contained in subsections (B), (C), (D), or (E) and may submit such practices that are proven effective through on-farm demonstration trials to the Committee. The proposed new practices shall not become effective unless submitted as described in A.R.S. § 49-457(L).
- I. A commercial farmer shall maintain a record demonstrating compliance with this Section for three years. Records shall include a copy of the complete Best Management Practice Program General Permit Record Form to confirm implementation of each best management practice.
- J. The Director shall not assess a fee to a commercial farmer for coverage under the agricultural PM₁₀ general permit.
- K. A commercial farmer shall ensure that the implementation of all selected best management practices does not violate any other local, state, or federal law.
- L. The Director shall document noncompliance with this Section before issuing a compliance order.
- M. A commercial farmer who is not in compliance with this Section is subject to the provisions in A.R.S. § 49-457(I), (J), and (K).

Historical Note

New Section made by exempt rulemaking at 18 A.A.R. 137, effective December 29, 2011 (Supp. 11-4).
Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-610.02. Agricultural PM General Permit for Crop Operations; Moderate PM Nonattainment Areas, Designated After June 1, 2009

- A. A commercial farmer within a PM Moderate Nonattainment Area, designated after June 1, 2009, shall implement at least one best management practice from each category to reduce PM emissions.
- B. A commercial farmer shall implement from the following best management practices, as described in subsection (A), to reduce PM emissions during tillage, harvest and ground operation activities:
1. Chemical irrigation,
 2. Combining tractor operations,
 3. Equipment modification,
 4. Green Chop,
 5. Integrated Pest Management,
 6. Limited harvest activity,
 7. Limited tillage activity,
 8. Multi-year crop,
 9. Cessation of Night Tilling,
 10. Planting based on soil moisture,
 11. Precision Farming,
 12. Reduced harvest activity,
 13. Reduced tillage system,

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14. Tillage based on soil moisture,
 15. Timing of a tillage operation,
 16. Transgenic Crops,
 17. Transplanting, or
 18. Shuttle System/Larger Carrier, or
 19. Conservation Tillage.
- C.** A commercial farmer shall implement from the following best management practices, as described in subsection (A), to reduce PM emissions from noncropland and commercial farm roads:
1. Access restriction,
 2. Aggregate cover,
 3. Wind barrier,
 4. Critical area planting,
 5. Organic material cover,
 6. Reduce vehicle speed,
 7. Synthetic particulate suppressant,
 8. Track-out control system, or
 9. Watering.
- D.** A commercial farmer shall implement from the following best management practices, as described in subsection (A), to reduce PM emissions from cropland:
1. Wind barrier,
 2. Cover crop,
 3. Cross-wind ridges,
 4. Chips/mulches,
 5. Multi-year crop,
 6. Permanent cover,
 7. Stabilization of soil prior to plant emergence,
 8. Residue management,
 9. Sequential cropping, or
 10. Surface roughening.
- E.** A commercial farmer shall implement from the following best management practices, as described in subsection (A), when conducting Significant Agricultural Earth Moving Activities as defined in R18-2-610:
1. Apply water prior to conducting Significant Agricultural Earth Moving Activities and/or time Significant Agricultural Earth Moving Activities to coincide with precipitation. Soil must have a minimum soil moisture content of 50% of field capacity. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions);
 2. Apply water during Significant Agricultural Earth Moving Activities. Soil must have a minimum soil moisture content of 30% of field capacity. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions);
 3. Limit activities on a day identified by the Maricopa or Pinal County Dust Control Forecast to be high risk for dust generation; or
 4. Conduct Significant Agricultural Earth Moving Activities in a manner to reduce a minimum of one ground operation across a commercial farm by using equipment that is the most efficient means of moving the soil.
- F.** From and after December 31, 2015, a commercial farmer who engages in a regulated agricultural activity shall complete and maintain a Best Management Practices Program General Permit Record Form demonstrating compliance with this Section. Thereafter, a new Best Management Practices Program General Permit Record Form shall be completed every year by March 31. The Form shall be provided to the Director within two business days of notice to the commercial farmer. The Best Management Practice Program General Permit Record Form shall include the following information:
1. The name of the commercial farmer, signature, and date signed;
 2. The mailing address or physical address of the commercial farm; and
 3. The best management practice selected for tillage, harvest and ground operation activities, cropland, noncropland and commercial farm roads, and significant earth moving activities (if applicable).
- G.** Records of any changes to the Best Management Practices shall be noted on the Best Management Practices Program General Permit Record Form and shall be kept by the commercial farmer onsite and made available for review by the Director within two business days of notice to the commercial farmer.
- H.** A person may develop different practices to control PM emissions not contained in subsections (B), (C), (D), or (E) and may submit such practices that are proven effective through on-farm demonstration trials to the Committee. The proposed new practices shall not become effective unless submitted as described in A.R.S. § 49-457(L).
- I.** A commercial farmer shall maintain a record demonstrating compliance with this Section for three years. Records shall include a copy of the complete Best Management Practice Program General Permit Record Form to confirm implementation of each best management practice.
- J.** The Director shall not assess a fee to a commercial farmer for coverage under the agricultural PM general permit.
- K.** A commercial farmer shall ensure that the implementation of all selected best management practices does not violate any other local, state, or federal law.
- L.** The Director shall document noncompliance with this Section before issuing a compliance order.
- M.** A commercial farmer who is not in compliance with this Section is subject to the provisions in A.R.S. § 49-457(I), (J), and (K).

Historical Note

New Section made by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-610.03. Agricultural PM General Permit for Crop Operations; Pinal County PM Nonattainment Area

- A.** On the day before and during the day that is forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, a commercial farmer shall ensure implementation of best management practices as described in subsections (B)(1)(b), (B)(2)(b), (B)(3)(b), (B)(4)(b), and (B)(5)(b).
- B.** On all days, a commercial farmer shall implement at least two best management practices from each category to reduce PM emissions, as described in subsections (1)(a), (2)(a), (3)(a), (4)(a), (5)(a), and (6). If a commercial farmer implements the Conservation tillage or Reduced tillage system best management practice for the tillage category, they do not have to implement a best management practice from the subsections (2)(a), (2)(b), (5)(a) and (5)(b).
1. Tillage:
 - a. A commercial farmer shall implement at least two of the following:
 - i. Combining tractor operations,
 - ii. Equipment modification,
 - iii. Multi-year crop,

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- iv. Cessation of night tilling,
 - v. Planting based on soil moisture,
 - vi. Precision farming,
 - vii. Tillage based on soil moisture,
 - viii. Timing of a tillage operation,
 - ix. Transgenic crops,
 - x. Transplanting,
 - xi. Reduced tillage system, or
 - xii. Conservation tillage.
 - b. Unless choosing limited tillage activity (subsection iv, below), on the day before and during the day that is forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, a commercial farmer shall ensure implementation of at least one of the following:
 - i. Multi-year crop,
 - ii. Planting based on soil moisture,
 - iii. Tillage based on soil moisture,
 - iv. Limited tillage activity,
 - v. Reduced tillage system, or
 - vi. Conservation tillage.
2. Ground Operations and Harvest:
- a. A commercial farmer shall implement at least two of the following:
 - i. Combining tractor operations,
 - ii. Equipment modification,
 - iii. Chemical irrigation,
 - iv. Green chop,
 - v. Integrated pest management,
 - vi. Multi-year crop,
 - vii. Precision farming,
 - viii. Reduced harvest activity,
 - ix. Transgenic crops, or
 - x. Shuttle System/Larger Carrier.
 - b. Unless choosing limited harvest activity in subsection (iv), on the day before and during the day that is forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, a commercial farmer shall ensure implementation of at least one of the following:
 - i. Green chop,
 - ii. Integrated pest management,
 - iii. Multi-year crop, or
 - iv. Limited harvest activity.
3. Noncropland:
- a. A commercial farmer shall implement at least two of the following best management practices:
 - i. Access restriction,
 - ii. Aggregate cover,
 - iii. Wind barrier,
 - iv. Critical area planting,
 - v. Organic material cover,
 - vi. Reduce vehicle speed,
 - vii. Synthetic particulate suppressant, or
 - viii. Watering.
 - b. Unless choosing watering on a high risk day in subsection (vi), on the day before and during a day forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, on a noncropland area that experiences more than 20 VDT from two or more axle vehicles, commercial farmer shall ensure implementation of at least one of the following best management practices:
 - i. Aggregate cover,
 - ii. Wind barrier,
 - iii. Critical area planting,
 - iv. Organic material cover,
 - v. Synthetic particulate suppressant, or
 - vi. Watering on a high risk day.
4. Commercial farm roads:
- a. A commercial farmer shall implement at least two of the following best management practices:
 - i. Access restriction,
 - ii. Reduce vehicle speed,
 - iii. Track-out control system,
 - iv. Aggregate cover,
 - v. Synthetic particulate suppressant,
 - vi. Watering, or,
 - vii. Organic material cover.
 - b. Unless choosing watering on a high risk day in subsection (vi), on the day before and during a day forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, on a road that experiences more than 20 VDT from two or more axle vehicles, a commercial farmer shall ensure implementation of at least one of the following best management practices:
 - i. Aggregate cover,
 - ii. Synthetic particulate suppressant,
 - iii. Wind barrier,
 - iv. Organic material cover,
 - v. Roads are stabilized as determined by the silt content test method,
 - vi. Watering on a high risk day.
5. Cropland:
- a. A commercial farmer shall implement at least two of the following best management practices, one from subsections (i) through (vii), and one from subsections (viii) through (xi), to reduce PM emissions from cropland:
 - i. Wind barrier,
 - ii. Cover crop,
 - iii. Cross-wind ridges,
 - iv. Chips/mulches,
 - v. Sequential cropping,
 - vi. Residue management,
 - vii. Surface roughening,
 - viii. Multi-year crop,
 - ix. Permanent cover, or
 - x. Stabilization of soil prior to plant emergence.
 - b. On the day before and during the day that is forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, a commercial farmer shall ensure implementation of at least one of the following:
 - i. Wind barrier,
 - ii. Cover crop,
 - iii. Cross-wind ridges,
 - iv. Chips/mulches,
 - v. Surface roughening,
 - vi. Multi-year crop,

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- vii. Permanent cover,
 - viii. Stabilization of soil prior to plant emergence, or
 - ix. Residue management.
- 6. Significant Agricultural Earth Moving Activities:
 - a. Apply water prior to conducting Significant Agricultural Earth Moving Activities and/or time Significant Agricultural Earth Moving Activities to coincide with precipitation. Soil must have a minimum soil moisture content of 50% of field capacity. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions);
 - b. Apply water during Significant Agricultural Earth Moving Activities. Soil must have a minimum soil moisture content of 30% of field capacity. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions);
 - c. Limit activities on a day identified by the Maricopa or Pinal County Dust Control Forecast to be high risk for dust generation; or
 - d. Conduct Significant Agricultural Earth Moving Activities in a manner to reduce a minimum of one ground operation across a commercial farm by using equipment that is the most efficient means of moving the soil.
- C. From and after December 31, 2015, a commercial farmer who engages in a regulated agricultural activity shall complete a Best Management Practices Program General Permit Record Form demonstrating compliance with this rule. Thereafter, a new Best Management Practices Program General Permit Record Form shall be completed every year by March 31. The Form shall be provided to the Director within two business days of notice to the commercial farmer. The Best Management Practice Program General Permit Record Form shall include the following information:
 - 1. The name of the commercial farmer, signature, and date signed.
 - 2. The mailing address or physical address of the commercial farm; and
 - 3. The following information for each best management practice selected for tillage, ground operations and harvest, cropland, noncropland, commercial farm roads, and significant earth moving activities (if applicable); and
 - 4. Any additional best management practices selected for high risk days as predicted by the Pinal County Dust Control Forecast.
- D. Beginning in calendar year 2017, and no more than once every subsequent three calendar years, the Director, in conjunction with the Arizona Department of Agriculture, shall provide the commercial farmer with a Best Management Practices Program Three-year Survey. The commercial farmer shall complete the Survey with data from the preceding calendar year and submit the Survey to the Arizona Department of Agriculture (ADA) by January 31, 2018, and every three years thereafter. The Survey information submitted to the ADA shall be compiled by the ADA without reference to a commercial farmer's name, shall aggregate the data from the Surveys received, and be submitted to the Department. The Three-year Survey shall include the following information:
 - 1. The name, business address, and phone number of the commercial farmer responsible for the preparation and implementation of the best management practices;
 - 2. The signature of the commercial farmer and the date the form was signed;
 - 3. The acreage of each crop type planted/growing during the calendar year that the survey is conducted;
 - 4. The total miles of commercial farm roads at the commercial farm;
 - 5. The total acreage of the noncropland at the commercial farm;
 - 6. The best management practices selected for tillage, ground operations and harvest, cropland, noncropland, commercial farm roads, and significant earth moving activities (if applicable); and
 - 7. Any additional best management practices selected for high risk days as predicted by the Pinal County Dust Control Forecast.
- E. Records of any changes to the Best Management Practices shall be noted on the Best Management Practices Program General Permit Record Form and shall be kept by the commercial farmer onsite and made available for review by the Director within two business days of notice to the commercial farmer.
- F. A person may develop different practices to control PM emissions not contained in subsections (B)(1) through (B)(6) and may submit such practices that are proven effective through on-farm demonstration trials to the Committee.
- G. A commercial farmer shall maintain a record demonstrating compliance with this Section for three years. Records shall include a copy of the complete Best Management Practice Program General Permit Record Form to confirm implementation of each best management practice.
- H. The Director shall not assess a fee to a commercial farmer for coverage under the agricultural PM general permit.
- I. A commercial farmer shall ensure that the implementation of all selected best management practices does not violate any other local, state, or federal law.
- J. The Director shall document noncompliance with this Section before issuing a compliance order.
- K. A commercial farmer who is not in compliance with this Section is subject to the provisions in A.R.S. § 49-457(J), (K), and (L).

Historical Note

New Section made by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 27 A.A.R. 2747 (November 26, 2021), with an immediate effective date of November 3, 2021 (Supp. 21-4).

R18-2-611. Definitions for R18-2-611.01, R18-2-611.02, and R18-2-611.03

The definitions in R18-2-101 and the following definitions apply to R18-2-611.01, R18-2-611.02, and R18-611.03:

- 1. The following definitions apply to a commercial dairy operation, a commercial beef feedlot, a commercial poultry facility, and commercial swine facility:
 - a. "Animal waste handling and transporting" means the processes by which any animal excretions and mixtures containing animal excretions are collected and transported.
 - b. "Arenas, corrals and pens" means areas where animals are confined for the purposes of, but not limited to, feeding, displaying, safety, racing, exercising, or husbandry.

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- c. "Commercial animal operation" means a commercial dairy operation, a commercial beef feedlot, a commercial poultry facility, and a commercial swine facility, as defined in this Section.
- d. "Commercial animal operator" means an individual, entity, or joint operation in general control of a commercial animal operation.
- e. "Dust Control Forecast" means a forecast, which shall identify a low, moderate or high risk of dust generation for the next five consecutive days and shall be issued by noon on each day the forecast is generated. When developing these forecasts, the Department shall consider all of the following:
 - i. Projected meteorological conditions, including:
 - (1) Wind speed and direction,
 - (2) Stagnation,
 - (3) Recent precipitation, and
 - (4) Potential for precipitation;
 - ii. Existing concentrations of air pollution at the time of the forecast; and
 - iii. Historic air pollution concentrations that have been observed during meteorological conditions similar to those that are predicted to occur in the forecast.
- f. "High traffic areas" means areas that experience more than 20 VDT from two or more axle vehicles.
- g. "Maricopa PM nonattainment area" means the Phoenix planning area as defined in 40 CFR 81.303, which is incorporated by reference in R18-2-210.
- h. "Paved Public Road" means any paved roadways that are open to public travel and maintained by a City, County, State, or Federal entities.
- i. "Pinal County PM Nonattainment Area" means the West Pinal PM₁₀ planning area and the West Central PM_{2.5} planning area, as defined in 40 CFR 81.303, and incorporated by reference in R18-2-210.
- j. "PM" includes both particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR 50 Appendix L, or by an equivalent method designated according to 40 CFR 53; and particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method contained within 40 CFR 50, Appendix J or by an equivalent method designated in accordance with 40 CFR 53, as incorporated by reference in Appendix 2.
- k. "Regulated agricultural activity" means a regulated agricultural activity as defined in A.R.S. § 49-457(O)(5).
- l. "Regulated area" means the regulated area as defined in A.R.S. § 49-457(O)(6).
- m. "Track-out control device" means minimizing any and all material that adheres to and agglomerates on all vehicles and equipment from unpaved access connections and falls onto paved public roads or shoulders to paved public roads by using a device or system to remove mud or soil from a vehicle or equipment before the vehicle enters a paved public road. Devices such as a grizzly, a gravel pad or a wheel wash system can be used.
- n. "Unpaved access connections" means any unpaved road connection which connects to a paved public road.
- o. "Unpaved roads or feed lanes" means roads and feed lanes that are unpaved, owned by a commercial animal operator, and used exclusively to service a commercial animal operation.
- p. "Unpaved vehicle or equipment traffic area" means any area that is used for the fueling, servicing, receiving, transfer, parking or storing of equipment or vehicles.
- q. "VDT" (Vehicle trips per day) means trips per day made by one vehicle, in one direction.
- 2. The following definitions apply to a commercial dairy operation:
 - a. "Aggregate cover" means reducing PM emissions, wind erosion and stabilizing soil by applying and maintaining gravel, concrete, recycled road base, caliche, or other similar material to unpaved roads or feed lanes. The aggregate should be clean, hard and durable, and should be applied and maintained to a minimum of three inches deep.
 - b. "Apply a fibrous layer" means reducing PM emissions and soil movement, and preserving soil moisture by spreading shredded or deconstructed plant materials to cover loose soil in high animal traffic areas. Material shall be consistently applied to a minimum depth of two inches above the soil surface and coverage should be a minimum of 70 percent.
 - c. "Bunkers" means below ground level storage systems for storing large amount of silage, which is covered with a plastic tarp.
 - d. "Calves" means young dairy stock under two months of age.
 - e. "Cement cattle walkways to milk barn" means reducing PM emissions by fencing pathways from the corrals to the milking barn, restricting dairy cattle to surfaces with concrete floors.
 - f. "Commercial dairy operation" means a dairy operation:
 - i. With more than 150 dairy cattle within the boundary of the Maricopa PM nonattainment area and Maricopa County portion of Area A or a PM nonattainment area designated after June 1, 2009, or
 - ii. With more than 50 dairy cattle within the boundary of the Pinal County PM Nonattainment Area.
 - g. "Cover manure hauling trucks" means reducing PM emissions by completely covering the top of the loaded area.
 - h. "Covers for silage" means reducing PM emissions and wind erosion by using large plastic tarps to completely cover silage.
 - i. "Do not run cattle" means reducing PM emissions by walking dairy cattle to the milking barn.
 - j. "Feed higher moisture feed to dairy cattle" means reducing PM emissions by feeding dairy cattle one or any combination of the following:
 - i. Add water to ration mix to achieve a 20% minimum moisture level,
 - ii. Add molasses or tallow to ration mix at a minimum of 1%,
 - iii. Add silage, or
 - iv. Add green chop.

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- k. "Feed green chop" means feeding high moisture feed that contains at least 30% moisture directly to dairy cattle.
- l. "Groom manure surface" means reducing PM emissions and wind erosion by:
 - i. Flushing or vacuuming lanes daily,
 - ii. Scraping and harrowing pens on a weekly basis, and
 - iii. Removing manure every four months with equipment that leaves an even corral surface of compacted manure on top of the soil.
- m. "Hutches" means raised, roofed enclosures that protect the calves from the elements.
- n. "Pile manure between cleanings" means reducing PM emissions by collecting loose surface materials within the confines of the surface area of the occupied feed pen every two weeks.
- o. "Provide cooling in corral" means reducing PM emissions by using cooling systems under the corral shades to reduce the ambient air temperature, thereby increasing stocking density in the cool areas of the corrals.
- p. "Provide shade in corral" means reducing PM emissions by increasing stocking density and reducing animal movement by using a permanent structure, which provides at least 16 square feet per animal of shaded pen surface.
- q. "Push equipment" means manure harvesting equipment pushed in front of a tractor.
- r. "Silage" means fermented, high-moisture fodder that can be fed to ruminants, such as cattle and sheep; usually made from grass crops including corn, sorghum or other cereals, by using the entire green plant.
- s. "Store and maintain feed stock" means reducing PM emissions and wind erosion by storing feed stock in a covered area where the commodity is surrounded on at least three sides by a structure.
- t. "Synthetic particulate suppressant" means reducing PM emissions and wind erosion by providing a stabilized soil surface on a commercial dairy operation with a manufactured product such as lignosulfate, calcium chloride, magnesium chloride, an emulsion of a petroleum product, an enzyme product, or polyacrylamide that is used to control particulate matter.
- u. "Use drag equipment to maintain pens" means reducing PM emissions by using manure equipment pulled behind a tractor instead of using push equipment, which avoids dust accumulation in floor depressions.
- v. "Use free stall housing" means reducing PM emissions by enclosing one cow per stall, which are outfitted with concrete floors.
- w. "Water misting systems" means reducing PM emissions from dry manure by using systems that project a cloud of very small water particles onto the manure surface, keeping the surface visibly moist.
- x. "Wind barrier" means reducing PM₁₀ emissions and wind erosion by constructing a fence or structure, or providing a woody vegetative barrier by planting a row of trees or shrubs, perpendicular or across the prevailing wind direction to reduce wind speed by changing the pattern of air flow over the land surface. For fences and structures, the wind barrier shall have a density of no less than 50% and the height of the wind barrier must be proportionate to the downwind protected area. The downwind protected area is considered ten times the height of the wind barrier. For vegetative barriers, compliance shall be determined by NRCS Conservation Practice Standard, Code 380, Windbreak/Shelterbelt Establishment, amended through August 21, 2009 (and no future editions).
- 3. The following definitions apply to a commercial beef cattle feedlot:
 - a. "Add moisture to pen surface" means reducing PM emissions and wind erosion by applying at least three to six gallons of water per head/per day in pens occupied by beef cattle.
 - b. "Add molasses or tallow to feed" means reducing PM emissions by adding molasses or tallow so that it equals three percent of the total ration.
 - c. "Aggregate cover" means reducing PM emissions, wind erosion and stabilizing soil by applying and maintaining gravel, concrete, recycled road base, caliche, or other similar material to unpaved roads or feed lanes. The aggregate should be clean, hard and durable, and should be applied and maintained to a minimum of three inches deep.
 - d. "Apply a fibrous layer in working areas" means reducing PM emissions and soil movement, and preserving soil moisture by spreading shredded or deconstructed plant materials to cover loose soil in high animal traffic areas. Material shall be consistently applied to a minimum depth of two inches above the soil surface and coverage should be a minimum of 70%.
 - e. "Bulk materials" means reducing PM emissions by using a closed conveyor system instead of vehicular means to move grain or other.
 - f. "Commercial beef cattle feedlot" means a beef cattle feedlot:
 - i. With more than 500 beef cattle within the boundary of the Maricopa PM nonattainment area and Maricopa County portion of Area A or a PM nonattainment area designated after June 1, 2009, or
 - ii. With more than 50 beef cattle within the Pinal County PM Nonattainment Area.
 - g. "Concrete apron" means reducing PM emissions by using solidly formed concrete surface, at least 4 inches thick on top of the soil surface, inside the feed pen for 8 feet approaching the feed bunk or water trough.
 - h. "Control cattle during movements" means reducing PM emissions by suppressing the animal's ability to run by driving them forward while intruding on their "flight zones" or restraining the animal's movement.
 - i. "Cover manure hauling trucks" means reducing PM emissions by completely covering the top of the loaded area.
 - j. "Feed higher moisture feed to beef cattle" means reducing PM emissions by feeding beef cattle feed that contains at least 30% moisture.
 - k. "Frequent manure removal" means reducing PM emissions and wind erosion by harvesting loose manure on top of the pen surface at least once every six months.

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- l. "Pile manure between cleanings" means reducing PM emissions by collecting loose manure surface materials, by scraping or pushing, within the confines of the surface area of the occupied feed pen at least four times per year.
 - m. "Provide shade in corral" means reducing PM emissions by increasing stocking density and reducing animal movement by using a permanent structure, which provides at least 16 square feet per animal of shaded pen surface.
 - n. "Push equipment" means manure harvesting equipment pushed in front of a tractor.
 - o. "Store and maintain feed stock" means reducing PM emissions and wind erosion by storing feed stock in a covered area where the commodity is surrounded on at least three sides by a structure.
 - p. "Synthetic particulate suppressant" means reducing PM emissions and wind erosion by providing a stabilized soil surface on a commercial beef feedlot with a manufactured product such as lignosulfate, calcium chloride, magnesium chloride, an emulsion of a petroleum product, an enzyme product, or polyacrylamide that is used to control particulate matter.
 - q. "Use drag equipment to maintain pens" means reducing PM emissions by using manure harvesting equipment pulled behind a tractor instead of using push equipment, which avoids dust accumulation in floor depressions.
 - r. "Wind barrier" means reducing PM₁₀ emissions and wind erosion by constructing a fence or structure, or providing a woody vegetative barrier by planting a row of trees or shrubs, perpendicular or across the prevailing wind direction to reduce wind speed by changing the pattern of air flow over the land surface. For fences and structures, the wind barrier shall have a density of no less than 50% and the height of the wind barrier must be proportionate to the downwind protected area. The downwind protected area is considered ten times the height of the wind barrier. For vegetative barriers, compliance shall be determined by NRCS Conservation Practice Standard, Code 380, Windbreak/Shelterbelt Establishment, amended through August 21, 2009 (and no future editions).
4. The following definitions apply to a commercial poultry facility:
 - a. "Add moisture through ventilation systems" means reducing PM emissions by using a ventilation system that is designed to allow stock to maintain their normal body temperature without difficulty while maintaining a minimum of 20% moisture in the air within the housing system to bind small particles to larger particles.
 - b. "Add oil and/or moisture to the feed" means reducing PM emissions by adding a minimum of 1% edible oil and/or moisture to feed rations to bind small particles to larger particles.
 - c. "Aggregate cover" means reducing PM emissions, wind erosion and stabilizing soil by applying and maintaining gravel, concrete, recycled road base, caliche, or other similar material to unpaved roads or feed lanes. The aggregate should be clean, hard and durable, and should be applied and maintained to a minimum of 3 inches deep.
 - d. "Clean aisles between cage rows" means reducing PM emissions by cleaning the aisles between cage rows at least twice every 14 days to prevent dried manure, spilled feed, and debris accumulation.
 - e. "Clean fans, louvers, and soffit inlets in a commercial poultry facility" means reducing PM emissions by cleaning fans, louvers, and soffit inlets when the facility is empty between depopulating and populating the facility.
 - f. "Clean floors and walls in a commercial poultry facility" means reducing PM emissions by cleaning floors and walls to prevent dried manure, spilled feed, and debris accumulation when the facility is empty between depopulating and populating the facility.
 - g. "Commercial poultry facility" means a poultry operation with more than 25,000 egg laying hens within the boundary of the Maricopa PM nonattainment area and Maricopa County portion of Area A, a PM nonattainment area designated after June 1, 2009, as stated in A.R.S. § 49-457(O)(1)(f), or the Pinal County PM Nonattainment Area.
 - h. "Control vegetation on building exteriors" means reducing PM emissions by removing, cutting, or trimming vegetation that accumulates PM and restricts ventilation of the building, so as to leave approximately 3 feet between the vegetation and building.
 - i. "Enclose transfer points" means reducing PM emissions by enclosing the points of transfer between the enclosed, weatherproof storage structure and the enclosed feed distribution system, which reduce air contact with the feed rations during feed conveyance.
 - j. "House in fully enclosed ventilated buildings" means reducing PM emissions by utilizing fully enclosed buildings with sufficient ventilation.
 - k. "Maintain moisture in manure solids" means reducing PM emissions by maintaining a moisture content of a minimum of 15% in the solids sufficient to bind small particles to larger particles.
 - l. "Minimize drop distance" means reducing PM emissions by designing the feed distribution system so that the distance the feed ration drops from the feed distribution system into feeders is approximately 1 foot or less, which reduces air contact with the feed rations during feed conveyance.
 - m. "Poultry" means any domesticated bird including chickens, turkeys, ducks, geese, guineas, ratites and squabs.
 - n. "Remove spilled feed" means reducing PM emissions by removing spilled feed from the housing facility at least once every 14 days.
 - o. "Stack separated manure solids" means reducing PM emissions and wind erosion by reducing the amount of exposed surface area of manure solids.
 - p. "Store feed" means reducing PM emissions by storing feed in a structure that is enclosed and weatherproof, which reduces air contact with the feed rations during feed storage.
 - q. "Synthetic particulate suppressant" means reducing PM emissions and wind erosion by providing a stabilized soil surface on a commercial poultry operation with a manufactured product such as

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- lignosulfate, calcium chloride, magnesium chloride, an emulsion of a petroleum product, an enzyme product, or polyacrylamide that is used to control particulate matter.
- r. "Use enclosed feed distribution system" means reducing PM emissions by using an enclosed feed conveyance system that distributes feed rations throughout the housing facility, which reduces air contact with the feed rations during feed conveyance.
 - s. "Use a flexible discharge spout" means reducing PM emissions and wind erosion at the time of bulk feed deliveries to the housing units by using a flexible discharge spout on the end of the feed truck transfer auger.
 - t. "Use no bedding in the production facility" means reducing PM emissions by not using bedding such as wood shavings, sawdust, peanut hulls, straw, or other organic material.
 - u. "Use of a rotary dryer to dry manure waste" means reducing PM₁₀ emissions by drying the manure waste in a rotary dryer fitted with a baghouse or wet scrubber. A commercial poultry facility using a rotary dryer must comply with all of the following:
 - i. Install, maintain, and operate the baghouse or wet scrubber in a manner consistent with the manufacturer's specifications at all times the rotary dryer is operated. The manufacturer specifications must be available on site upon request.
 - ii. Conduct monthly observations using EPA Method 22 on the control equipment to ensure proper operation. If improper operation is observed through EPA Method 22, the dryer must stop immediately and the equipment repaired before resuming operations.
 - iii. For baghouses, conduct an annual black light inspection of the bags to detect broken or leaking bags. If broken or leaking bags are detected it must be repaired or replaced immediately.
 - iv. Maintain a record of all repair activity required under (ii) and (iii) that must be made available within two days of Director's request for inspection.
5. The following definitions apply to a commercial swine facility:
- a. "Add oil and/or moisture to the feed" means reducing PM emissions by adding a minimum of 0.5% edible oil and/or moisture to feed rations to bind small particles to larger particles.
 - b. "Add moisture through ventilation systems" means reducing PM emissions by using a ventilation system that is designed to allow stock to maintain their normal body temperature without difficulty while maintaining minimum of 15% moisture in the air within the housing system to bind small particles to larger particles.
 - c. "Aggregate cover" means reducing PM emissions, wind erosion and stabilizing soil by applying and maintaining gravel, concrete, recycled road base, caliche, or other similar material to unpaved roads or feed lanes. The aggregate should be clean, hard and durable, and should be applied and maintained to a minimum of three inches deep.
 - d. "Clean aisles between pens and stalls" means reducing PM emissions by cleaning the aisles between pens and stalls at least twice every 14 days to prevent dried manure, spilled feed, and debris accumulation.
 - e. "Clean fans, louvers, and soffit inlets in a commercial swine facility" means reducing PM emissions by cleaning fans, louvers, and soffit inlets between transfer of animal groups, but in any case, at least every six months.
 - f. "Clean pens, floors and walls in a commercial swine facility" means reducing PM emissions by cleaning pens, floors, and walls between transfer of animal groups to prevent dried manure, spilled feed, and debris accumulation, but in any case, at least every six months.
 - g. "Commercial swine facility" means a swine operation with more than 50 animal units for more than 30 consecutive days within the boundary of the Maricopa PM nonattainment area and Maricopa County portion of Area A, a PM nonattainment area designated after June 1, 2009 as stated in A.R.S. § 49-457(O)(1)(f), or the Pinal County PM Nonattainment Area. One thousand pounds equals one animal unit.
 - h. "Control vegetation on building exteriors" means reducing PM emissions by removing, cutting, or trimming vegetation that accumulates PM and restricts ventilation of the building, so as to leave approximately 3 feet between the vegetation and the building.
 - i. "Enclose transfer points" means reducing PM emissions by enclosing the points of transfer between the enclosed, weatherproof storage structure and the enclosed feed distribution system, which reduces air contact with the feed rations during feed conveyance.
 - j. "House in fully enclosed ventilated buildings" means reducing PM emissions by utilizing fully enclosed buildings with sufficient ventilation.
 - k. "Lagoon" means a liquid manure storage and treatment pond.
 - l. "Maintain moisture in manure solids" means reducing PM₁₀ emissions by maintaining a minimum moisture content of 10% in the solids sufficient to bind small particles to larger particles.
 - m. "Minimize drop distance" means reducing PM emissions by designing the feed distribution system so that the distance the feed ration drops from the feed distribution system into feeders is 3 feet or less, which reduces air contact with the feed rations during feed conveyance.
 - n. "Remove spilled feed" means reducing PM emissions by removing spilled feed from the housing facility at least once every 14 days.
 - o. "Slatted flooring" means reducing PM emissions by using flooring that is a slotted concrete or wire-mesh floor set above a liquid manure collection pit, which allows the excrement to fall through the flooring into the liquid pit below, which prevents solids build-up. Slats 4 to 8 inches wide with spacing of about 1 inch in between are recommended.
 - p. "Sloped concrete flooring" means reducing PM emissions by pouring concrete with a minimum of

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- 0.25% grade inside of the barns which provides drainage and easier cleaning of floor areas.
- q. "Stack separated manure solids" means reducing PM emissions and wind erosion by reducing the amount of exposed surface area of manure solids.
 - r. "Store feed" means reducing PM emissions by storing feed in a structure that is enclosed and weather-proof, which reduces air contact with the feed rations during feed storage.
 - s. "Store separated manure solids" means reducing PM emissions by storing manure solids in a wind-blocked area behind a wall, structure, or area with natural wind protection to minimize blowing air movement over the manure stack.
 - t. "Synthetic particulate suppressant" means reducing PM emissions and wind erosion by providing a stabilized soil surface on a commercial swine operation with a manufactured product such as lignosulfate, calcium chloride, magnesium chloride, an emulsion of a petroleum product, an enzyme product, or polyacrylamide that is used to control particulate matter.
 - u. "Use a flexible discharge spout" means reducing PM emissions and wind erosion at the time of bulk feed deliveries to the housing units by using a flexible discharge spout on the end of the feed truck transfer auger.
 - v. "Use enclosed feed distribution system" means reducing PM emissions by using an enclosed feed conveyance system that distributes feed rations throughout the housing facility, which reduces air contact with the feed rations during the feed conveyance.
 - w. "Use no bedding in the production facility" means reducing PM emissions by not using bedding such as wood shavings, sawdust, peanut hulls, straw, or other organic material.
- b. Provide shade in corral,
 - c. Provide cooling in corral,
 - d. Cement cattle walkways to milk barn,
 - e. Groom manure surface,
 - f. Water misting systems,
 - g. Use drag equipment to maintain pens,
 - h. Pile manure between cleanings,
 - i. Feed green chop,
 - j. Keep calves in barns or hutches,
 - k. Do not run cattle,
 - l. Apply a fibrous layer, or
 - m. Wind barrier.
2. Animal Waste (and Feed) Handling and Transporting:
 - a. Feed higher moisture feed to dairy cattle,
 - b. Store and maintain feed stock,
 - c. Covers for silage,
 - d. Store silage in bunkers,
 - e. Cover manure hauling trucks, or
 - f. Do not load manure trucks with dry manure when wind exceeds 15 mph.
 3. Unpaved Access Connections:
 - a. Install signage to limit vehicle speed to 15 mph,
 - b. Install speed control devices,
 - c. Restrict access to through traffic,
 - d. Install and maintain a track-out control device,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant, or
 - h. Apply and maintain water as a dust suppressant.
 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed truck to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict access to through traffic,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant,
 - h. Apply and maintain water as a dust suppressant,
 - i. Use appropriate vehicles such as electric carts or small utility vehicles instead of trucks, or
 - j. Apply and maintain pavement or cement feed lanes.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2009, effective May 12, 2000 (Supp. 00-2). Amended by exempt rulemaking at 13 A.A.R. 4326, effective November 14, 2007 (Supp. 07-4). Section repealed; new Section made by exempt rulemaking at 18 A.A.R. 137, effective December 29, 2011 (Supp. 11-4). Subsection (2)(a) corrected at request of the Department, Office File No. M12-133, filed April 5, 2012 (Supp. 11-4). Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3). Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 22 A.A.R. 987, effective April 5, 2016 (Supp. 16-2). Amended by final exempt rulemaking at 27 A.A.R. 2747 (November 26, 2021), with an immediate effective date of November 3, 2021 (Supp. 21-4).

R18-2-611.01. Agricultural PM General Permit for Animal Operations; Maricopa County Serious PM Nonattainment Areas

- A. A commercial animal operator within a Serious PM Nonattainment Area shall implement at least two best management practices from each category to reduce PM emissions.
- B. A commercial dairy operation shall implement the following best management practices, as described in subsection (A), from each of the following categories:
 1. Arenas, Corrals, and Pens:
 - a. Use free stall housing,

- C. A commercial beef cattle feedlot shall implement the following best management practices, as described in subsection (A), from each of the following categories:
 1. Arenas, Corrals, and Pens:
 - a. Concrete aprons,
 - b. Provide shade in corral,
 - c. Add moisture to pen surface,
 - d. Manure removal,
 - e. Pile manure between cleanings,
 - f. Feed higher moisture feed to beef cattle,
 - g. Control cattle during movements,
 - h. Use drag equipment to maintain pens,
 - i. Apply a fibrous layer, or
 - j. Wind barrier.
 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Feed higher moisture feed to beef cattle,
 - b. Add molasses or tallow to feed,
 - c. Store and maintain feed stock,
 - d. Bulk materials,
 - e. Use drag equipment to maintain pens,

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- f. Cover manure hauling trucks, or
 - g. Do not load manure when wind exceeds 15 mph.
 - 3. Unpaved Access Connections:
 - a. Install and maintain a track-out control device,
 - b. Apply and maintain pavement in high traffic areas,
 - c. Apply and maintain aggregate cover,
 - d. Apply and maintain synthetic particulate suppressant, or
 - e. Apply and maintain water as a dust suppressant.
 - 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed truck to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict access to through traffic,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant,
 - h. Apply and maintain water as a dust suppressant, or
 - i. Apply and maintain oil on roads or feed lanes.
- D.** A commercial poultry facility shall implement the following best management practices, as described in subsection (A), from each of the following categories:
1. Arenas, Corrals, and Pens (Housing):
 - a. Clean fans, louvers, and soffit inlets in a commercial poultry facility,
 - b. Use no bedding,
 - c. Control vegetation on building exteriors,
 - d. Add moisture through ventilation systems, or
 - e. House in fully enclosed ventilated buildings.
 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Remove spilled feed,
 - b. Store feed,
 - c. Add oil and/or moisture to the feed,
 - d. Use enclosed feed distribution system,
 - e. Use flexible discharge spout,
 - f. Minimize drop distance,
 - g. Enclose transfer points,
 - h. Clean floors and walls in a commercial poultry facility,
 - i. Clean aisles between cage rows,
 - j. Stack separated manure solids,
 - k. Maintain moisture in manure solids, or
 - l. Use of a rotary dryer to dry manure waste.
 3. Unpaved Access Connections:
 - a. Install speed control devices,
 - b. Restrict traffic access,
 - c. Install and maintain a track-out control system, or
 - d. Install signage to limit vehicle speed to 15 mph.
 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed trucks to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict traffic access,
 - e. Apply and maintain aggregate cover,
 - f. Apply and maintain synthetic particulate suppressant,
 - g. Apply and maintain water, or
 - h. Apply and maintain oil on roads or feed lanes.
- E.** A commercial swine facility shall implement the following best management practices, as described in subsection (A), from each of the following categories:
1. Arenas, Corrals, and Pens (Housing):
 - a. House in fully enclosed ventilated buildings,
 - b. Use no bedding,
 - c. Use a slatted floor system,
 - d. Use sloped concrete flooring,
 - e. Clean fans, louvers, and soffit inlets in a commercial swine facility,
 - f. Control vegetation on building exteriors, or
 - g. Add moisture through ventilation systems.
 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Remove spilled feed,
 - b. Store feed,
 - c. Add oil and/or moisture to feed,
 - d. Use enclosed feed distribution system,
 - e. Use flexible discharge spout,
 - f. Minimize drop distance,
 - g. Enclose transfer points,
 - h. Clean pens, floors, and walls in a commercial swine facility,
 - i. Clean aisles between pens and stalls,
 - j. Store separated manure solids in a wind-blocked area,
 - k. Stack separated manure solids,
 - l. Maintain moisture in manure solids, or
 - m. Maintain liquid lagoon level.
 3. Unpaved Access Connections:
 - a. Install speed control devices,
 - b. Restrict traffic access,
 - c. Install and maintain a track-out control system,
 - d. Install signage to limit vehicle speed to 15 mph.
 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed trucks to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict traffic access,
 - e. Apply and maintain aggregate cover,
 - f. Apply and maintain synthetic particulate suppressant,
 - g. Apply and maintain water,
 - h. Apply and maintain oil on roads or feed lanes, or
 - i. Wind barrier.
- F.** From and after December 31, 2015, a commercial animal operator who engages in a regulated agricultural activity shall complete a Best Management Practices Program General Permit Record Form. Thereafter, a new Best Management Practices Program General Permit Record Form shall be completed every year by March 31. The Form shall be provided to the Director within two business days of notice to the commercial animal operator. The Best Management Practice Program General Permit Record form shall include the following information:
1. The name of the commercial animal operator, signature, and date signed,
 2. The mailing address or physical address of the commercial animal operation, and
 3. The best management practices selected for Arenas, Corrals, and Pens, Animal Waste Handling and Transporting, Unpaved Access Connections, and Unpaved Roads or Feed Lanes.
- G.** Beginning January 1, 2016, a commercial animal operator shall maintain records demonstrating compliance with this Section for three years. Records shall include a copy of the complete Best Management Practice Program General Permit

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Record Form to confirm implementation of each best management practice and any changes to the best management practices. Records shall be kept by the commercial animal operator onsite and made available for review by the Director within two business days of notice to the commercial animal operator.

- H. A person may develop different practices not contained in subsection (B), (C), (D), or (E), that reduce PM and may submit such practices that are proven effective through on-operation demonstration trials to the Committee.
- I. The Director shall not assess a fee to a commercial animal operator for coverage under the Best Management Practice Program General Permit Record Form.
- J. A commercial animal operator shall ensure that the implementation of all selected best management practices does not violate any other local, state, or federal law.
- K. The Director shall document noncompliance with this Section before issuing a compliance order.
- L. A commercial animal operator who is not in compliance with this Section is subject to the provisions in A.R.S. § 49-457(I), (J), and (K).

Historical Note

New Section made by exempt rulemaking at 18 A.A.R. 137, effective December 29, 2011 (Supp. 11-4).

Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3). Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 22 A.A.R. 987, effective April 5, 2016 (Supp. 16-2).

R18-2-611.02. Agricultural PM General Permit for Animal Operations; Moderate PM Nonattainment Areas Designated After June 1, 2009, Except Pinal County PM Nonattainment Area

- A. A commercial animal operator within a Moderate PM Nonattainment Area, designated after June 1, 2009, shall implement at least one best management practice from each category to reduce PM emissions.
- B. A commercial dairy operation shall implement the following best management practices, as described in subsection (A), from each of the following categories:
 - 1. Arenas, Corrals, and Pens:
 - a. Use free stall housing,
 - b. Provide shade in corral,
 - c. Provide cooling in corral,
 - d. Cement cattle walkways to milk barn,
 - e. Groom manure surface,
 - f. Water misting systems,
 - g. Use drag equipment to maintain pens,
 - h. Pile manure between cleanings,
 - i. Feed green chop,
 - j. Keep calves in barns or hutches,
 - k. Do not run cattle,
 - l. Apply a fibrous layer, or
 - m. Wind barrier.
 - 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Feed higher moisture feed to dairy cattle,
 - b. Store and maintain feed stock,
 - c. Covers for silage,
 - d. Store silage in bunkers,
 - e. Cover manure hauling trucks, or
 - f. Do not load manure trucks with dry manure when wind exceeds 15 mph.
 - 3. Unpaved Access Connections:
 - a. Install signage to limit vehicle speed to 15 mph,

- b. Install speed control devices,
 - c. Restrict access to through traffic,
 - d. Install and maintain a track-out control device,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant, or
 - h. Apply and maintain water as a dust suppressant.
- 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed truck to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict access to through traffic,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant,
 - h. Apply and maintain water as a dust suppressant,
 - i. Use appropriate vehicles such as electric carts or small utility vehicles instead of trucks, or
 - j. Apply and maintain pavement or cement feed lanes.
- C. A commercial beef cattle feedlot shall implement the following best management practices, as described in subsection (A), from each of the following categories:
 - 1. Arenas, Corrals, and Pens:
 - a. Concrete aprons,
 - b. Provide shade in corral,
 - c. Add moisture to pen surface,
 - d. Manure removal,
 - e. Pile manure between cleanings,
 - f. Feed higher moisture feed to beef cattle,
 - g. Control cattle during movements,
 - h. Use drag equipment to maintain pens,
 - i. Apply a fibrous layer, or
 - j. Wind barrier.
 - 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Feed higher moisture feed to beef cattle,
 - b. Add molasses or tallow to feed,
 - c. Store and maintain feed stock,
 - d. Bulk materials,
 - e. Use drag equipment to maintain pens,
 - f. Cover manure hauling trucks, or
 - g. Do not load manure when wind exceeds 15 mph.
 - 3. Unpaved Access Connections:
 - a. Install and maintain a track-out control device,
 - b. Apply and maintain pavement in high traffic areas,
 - c. Apply and maintain aggregate cover,
 - d. Apply and maintain synthetic particulate suppressant, or
 - e. Apply and maintain water as a dust suppressant.
 - 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed truck to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict access to through traffic,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant,
 - h. Apply and maintain water as a dust suppressant, or
 - i. Apply and maintain oil on roads or feed lanes.

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- D.** A commercial poultry facility shall implement the following best management practices, as described in subsection (A), from each of the following categories:
1. Arenas, Corrals, and Pens (Housing):
 - a. Clean fans, louvers, and soffit inlets in a commercial poultry facility,
 - b. Use no bedding,
 - c. Control vegetation on building exteriors;
 - d. Add moisture through ventilation systems, or
 - e. House in fully enclosed ventilated buildings.
 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Remove spilled feed,
 - b. Store feed,
 - c. Add oil and/or moisture to the feed,
 - d. Use enclosed feed distribution system,
 - e. Use flexible discharge spout,
 - f. Minimize drop distance,
 - g. Enclose transfer points,
 - h. Clean floors and walls in a commercial poultry facility,
 - i. Clean aisles between cage rows,
 - j. Stack separated manure solids, or
 - k. Maintain moisture in manure solids.
 3. Unpaved Access Connections:
 - a. Install speed control devices,
 - b. Restrict traffic access,
 - c. Install and maintain a track-out control system, or
 - d. Install signage to limit vehicle speed to 15 mph.
 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed trucks to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict traffic access,
 - e. Apply and maintain aggregate cover,
 - f. Apply and maintain synthetic particulate suppressant,
 - g. Apply and maintain water, or
 - h. Apply and maintain oil on roads or feed lanes.
- E.** A commercial swine facility shall implement the following best management practices, as described in subsection (A), from each of the following categories:
1. Arenas, Corrals, and Pens (Housing):
 - a. House in fully enclosed ventilated buildings,
 - b. Use no bedding,
 - c. Use a slatted floor system,
 - d. Use sloped concrete flooring,
 - e. Clean fans, louvers, and soffit inlets in a commercial swine facility,
 - f. Control vegetation on building exteriors, or
 - g. Add moisture through ventilation systems.
 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Remove spilled feed,
 - b. Store feed,
 - c. Add oil and/or moisture to feed,
 - d. Use enclosed feed distribution system,
 - e. Use flexible discharge spout,
 - f. Minimize drop distance,
 - g. Enclose transfer points,
 - h. Clean pens, floors, and walls in a commercial swine facility,
 - i. Clean aisles between pens and stalls,
 - j. Store separated manure solids in a wind-blocked area,
 - k. Stack separated manure solids,
 - l. Maintain moisture in manure solids, or
 - m. Maintain liquid lagoon level.
 3. Unpaved Access Connections:
 - a. Install speed control devices,
 - b. Restrict traffic access,
 - c. Install and maintain a track-out control system,
 - d. Install signage to limit vehicle speed to 15 mph.
 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed trucks to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict traffic access,
 - e. Apply and maintain aggregate cover,
 - f. Apply and maintain synthetic particulate suppressant,
 - g. Apply and maintain water,
 - h. Apply and maintain oil on roads or feed lanes, or
 - i. Wind barrier.
- F.** From and after December 31, 2015, a commercial animal operator who engages in a regulated agricultural activity shall complete a Best Management Practices Program General Permit Record Form. Thereafter, a new Best Management Practices Program General Permit Record Form shall be completed every year by March 31. The Form shall be provided to the Director within two business days of notice to the commercial animal operator. The Best Management Practices Program General Permit Record Form shall include the following information:
1. The name of the commercial animal operator, signature, and date signed,
 2. The mailing address or physical address of the commercial animal operation, and
 3. The best management practices selected for Arenas, Corrals, and Pens, Animal Waste Handling and Transporting, Unpaved Access Connections, and Unpaved Roads or Feed Lanes.
- G.** Beginning January 1, 2016, a commercial animal operator shall maintain records demonstrating compliance with this Section for three years. Records shall include a copy of the complete Best Management Practice Program General Permit Record Form to confirm implementation of each best management practice and any changes to the best management practices. Records shall be kept by the commercial animal operator onsite and made available for review by the Director within two business days of notice to the commercial animal operator.
- H.** A person may develop different practices not contained in subsection (B), (C), (D), or (F) that reduce PM and may submit such practices that are proven effective through on-operation demonstration trials to the Committee. The new best management practices shall not become effective unless submitted as described in A.R.S. § 49-457(L).
- I.** The Director shall not assess a fee to a commercial animal operator for coverage under the agricultural PM general permit.
- J.** A commercial animal operator shall ensure that the implementation of all selected best management practices does not violate any other local, state, or federal law.
- K.** The Director shall document noncompliance with this Section before issuing a compliance order.
- L.** A commercial animal operator who is not in compliance with this Section is subject to the provisions in A.R.S. § 49-457(I), (J), and (K).

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Historical Note

New Section made by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-611.03. Agricultural PM General Permit for Animal Operations; Pinal County PM Nonattainment Area

- A.** A commercial animal operator within the Pinal County PM Nonattainment Area shall implement at least one best management practice from each of the categories identified in subsection (D)(5) and (E)(5) and two best management practices from each of the other categories to reduce PM emissions.
- B.** In addition to subsection (A), on the day that is forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, commercial dairy operations within the Pinal County PM Nonattainment Area shall apply and maintain one of the four following BMPs on unpaved roads that experience more than 20 VDT from two or more axle vehicles:
 1. Apply and maintain pavement in high traffic areas,
 2. Apply and maintain aggregate cover,
 3. Apply and maintain synthetic particulate suppressant, or
 4. Apply and maintain water as a dust suppressant.
- C.** In addition to subsection (A), commercial beef feedlots within the Pinal County PM Nonattainment Area, shall add water to pen surface, as defined in R18-2-611(3)(a), on the day that is forecast to be high risk for dust generation by the Pinal County Dust Control Forecast.
- D.** A commercial dairy operation shall implement the following best management practices, as described in subsection (A), from each of the following categories:
 1. Arenas, Corrals, and Pens:
 - a. Use free stall housing,
 - b. Provide shade in corral,
 - c. Provide cooling in corral,
 - d. Cement cattle walkways to milk barn,
 - e. Groom manure surface,
 - f. Water misting systems,
 - g. Use drag equipment to maintain pens,
 - h. Pile manure between cleanings,
 - i. Feed green chop,
 - j. Keep calves in barns or hutches,
 - k. Do not run cattle,
 - l. Apply a fibrous layer, or
 - m. Wind barrier.
 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Feed higher moisture feed to dairy cattle,
 - b. Store and maintain feed stock,
 - c. Covers for silage,
 - d. Store silage in bunkers,
 - e. Cover manure hauling trucks, or
 - f. Do not load manure trucks with dry manure when wind exceeds 15 mph.
 3. Unpaved Access Connections:
 - a. Install signage to limit vehicle speed to 15 mph,
 - b. Install speed control devices,
 - c. Restrict access to through traffic,
 - d. Install and maintain a track-out control device,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant, or
 - h. Apply and maintain water as a dust suppressant.
 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed truck to 15 mph,
- E.** A commercial beef cattle feedlot shall implement the following best management practices, as described in subsection (A), from each of the following categories:
 1. Arenas, Corrals, and Pens:
 - a. Concrete aprons,
 - b. Provide shade in corral,
 - c. Add water to pen surface,
 - d. Manure removal,
 - e. Pile manure between cleanings,
 - f. Feed higher moisture feed to beef cattle,
 - g. Control cattle during movements,
 - h. Use drag equipment to maintain pens,
 - i. Apply a fibrous layer, or
 - j. Wind barrier.
 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Feed higher moisture feed to beef cattle;
 - b. Add molasses or tallow to feed,
 - c. Store and maintain feed stock,
 - d. Bulk materials,
 - e. Use drag equipment to maintain pens,
 - f. Cover manure hauling trucks, or
 - g. Do not load manure when wind exceeds 15 mph.
 3. Unpaved Access Connections:
 - a. Install and maintain a track-out control device,
 - b. Apply and maintain pavement in high traffic areas,
 - c. Apply and maintain aggregate cover,
 - d. Apply and maintain synthetic particulate suppressant, or
 - e. Apply and maintain water as a dust suppressant.
 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed truck to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict access to through traffic,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant,
 - h. Apply and maintain water as a dust suppressant, or
 - i. Apply and maintain oil on roads or feed lanes.
 5. Unpaved Vehicle or Equipment Traffic Area:
 - a. Apply and maintain aggregate cover,
 - b. Apply and maintain synthetic particulate suppressant,
 - c. Apply and maintain water as a dust suppressant, or
 - d. Use appropriate vehicles such as electric carts or small utility vehicles instead of trucks.

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- d. Use appropriate vehicles such as electric carts or small utility vehicles instead of trucks.
- F.** A commercial poultry facility shall implement the following best management practices, as described in subsection (A), from each of the following categories:
1. Arenas, Corrals, and Pens (Housing):
 - a. Clean fans, louvers, and soffit inlets in a commercial poultry facility,
 - b. Use no bedding,
 - c. Control vegetation on building exteriors,
 - d. Add moisture through ventilation systems, or
 - e. House in fully enclosed ventilated buildings.
 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Remove spilled feed,
 - b. Store feed,
 - c. Add oil and/or moisture to the feed,
 - d. Use enclosed feed distribution system,
 - e. Use flexible discharge spout,
 - f. Minimize drop distance,
 - g. Enclose transfer points,
 - h. Clean floors and walls in a commercial poultry facility,
 - i. Clean aisles between cage rows,
 - j. Stack separated manure solids, or
 - k. Maintain moisture in manure solids.
 3. Unpaved Access Connections:
 - a. Install speed control devices,
 - b. Restrict traffic access,
 - c. Install and maintain a track-out control system, or
 - d. Install signage to limit vehicle speed to 15 mph.
 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed trucks to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict traffic access,
 - e. Apply and maintain aggregate cover,
 - f. Apply and maintain synthetic particulate suppressant,
 - g. Apply and maintain water, or
 - h. Apply and maintain oil on roads or feed lanes.
- G.** A commercial swine facility shall implement the following best management practices, as described in subsection (A), from each of the following categories:
1. Arenas, Corrals, and Pens (Housing):
 - a. House in fully enclosed ventilated buildings,
 - b. Use no bedding,
 - c. Use a slatted floor system,
 - d. Use sloped concrete flooring,
 - e. Clean fans, louvers, and soffit inlets in a commercial swine facility,
 - f. Control vegetation on building exteriors, or
 - g. Add moisture through ventilation systems.
 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Remove spilled feed,
 - b. Store feed,
 - c. Add oil and/or moisture to feed,
 - d. Use enclosed feed distribution system,
 - e. Use flexible discharge spout,
 - f. Minimize drop distance,
 - g. Enclose transfer points,
 - h. Clean pens, floors, and walls in a commercial swine facility,
 - i. Clean aisles between pens and stalls,
 - j. Store separated manure solids in a wind-blocked area,
 - k. Stack separated manure solids,
 - l. Maintain moisture in manure solids, or
 - m. Maintain liquid lagoon level.
 3. Unpaved Access Connections:
 - a. Install speed control devices,
 - b. Restrict traffic access,
 - c. Install and maintain a track-out control system,
 - d. Install signage to limit vehicle speed to 15 mph.
 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed trucks to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict traffic access,
 - e. Apply and maintain aggregate cover,
 - f. Apply and maintain synthetic particulate suppressant,
 - g. Apply and maintain water,
 - h. Apply and maintain oil on roads or feed lanes, or
 - i. Wind barrier.
- H.** From and after December 31, 2015, a commercial animal operator who engages in a regulated agricultural activity shall complete a Best Management Practices Program General Permit Record Form. Thereafter, a new Best Management Practices Program General Permit Record Form shall be completed every year by March 31. The Form shall be provided to the Director within two business days of notice to the commercial animal operator. The Best Management Practices Program General Permit Record Form shall include the following information:
1. The name of the commercial animal operator, signature, and date signed,
 2. The mailing address or physical address of the commercial animal operation, and
 3. The best management practices selected for Arenas, Corrals, and Pens, Animal Waste Handling and Transporting, Unpaved Access Connections, and Unpaved Roads or Feed Lanes.
- I.** Beginning in calendar year 2017, and no more than once every subsequent three calendar years, the Director shall provide the commercial animal operator with a Best Management Practices Program Three-year Survey. The commercial animal operator shall complete the Survey with data from the preceding calendar year and submit the Survey to the Arizona Department of Agriculture (ADA) by January 31, 2018, and every three years thereafter. The Survey information submitted to the ADA shall be compiled by the ADA in a format that does not refer to a commercial animal operator's name, shall aggregate the data from the Surveys received, and be submitted to the Department. The Three-year Survey shall include the following information:
1. The name, business address, and phone number of the commercial farmer responsible for the preparation and implementation of the best management practices;
 2. The signature of the commercial farmer and the date the form was signed;
 3. The number of animals in a commercial dairy operation, beef cattle feed lot, poultry facility or swine facility;
 4. The total miles of unpaved roads at the commercial dairy operation, beef cattle feed lot, poultry facility or swine facility;

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5. The total acreage of the unpaved access connections and equipment areas at the commercial dairy operation, beef cattle feed lot, poultry facility or swine facility;
 6. The best management practices selected for each category; and
 7. For commercial dairy operations and beef cattle feedlots, an acknowledgment that water was applied on the day of a high risk day as predicted by the Pinal County Dust Control Forecast.
- J.** Beginning January 1, 2016, a commercial animal operator shall maintain records demonstrating compliance with this Section for three years. Records shall include a copy of the complete Best Management Practice Program General Permit Record Form to confirm implementation of each best management practice and any changes to the best management practices. Records shall be kept by the commercial animal operator onsite and made available for review by the Director within two business days of notice to the commercial animal operator.
- K.** A person may develop different practices not contained in subsections (D), (E), (F), or (G) that reduce PM and may submit such practices that are proven effective through on-operation demonstration trials to the Committee.
- L.** The Director shall not assess a fee to a commercial animal operator for coverage under the agricultural PM general permit.
- M.** A commercial animal operator shall ensure that the implementation of all selected best management practices does not violate any other local, state, or federal law.
- N.** The Director shall document noncompliance with this Section before issuing a compliance order.
- O.** A commercial animal operator who is not in compliance with this Section is subject to the provisions in A.R.S. § 49-457(J), (K), and (L).
- Historical Note**
- New Section made by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 27 A.A.R. 2747 (November 26, 2021), with an immediate effective date of November 3, 2021 (Supp. 21-4).
- R18-2-612. Definitions for R18-2-612.01**
- The definitions in R18-2-101 and the following definitions apply to R18-2-612.01:
1. "Access restriction" means reducing PM emission by reducing the number of trips driven on unpaved operation and maintenance and unpaved utility roads by restricting or eliminating public access by the use of signs or physical obstruction at locations that effectively control access to roads.
 2. "Aggregate cover" means reducing PM emissions, wind erosion and stabilizing soil by applying and maintaining gravel, concrete, recycled road base, caliche, or other similar material to unpaved roads. The aggregate should be clean, hard and durable, and should be applied a depth sufficient to create soil stabilization in accordance with material specifications. A minimum depth of three inches is the standard in the absence of such specifications.
 3. "Apply and maintain water" means reducing PM emissions and wind erosion by applying water to bare soil surfaces until the surfaces are visibly moist.
 4. "Best management practice" means a technique verified by scientific research, that on a case-by-case basis is practical, economically feasible, and effective in reducing PM emissions from a regulated agricultural activity.
 5. "Biological control of aquatic weeds" means reducing at least one trip, or to one trip if only one trip is needed, per treatment, made by vehicles for the purposes of removing aquatic weeds from canals by using fish, and other biologic means, within the canal through the use of to control the growth of aquatic weeds that reduce operating capacities and create debris that causes other operational issues.
 6. "Canals" means facilities constructed for the sole purpose of the control, conveyance, and delivery of water. These facilities may be either open earthen channels, lined or unlined, or buried pipelines, which are used to convey water uphill and under obstructions, such as roadways and wash and river channels. These facilities include, but are not limited to, gate, inlet, outlet, safety, and measuring structures required to control water along the canals and deliver water to irrigation district customers, as well as compacted earthen banks constructed to protect these facilities from storm runoff events.
 7. "Committee" means the Governor's Agricultural Best Management Practices Committee.
 8. "Debris" means trash, rubble, and other non-soil materials.
 9. "Dredge canals" means reducing PM emissions by mechanically removing muck, debris, and other foreign objects from canals while material is still wet or damp.
 10. "Dust Control Forecast" means a forecast, which shall identify a low, moderate or high risk of dust generation for the next five consecutive days and shall be issued by noon on each day the forecast is generated. When developing these forecasts, the Department shall consider all of the following:
 - a. Projected meteorological conditions, including:
 - i. Wind speed and direction,
 - ii. Stagnation,
 - iii. Recent precipitation, and
 - iv. Potential for precipitation;
 - b. Existing concentrations of air pollution at the time of the forecast; and
 - c. Historic air pollution concentrations that have been observed during meteorological conditions similar to those that are predicted to occur in the forecast.
 11. "Earth materials" means natural materials covering the ground surface, which includes, but are not limited to, dirt, rocks, or soil.
 12. "Grading roadways" means mechanically smoothing and compacting the roadway surface.
 13. "Irrigation District" means a political subdivision, governed by A.R.S. Title 48, Chapter 19.
 14. "Limit activity" means performing only critical operational or emergency activity on a day forecast to be high risk for dust generation as forecasted by the Pinal County Dust Control Forecast.
 15. "Major earth moving activities" means the mechanical movement of earth materials to reconstruct, relocate, reshape, reconfigure canals, including operation and maintenance roads and utility access roads.
 16. "Maricopa PM nonattainment area" means the Phoenix planning area as defined in 40 CFR 81.303, which is incorporated by reference in R18-2-210.
 17. "Minor earth moving activities" means the mechanical movement of earth materials to repair and maintain the

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- existing configuration, location, bank slopes, or inclines of canals.
18. "Muck" means water that is saturated with mud, dirt, and soil, which accumulates over time along the bottom of canals.
 19. "Paved Public Road" means any paved roadways that are open to public travel and maintained by a City, County, or the State.
 20. "Pinal County PM Nonattainment Area" means the West Pinal PM10 planning area and the West Central PM2.5 planning area, as defined in 40 CFR 81.303, and incorporated by reference in R18-2-210.
 21. "PM" includes both particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR 50 Appendix L, or by an equivalent method designated according to 40 CFR 53; and particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method contained within 40 CFR 50, Appendix J or by an equivalent method designated in accordance with 40 CFR 53, as incorporated by reference in Appendix 2.
 22. "Reduce vehicle speed" means reducing PM emissions and soil erosion from the use of vehicles owned or operated by the irrigation district on unpaved operation, maintenance, and utility access roads, at speeds not to exceed 25 mph. This can be achieved through worker behavior modifications, signage, or any other necessary means.
 23. "Regulated agricultural activity" means activities of an irrigation district, which affects those lands and facilities that are under the jurisdiction and control of an irrigation district, as described in A.R.S. §§ 49-457(P)(1)(f) and 49-457(P)(5)(b).
 24. "Regulated area" means a regulated area as defined in A.R.S. § 49-457(P)(6)(c).
 25. "Sediment" means muck that has dried after removal from canals.
 26. "Supervisory control system" means a system that allows the irrigation district to control operational structures from a remote computer location in order to reduce at least one trip made by vehicles to access structures for operational purposes.
 27. "Synthetic or natural particulate suppressant" means reducing PM emissions and wind erosion by providing a stabilized soil surface with organic material, such as muck, animal waste or biosolids, or with a manufactured product such as lignosulfate, calcium chloride, magnesium chloride, an emulsion of a petroleum product, an enzyme product, or polyacrylamide.
 28. "Track-out control system" means minimizing any and all material that adheres to and agglomerates on all vehicles and equipment and falls onto paved public roads or shoulders to paved public roads by using a device or system to remove mud or soil from a vehicle or equipment before the vehicle enters a paved public road. Devices such as a grizzly, a gravel pad or a wheel wash system can be used.
 29. "Unauthorized use" means any travel or access by non-district personnel in non-district vehicles along roadways under the control of an irrigation district without the permission of the irrigation district.
 30. "Unpaved operation and maintenance roads" means unpaved roadways that lay adjacent to canals, which provide access for irrigation district personnel and equipment for direct operation and maintenance of canals, and are under the control of the irrigation district.
 31. "Unpaved utility access roads" means unpaved roadways used to provide access to canals, and also includes office and shop facilities, equipment yards, staging areas and other lands under the control of the irrigation district.
 32. "Weed management" means reducing at least one trip made by vehicles for the purposes of removing weeds by using a combination of techniques, including organic, chemical, or biological means, to control weeds along canal banks and land surfaces not used for conveying water, excluding unpaved roadways.
 33. "Wind barrier" means reducing PM10 emissions and wind erosion by constructing a fence or structure, or providing a woody vegetative barrier by planting a row of trees or shrubs, perpendicular or across the prevailing wind direction to reduce wind speed by changing the pattern of air flow over the land surface. For fences and structures, the wind barrier shall have a density of no less than 50% and the height of the wind barrier must be proportionate to the downwind protected area. The downwind protected area is considered ten times the height of the wind barrier. For vegetative barriers, compliance shall be determined by NRCS Conservation Practice Standard, Code 380, Windbreak/Shelterbelt Establishment, amended through August 21, 2009 (and no future editions).

Historical Note

New Section R18-2-612 renumbered from R18-2-610 at 6 A.A.R. 2009, effective May 12, 2000 (Supp. 00-2). Former Section R18-2-612 renumbered to R18-2-614; new Section R18-2-612 made by final rulemaking at 11 A.A.R. 2210, effective July 18, 2005 (Supp. 05-2). Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-612.01. Agricultural PM General Permit For Irrigation Districts; PM Nonattainment Areas Designated After June 1, 2009

- A. An irrigation district within a PM Nonattainment Area, designated after June 1, 2009, shall implement at least one best management practice from each of the following categories to reduce PM emissions:
 1. Unpaved operation and maintenance roads:
 - a. Access restriction,
 - b. Apply and maintain aggregate cover,
 - c. Install supervisory control system to limit vehicle travel,
 - d. Limit activity,
 - e. Install signage to limit vehicle speed to 25 mph,
 - f. Post warning signs for unauthorized use at point of entry to roads,
 - g. Reduce vehicle speed,
 - h. Install and maintain a track-out control system,
 - i. Apply and maintain synthetic or natural particulate suppressant,
 - j. Apply and maintain water before, during, and after major and minor earth moving activities,
 - k. Apply and maintain water when grading roadways,
 - l. Use paved non-district or paved public roads to access structures, or
 - m. Install wind barriers.
 2. Canals:

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- a. Dredge canals while muck or debris is still wet,
 - b. Dispose of muck or debris while still damp,
 - c. Weed management,
 - d. Biological control of aquatic weeds, or
 - e. Apply and maintain water before, during and after major and minor earth moving activities.
3. Unpaved utility access roads:
 - a. Access restriction,
 - b. Apply and maintain aggregate cover,
 - c. Limit activity,
 - d. Install signage to limit vehicle speed to 25 mph,
 - e. Post warning signs for unauthorized use at points of entry to roads,
 - f. Reduce vehicle speed,
 - g. Install and maintain a track-out control system,
 - h. Apply and maintain pavement,
 - i. Apply and maintain synthetic or natural particulate suppressant,
 - j. Apply and maintain water before, during and after major and minor earth moving activities,
 - k. Apply and maintain water when grading roadways,
 - l. Use paved non-district or paved public roads to access structures, or
 - m. Install wind barriers.
- B. From and after December 31, 2015, an irrigation district engaged in a regulated agricultural activity shall complete a Best Management Practices Program General Permit Record Form. Thereafter, a new Best Management Practices Program General Permit Record Form shall be completed every year by March 31. The Form shall be provided to the Director within two business days of notice to the irrigation district. The Best Management Practice Program General Permit Record form shall include the following information:
 1. The name, business address, and the irrigation district representative responsible for the preparation and implementation of the best management practices;
 2. The signature of the irrigation district representative and the date the form was signed; and
 3. The best management practice selected for unpaved operation and utility roads, canals, and unpaved utility access roads.
- C. Beginning in calendar year 2017, and no more than once every subsequent three calendar years, the Director, in conjunction with the Arizona Department of Agriculture, shall provide the irrigation district with a Best Management Practices Program Three-year Survey. The irrigation district shall complete the Survey with data from the preceding calendar year and submit the Survey to the Arizona Department of Agriculture (ADA) by January 31, 2018, and every three years thereafter. The Survey information submitted to the ADA shall be compiled by the ADA then be submitted to the Department. The Three-year Survey shall include the following information:
 1. The name, business address, and phone number of the irrigation district representative responsible for the preparation and implementation of the best management practices;
 2. The signature of the irrigation district representative and the date the form was signed;
 3. The total miles of canals that the irrigation district controls;
 4. The total miles of unpaved operation and maintenance roads;
 5. The total miles of the unpaved utility access roads; and
 6. The best management practices selected for unpaved operation and utility roads, canals, and unpaved utility access roads.
- D. Records of any changes to those Best Management Practices shall be noted on the Best Management Practices Program General Permit Record Form and shall be kept by the irrigation district onsite and made available for review by the Director within two business days of notice to the irrigation district by the Department.
- E. An irrigation district may develop different practices not contained in either of the categories of subsections (A)(1), (A)(2), or (A)(3) that reduce PM and may submit such practices that are proven effective through in-district trials. The proposed new practices shall not become effective unless submitted as described in A.R.S. § 49-457(L).
- F. An irrigation district shall maintain a record demonstrating compliance with this Section for three years. Records shall include a copy of the complete Best Management Practice Program General Permit Record Form to confirm implementation of each best management practice.
- G. The Director shall not assess a fee to an irrigation district for coverage under the agricultural PM general permit.
- H. An irrigation district shall ensure that the implementation of all selected best management practices does not violate any other local, state, or federal law.
- I. The Director shall document noncompliance with this Section before issuing a compliance order.
- J. An irrigation district that is not in compliance with this Section is subject to the provisions in A.R.S. § 49-457(I), (J), and (K).

Historical Note

New Section made by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-613. Definitions for R18-2-613.01

1. "Access restriction" means restricting or eliminating public access to noncropland with signs or physical obstruction.
2. "Aggregate cover" means gravel, concrete, recycled road base, caliche, or other similar material applied to noncropland.
3. "Artificial wind barrier" means a physical barrier to the wind.
4. "Bed row spacing" means increasing or decreasing the size of a planting bed area to reduce the number of passes and soil disturbance by increasing plant density.
5. "Best management practice" means a technique verified by scientific research, that on a case-by-case basis is practical, economically feasible, and effective in reducing PM10 emissions from a regulated agricultural activity.
6. "Chemical irrigation" means applying a fertilizer, pesticide, or other agricultural chemical to cropland through an irrigation system.
7. "Combining tractor operations" means performing two or more tillage, cultivation, planting, or harvesting operations with a single tractor or harvester pass.
8. "Commercial farm" means 10 or more contiguous acres of land used for agricultural purposes within the boundary of the Yuma PM10 nonattainment area.
9. "Commercial farmer" means an individual, entity, or joint operation in general control of a commercial farm.
10. "Conservation irrigation" means the use of drips, sprinklers, or underground lines to conserve water, and to

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- reduce the weed population, the need for tillage, and soil compaction.
11. "Conservation tillage" means types of tillage that reduce the number of passes and the amount of soil disturbance.
 12. "Cover crop" means plants or a green manure crop grown for seasonal soil protection or soil improvement.
 13. "Critical area planting" means using trees, shrubs, vines, grasses, or other vegetative cover on noncropland.
 14. "Cropland" means land on a commercial farm that:
 - a. Is within the time-frame of final harvest to plant emergence;
 - b. Has been tilled in a prior year and is suitable for crop production, but is currently fallow; or
 - c. Is a turn-row.
 15. "Cross-wind ridges" means soil ridges formed by a tillage operation.
 16. "Cross-wind strip-cropping" means planting strips of alternating crops within the same field.
 17. "Cross-wind vegetative strips" means herbaceous cover established in one or more strips within the same field.
 18. "Equipment modification" means modifying agricultural equipment to prevent or reduce particulate matter generation from cropland.
 19. "Limited activity during a high-wind event" means performing no tillage or soil preparation activity when the measured wind speed at 6 feet in height is more than 25 mph at the commercial farm site.
 20. "Manure application" means applying animal waste or biosolids to a soil surface.
 21. "Mulching" means applying plant residue or other material that is not produced onsite to a soil surface.
 22. "Multi-year crop" means a crop, pasture, or orchard that is grown, or will be grown, on a continuous basis for more than one year.
 23. "Night farming" means performing regulated agricultural activities at night when moisture levels are higher and winds are lighter.
 24. "Noncropland" means any commercial farmland that:
 - a. Is no longer used for agricultural production;
 - b. Is no longer suitable for production of crops;
 - c. Is subject to a restrictive easement or contract that prohibits use for the production of crops; or
 - d. Includes a private farm road, ditch, ditch bank, equipment yard, storage yard, or well head.
 25. "Permanent cover" means a perennial vegetative cover on cropland.
 26. "Planting based on soil moisture" means applying water to soil before performing planting operations.
 27. "Precision farming" means use of satellite navigation to calculate position in the field, to reduce overlap during field operations, and allow operations to occur during nighttime and inclement weather, thus generating less PM₁₀.
 28. "Reduce vehicle speed" means operating farm vehicles or farm equipment on unpaved farm roads at speeds not to exceed 20 mph.
 29. "Reduced harvest activity" means reducing the number of harvest passes using a mechanized method to cut and remove crops from a field.
 30. "Regulated agricultural activity" means a commercial farming practice that may produce PM₁₀ within the Yuma PM₁₀ nonattainment area.
 31. "Residue management" means managing the amount and distribution of crop and other plant residues on a soil surface.
 32. "Sequential cropping" means growing crops in a sequence that minimizes the amount of time bare soil is exposed on a field.
 33. "Surface roughening" means manipulating a soil surface to produce or maintain clods.
 34. "Synthetic particulate suppressant" means a manufactured product such as lignosulfate, calcium chloride, magnesium chloride, and polyacrylamide, an emulsion of a petroleum product, and an enzyme product that is used to control particulate matter.
 35. "Tillage and harvest" means any mechanical practice that physically disturbs cropland or crops on a commercial farm.
 36. "Tillage based on soil moisture" means applying water to soil before or during tillage, or delaying tillage to coincide with precipitation.
 37. "Timing of a tillage operation" means performing tillage operations at a time that will minimize the soil's susceptibility to generate PM₁₀.
 38. "Transgenic crops" means the use of genetically modified crops such as "herbicide ready" crops, which reduces the need for tillage or cultivation operations, and reduces soil disturbance.
 39. "Track-out control system" means a device to remove mud or soil from a vehicle before the vehicle enters a paved public road.
 40. "Tree, shrub, or windbreak planting" means providing a woody vegetative barrier to the wind.
 41. "Watering" means applying water to noncropland.
 42. "Yuma PM₁₀ nonattainment area" means the Yuma PM₁₀ planning area as defined in 40 CFR 81.303, which is incorporated by reference in R18-2-210.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2210, effective July 18, 2005 (Supp. 05-2). Section R18-2-313 renumbered to R18-2-613.01; new Section made by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-613.01. Yuma PM₁₀ Nonattainment Area; Agricultural Best Management Practices

- A. A commercial farmer shall comply with this Section by August 1, 2005.
- B. A commercial farmer who begins a regulated agricultural activity after August 1, 2005, shall comply with this Section within 60 days after beginning the regulated agricultural activity.
- C. A commercial farmer shall implement at least one of the best management practices from each of the following categories at each commercial farm:
 1. Tillage and harvest, subsection (E);
 2. Noncropland, subsection (F); and
 3. Cropland, subsection (G).
- D. A commercial farmer shall ensure that the implementation of each selected best management practice does not violate any other local, state, or federal law.
- E. A commercial farmer shall implement at least one of the following best management practices to reduce PM₁₀ emissions from tillage and harvest:
 1. Bed row spacing,
 2. Chemical irrigation,

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3. Combining tractor operations,
4. Conservation irrigation,
5. Conservation tillage,
6. Equipment modification,
7. Limited activity during a high-wind event,
8. Multi-year crop,
9. Night farming,
10. Planting based on soil moisture,
11. Precision farming,
12. Reduced harvest activity,
13. Tillage based on soil moisture,
14. Timing of a tillage operation, or
15. Transgenic crops.

F. A commercial farmer shall implement at least one of the following best management practices to reduce PM₁₀ emissions from noncropland:

1. Access restriction;
2. Aggregate cover;
3. Artificial wind barrier;
4. Critical area planting;
5. Manure application;
6. Reduce vehicle speed;
7. Synthetic particulate suppressant;
8. Track-out control system;
9. Tree, shrub, or windbreak planting; or
10. Watering.

G. A commercial farmer shall implement at least one of the following best management practices to reduce PM₁₀ emissions from cropland:

1. Artificial wind barrier;
2. Cover crop;
3. Cross-wind ridges;
4. Cross-wind strip-cropping;
5. Cross-wind vegetative strips;
6. Manure application;
7. Mulching;
8. Multi-year crop;
9. Permanent cover;
10. Planting based on soil moisture;
11. Precision farming;
12. Residue management;
13. Sequential cropping;
14. Surface roughening; or
15. Tree, shrub, or windbreak planting.

H. A person may develop different practices not contained in subsections (E), (F), or (G) that reduce PM₁₀. A person may submit practices that are proven effective through demonstration trials to the Director. The Director shall review the submitted practices.

I. A commercial farmer shall maintain records demonstrating compliance with this Section. The commercial farmer shall provide the records to the Director within two business days of written notice to the commercial farmer. The records shall contain:

1. The name of the commercial farmer,
2. The mailing address or physical location of the commercial farm, and
3. The best management practices selected for tillage and harvest, noncropland, and cropland by the commercial farmer, and the date each best management practice was implemented.

Historical Note

New Section R18-2-313.01 renumbered from Section R18-2-313 by exempt rulemaking pursuant to Laws 2011,

Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-614. Evaluation of Nonpoint Source Emissions

Opacity of an emission from any nonpoint source shall not be greater than 40% measured according to the 40 CFR 60, Appendix A, Reference Method 9. An open fire permitted under R18-2-602 or regulated under Article 15 is exempt from this requirement.

Historical Note

Section R18-2-614 renumbered from R18-2-612; amended by final rulemaking at 11 A.A.R. 2210, effective July 18, 2005 (Supp. 05-2). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

ARTICLE 7. EXISTING STATIONARY SOURCE PERFORMANCE STANDARDS**R18-2-701. Definitions**

For purposes of this Article:

1. "Acid mist" means sulfuric acid mist as measured in the Arizona Testing Manual and 40 CFR 60, Appendix A.
2. "Architectural coating" means a coating used commercially or industrially for residential, commercial or industrial buildings and their appurtenances, structural steel, and other fabrications such as storage tanks, bridges, beams and girders.
3. "Asphalt concrete plant" means any facility used to manufacture asphalt concrete by heating and drying aggregate and mixing with asphalt cements. This is limited to facilities, including drum dryer plants that introduce asphalt into the dryer, which employ two or more of the following processes:
 - a. A dryer.
 - b. Systems for screening, handling, storing, and weighing hot aggregate.
 - c. Systems for loading, transferring, and storing mineral filler.
 - d. Systems for mixing asphalt concrete.
 - e. The loading, transferring, and storage systems associated with emission control systems.
4. "Black liquor" means waste liquor from the brown stock washer and spent cooking liquor which have been concentrated in the multiple-effect evaporator system.
5. "Calcine" means the solid materials produced by a lime plant.
6. "Coal" means any solid fuel classified as anthracite, bituminous, subbituminous, or lignite by the ASTM Method D388-05 "Standard Classification of Coals by Rank" and coal refuse. Synthetic fuels derived from coal for the purpose of creating useful heat including but not limited to, coal derived gases (not meeting the definition of natural gas), solvent-refined coal, coal-oil mixtures, and coal-water mixtures, are considered "coal" for the purposes of this subpart.
7. "Coal refuse" means any by-product of coal mining, physical coal cleaning, and coal preparation operations (e.g., culm, gob, etc.) containing coal, matrix material, clay, and other organic and inorganic material with an ash content greater than 50 percent (by weight) and a heating value less than 13,900 kilojoules per kilogram (6,000 Btu per pound) on a dry basis.
8. "Concentrate" means enriched copper ore recovered from the froth flotation process.

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9. "Concentrate dryer" means any facility in which a copper sulfide ore concentrate charge is heated in the presence of air to eliminate a portion of the moisture from the charge, provided less than 5% of the sulfur contained in the charge is eliminated in the facility.
10. "Concentrate roaster" means any facility in which a copper sulfide ore concentrate is heated in the presence of air to eliminate 5% or more of the sulfur contained in the charge.
11. "Condensate stripper system" means a column, and associated condensers, used to strip, with air or steam, TRS compounds from condensate streams from various processes within a kraft pulp mill.
12. "Control device" means the air pollution control equipment used to remove particulate matter or gases generated by a process source from the effluent gas stream.
13. "Converter" means any vessel to which copper matte is charged and oxidized to copper.
14. "Electric generating plant" means all electric generating units located at a stationary source.
15. "Electric generating unit" means a combustion unit of more than 25 megawatts electric that serves a generator that produces electricity for sale and that burns coal for more than 10.0 percent of the average annual heat input during any three consecutive calendar years or for more than 15.0 percent of the annual heat input during any one calendar year. A unit that cogenerates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 megawatts electric output to any utility power distribution system for sale is considered an electric generating unit.
16. "Existing source" means any source which does not have an applicable new source performance standard under Article 9 of this Chapter.
17. "Facility" means an identifiable piece of stationary process equipment along with all associated air pollution equipment.
18. "Federal mercury standards" means the emissions limits, monitoring, testing, recordkeeping, reporting and notification requirements applicable or relating to emissions of mercury from electric generating units under 40 CFR Part 63, Subpart UUUUU.
19. "Fugitive dust" means fugitive emissions of particulate matter.
20. "High sulfur oil" means fuel oil containing 0.90% or more by weight of sulfur.
21. "Inlet mercury" means the average concentration of mercury in the coal burned at an electric generating unit, as determined by ASTM methods, EPA-approved methods or alternative methods approved by the Director.
22. "Lime kiln" means a unit used to calcinate lime rock or kraft pulp mill lime mud, which consists primarily of calcium carbonate, into quicklime, which is calcium oxide.
23. "Low sulfur oil" means fuel oil containing less than 0.90% by weight of sulfur.
24. "Matte" means a metallic sulfide made by smelting copper sulfide ore concentrate or the roasted product of copper sulfide ores.
25. "Mercury" means mercury or mercury compounds in either a gaseous or particulate form.
26. "Miscellaneous metal parts and products" for purposes of industrial coating include all of the following:
 - a. Large farm machinery, such as harvesting, fertilizing and planting machines, tractors, and combines;
 - b. Small farm machinery, such as lawn and garden tractors, lawn mowers, and rototillers;
 - c. Small appliances, such as fans, mixers, blenders, crock pots, dehumidifiers, and vacuum cleaners;
 - d. Commercial machinery, such as office equipment, computers and auxiliary equipment, typewriters, calculators, and vending machines;
 - e. Industrial machinery, such as pumps, compressors, conveyor components, fans, blowers, and transformers;
 - f. Fabricated metal products, such as metal-covered doors and frames;
 - g. Any other industrial category which coats metal parts or products under the Code in the "Standard Industrial Classification Manual, 1987" of Major Group 33 (primary metal industries), Major Group 34 (fabricated metal products), Major Group 35 (non-electric machinery), Major Group 36 (electrical machinery), Major Group 37 (transportation equipment), Major Group 38 (miscellaneous instruments), and Major Group 39 (miscellaneous manufacturing industries), except all of the following:
 - i. Automobiles and light-duty trucks;
 - ii. Metal cans;
 - iii. Flat metal sheets and strips in the form of rolls or coils;
 - iv. Magnet wire for use in electrical machinery;
 - v. Metal furniture;
 - vi. Large appliances;
 - vii. Exterior of airplanes;
 - viii. Automobile refinishing;
 - ix. Customized top coating of automobiles and trucks, if production is less than 35 vehicles per day;
 - x. Exterior of marine vessels.
27. "Multiple-effect evaporator system" means the multiple-effect evaporators and associated condenser and hotwell used to concentrate the spent cooking liquid that is separated from the pulp.
28. "Neutral sulfite semichemical pulping" means any operation in which pulp is produced from wood by cooking or digesting wood chips in a solution of sodium sulfite and sodium bicarbonate, followed by mechanical defibrating or grinding.
29. "Petroleum liquids" means petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery but does not mean Number 2 through Number 6 fuel oils as specified in ASTM D396-90a (Specification for Fuel Oils), gas turbine fuel oils Numbers 2-GT through 4-GT as specified in ASTM D2880-90a (Specification for Gas Turbine Fuel Oils), or diesel fuel oils Numbers 2-D and 4-D as specified in ASTM D975-90 (Specification for Diesel Fuel Oils).
30. "Potential electric output capacity" means 33% of a unit's maximum design heat input, divided by 3,413 Btu per kilowatt-hour, divided by 1,000 kilowatt-hours per megawatt-hour, and multiplied by 8,760 hours per year.
31. "Process source" means the last operation or process which produces an air contaminant resulting from either:
 - a. The separation of the air contaminants from the process material, or
 - b. The conversion of constituents of the process materials into air contaminants which is not an air pollution abatement operation.

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32. "Process weight" means the total weight of all materials introduced into a process source, including fuels, where these contribute to pollution generated by the process.
33. "Process weight rate" means a rate established pursuant to R18-2-702(E).
34. "Recovery furnace" means the unit, including the direct-contact evaporator for a conventional furnace, used for burning black liquor to recover chemicals consisting primarily of sodium carbonate and sodium sulfide.
35. "Reid vapor pressure" means the absolute vapor pressure of volatile crude oil and volatile non-viscous petroleum liquids, except liquified petroleum gases, as determined by ASTM D-323-90 (Test Method for Vapor Pressure of Petroleum Products) (Reid Method).
36. "Reveratory smelting furnace" means any vessel in which the smelting of copper sulfide ore concentrates or calcines is performed and in which the heat necessary for smelting is provided primarily by combustion of a fossil fuel.
37. "Rotary lime kiln" means a unit with an included rotary drum which is used to produce a lime product from limestone by calcination.
38. "Slag" means fused and vitrified matter separated during the reduction of a metal from its ore.
39. "Smelt dissolving tank" means a vessel used for dissolving the smelt collected from the kraft mill recovery furnace.
40. "Smelter feed" means all materials utilized in the operation of a copper smelter, including metals or concentrates, fuels and chemical reagents, calculated as the aggregate sulfur content of all fuels and other feed materials whose products of combustion and gaseous by-products are emitted to the atmosphere.
41. "Smelting" means processing techniques for the smelting of a copper sulfide ore concentrate or calcine charge leading to the formation of separate layers of molten slag, molten copper, or copper matte.
42. "Smelting furnace" means any vessel in which the smelting of copper sulfide ore concentrates or calcines is performed and in which the heat necessary for smelting is provided by an electric current, rapid oxidation of a portion of the sulfur contained in the concentrate as it passes through an oxidizing atmosphere, or the combustion of a fossil fuel.
43. "Standard conditions" means a temperature of 293K (68°F or 20°C) and a pressure of 101.3 kilopascals (29.92 in. Hg or 1013.25 mb).
44. "Supplementary control system" (SCS) means a system by which sulfur dioxide emissions are curtailed during periods when meteorological conditions conducive to ground-level concentrations in excess of ambient air quality standards for sulfur dioxide either exist or are anticipated.
45. "Vapor pressure" means the pressure exerted by the gaseous form of a substance in equilibrium with its liquid or solid form.

Historical Note

Former Section R18-2-701 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-701 renumbered from R18-2-501 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 12 A.A.R. 4701, effective January 29, 2007 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final

rulemaking at 21 A.A.R. 711, effective June 30, 2015 (Supp. 15-2).

R18-2-702. General Provisions

- A. The provisions of this Article shall only apply to a source that is all of the following:
 1. An existing source, as defined in R18-2-101;
 2. A point source. For the purposes of this Section, "point source" means a source of air contaminants that has an identifiable plume or emissions point; and
 3. A stationary source, as defined in R18-2-101.
- B. Except as otherwise provided in this Chapter relating to specific types of sources, the opacity of any plume or effluent, from a source described in subsection (A), as determined by Reference Method 9 in 40 CFR 60, Appendix A, shall not be:
 1. Greater than 20% in an area that is nonattainment or maintenance for any particulate matter standard, unless an alternative opacity limit is approved by the Director and the Administrator as provided in subsections (D) and (E), after February 2, 2004;
 2. Greater than 40% in an area that is attainment or unclassifiable for each particulate matter standard; and
 3. After April 23, 2006, greater than 20% in any area that is attainment or unclassifiable for each particulate matter standard except as provided in subsections (D) and (E).
- C. If the presence of uncombined water is the only reason for an exceedance of any visible emissions requirement in this Article, the exceedance shall not constitute a violation of the applicable opacity limit.
- D. A person owning or operating a source may petition the Director for an alternative applicable opacity limit. The petition shall be submitted to ADEQ by May 15, 2004.
 1. The petition shall contain:
 - a. Documentation that the affected facility and any associated air pollution control equipment are incapable of being adjusted or operated to meet the applicable opacity standard. This includes:
 - i. Relevant information on the process operating conditions and the control devices operating conditions during the opacity or stack tests;
 - ii. A detailed statement or report demonstrating that the source investigated all practicable means of reducing opacity and utilized control technology that is reasonably available considering technical and economic feasibility; and
 - iii. An explanation why the source cannot meet the present opacity limit although it is in compliance with the applicable particulate mass emission rule.
 - b. If there is an opacity monitor, any certification and audit reports required by all applicable subparts in 40 CFR 60 and in Appendix B, Performance Specification 1.
 - c. A verification by a responsible official of the source of the truth, accuracy, and completeness of the petition. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
 2. If the unit for which the alternative opacity standard is being applied is subject to a stack test, the petition shall also include:
 - a. Documentation that the source conducted concurrent EPA Reference Method stack testing and visible emissions readings or is utilizing a continuous opac-

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ity monitor. The particulate mass emission test results shall clearly demonstrate compliance with the applicable particulate mass emission limitation by being at least 10% below that limit. For multiple units that are normally operated together and whose emissions vent through a single stack, the source shall conduct simultaneous particulate testing of each unit. Each control device shall be in good operating condition and operated consistent with good practices for minimizing emissions.

- b. Evidence that the source conducted the stack tests according to R18-2-312, and that they were witnessed by the Director or the Director's agent or representative.
 - c. Evidence that the affected facility and any associated air pollution control equipment were operated and maintained to the maximum extent practicable to minimize the opacity of emissions during the stack tests.
3. If the source for which the alternative opacity standard is being applied is located in a nonattainment area, the petitioner shall include all the information listed in subsections (D)(1) and (D)(2), and in addition:
 - a. In subsection (D)(1)(a)(ii), the detailed statement or report shall demonstrate that the alternative opacity limit fulfills the Clean Air Act requirement for reasonably available control technology; and
 - b. In subsection (D)(2)(b), the stack tests shall be conducted with an opportunity for the Administrator or the Administrator's agent or representative to be present.
- E. If the Director receives a petition under subsection (D) the Director shall approve or deny the petition as provided below by October 15, 2004:
1. If the petition is approved under subsection (D)(1) or (D)(2), the Director shall include an alternative opacity limit in a proposed significant permit revision for the source under R18-2-320 and R18-2-330. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that an alternative opacity limit under this Section shall not be greater than 40%. For multiple units that are normally operated together and whose emissions vent through a single stack, any new alternative opacity limit shall reflect the opacity level at the common stack exit, and not individual in-duct opacity levels.
 2. If the petition is approved under subsection (D)(3), the Director shall include an alternative opacity limit in a proposed revision to the applicable implementation plan, and submit the proposed revision to EPA for review and approval. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that the alternative opacity limit shall not be greater than 40%.
 3. If the petition is denied, the source shall either comply with the 20% opacity limit or apply for a significant permit revision to incorporate a compliance schedule under R18-2-309(5)(c)(iii) by April 23, 2006.
 4. A source does not have to petition for an alternative opacity limit under subsection (D) to enter into a revised compliance schedule under R18-2-309(5)(c).
- F. The Director, Administrator, source owner or operator, inspector or other interested party shall determine the process weight rate, as used in this Article, as follows:

1. For continuous or long run, steady-state process sources, the process weight rate is the total process weight for the entire period of continuous operation, or for a typical portion of that period, divided by the number of hours of the period, or portion of hours of that period.
2. For cyclical or batch process sources, the process weight rate is the total process weight for a period which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during the period.

Historical Note

Former Section R18-2-702 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-702 renumbered from R18-2-502 and amended effective November 15, 1993 (Supp. 93-4). Amended by exempt rulemaking at 9 A.A.R. 5550, effective February 3, 2004 (Supp. 03-4).

R18-2-703. Standards of Performance for Existing Fossil-fuel Fired Steam Generators and General Fuel-burning Equipment**A.** This Section applies to the following:

1. Installations in which fuel is burned for the primary purpose of producing power, steam, hot water, hot air or other liquids, gases or solids and in the course of doing so the products of combustion do not come into direct contact with process materials. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitation shall apply, except for wood waste burners as regulated under R18-2-704.
2. All fossil-fuel fired steam generating units or general fuel burning equipment which are greater than or equal to 73 megawatts capacity.

B. For purposes of this Section, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or other outlet. The heat content of solid fuel shall be determined in accordance with R18-2-311. Compliance tests shall be conducted during operation at the nominal rated capacity of each unit.**C.** No person shall cause, allow or permit the emission of particulate matter in excess of the amounts calculated by one of the following equations:

1. For equipment having a heat input rate of 4200 million Btu per hour or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 1.02Q^{0.769}$$

where:

E = the maximum allowable particulate emissions rate in pounds-mass per hour.

Q = the heat input in million Btu per hour.

2. For equipment having a heat input rate greater than 4200 million Btu per hour, the maximum allowable emissions shall be determined by the following equation:

$$E = 17.0Q^{0.432}$$

where "E" and "Q" have the same meaning as in subsection (C)(1).

D. Actual values shall be calculated from the applicable equations and rounded off to two decimal places.**E.** When low sulfur oil is fired:

1. Existing fuel-burning equipment or steam-power generating installations which commenced construction or a major modification prior to May 30, 1972, shall not emit more than 1.0 pounds sulfur dioxide maximum three-

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hour average, per million Btu (430 nanograms per joule) heat input.

2. Existing fuel-burning equipment or steam-power generating installations which commenced construction or a major modification after May 30, 1972, shall not emit more than 0.80 pounds of sulfur dioxide maximum three-hour average per million Btu (340 nanograms per joule) heat input.
- F. When high sulfur oil is fired, all existing steam-power generating and general fuel-burning installations which are subject to the provisions of this Section shall not emit more than 2.2 pounds of sulfur dioxide maximum three-hour average per million Btu (946 nanograms per joule) heat input.
- G. When solid fuel is fired:
 1. Existing general fuel-burning equipment and steam-power generating installations which commenced construction or a major modification prior to May 30, 1972, shall not emit more than 1.0 pounds of sulfur dioxide maximum three-hour average, per million Btu (430 nanograms per joule) heat input.
 2. Existing general fuel-burning equipment and steam-power generating installations which commenced construction or a major modification after May 30, 1972, shall not emit more than 0.80 pounds of sulfur dioxide, maximum three-hour average, per million Btu (340 nanograms per joule) heat input.
- H. Any permit issued for the operation of an existing source, or any renewal or modification of such a permit, shall include a condition prohibiting the use of high sulfur oil by the permittee, unless the applicant demonstrates to the satisfaction of the Director that sufficient quantities of low sulfur oil are not available for use by the source and that it has adequate facilities and contingency plans to ensure that the sulfur dioxide ambient air quality standards set forth in R18-2-202 will not be violated.
 1. The terms of the permit may authorize the use of high sulfur oil under such conditions as are justified.
 2. In cases where the permittee is authorized to use high sulfur oil, it shall submit to the Department monthly reports detailing its efforts to obtain low sulfur oil.
 3. When the conditions justifying the use of high sulfur oil no longer exists, the permit shall be modified accordingly.
 4. Nothing in this Section shall be construed as allowing the use of a supplementary control system or other form of dispersion technology.
- I. Existing steam-power generating installations which commenced construction or a major modification after May 30, 1972, shall not emit nitrogen oxides in excess of the following amounts:
 1. 0.20 pounds of nitrogen oxides, maximum three-hour average, calculated as nitrogen dioxide, per million Btu heat input when gaseous fossil fuel is fired.
 2. 0.30 pounds of nitrogen oxides, maximum three-hour average, calculated as nitrogen dioxide, per million Btu heat input when liquid fossil fuel is fired.
 3. 0.70 pounds of nitrogen oxides, maximum three-hour average, calculated as nitrogen dioxide, per million Btu heat input when solid fossil fuel is fired.
- J. Emission and fuel monitoring systems, where deemed necessary by the Director for sources subject to the provisions of this Section shall, conform to the requirements of R18-2-313.
- K. The applicable reference methods given in the Appendices to 40 CFR 60 shall be used to determine compliance with the

standards as prescribed in subsections (C) through (G) and (I). All tests shall be run at the heat input calculated under subsection (B).

Historical Note

Former Section R18-2-703 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-703 renumbered from R18-2-503 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 13 A.A.R. 2157, effective August 4, 2007 (Supp. 07-2). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

R18-2-704. Standards of Performance for Incinerators

- A. No person shall cause, allow or permit to be emitted into the atmosphere, from any type of incinerator, smoke, fumes, gases, particulate matter or other gas-borne material which exceeds 20% opacity except during the times specified in subsection (D).
- B. No person shall cause, allow or permit the discharge of particulate matter into the atmosphere in any one hour from any incinerator, in excess of the following limits:
 1. For multiple chamber incinerators, controlled atmosphere incinerators, fume incinerators, afterburners or other unspecified types of incinerators, emissions shall not exceed 0.1 grain per cubic foot, based on dry flue gas at standard conditions, corrected to 12% carbon dioxide.
 2. For wood waste burners other than air curtain destructors, emissions discharged from the stack or burner top opening shall not exceed 0.2 grain per cubic foot, based on dry flue gas at standard conditions, corrected to 12% carbon dioxide.
- C. Air curtain destructors shall not be used within 500 feet of the nearest dwelling.
- D. Incinerators shall be exempt from the opacity and emission requirements described in subsections (A) and (B) as follows:
 1. For multiple chamber incinerators, controlled atmosphere incinerators, fume incinerators, afterburners or other unspecified types of incinerators, such exemption shall be for not more than 30 seconds in any 60-minute period.
 2. Wood waste burners shall be exempt both:
 - a. For a period once each day for the purpose of building a new fire but not to exceed 60 minutes, and
 - b. For an upset of operations not to exceed three minutes in any 60-minute period.
- E. The owner or operator of any incinerator subject to the provisions of this Section shall record the daily charging rates and hours of operation.
- F. The test methods and procedures required by this Section are as follows:
 1. The reference methods in 40 CFR 60, Appendix A, shall be used to determine compliance with the standards prescribed in subsection (B) as follows:
 - a. Method 5 for the concentration of particulate matter and the associated moisture content;
 - b. Method 1 for sample and velocity traverses;
 - c. Method 2 for velocity and volumetric flow rate;
 - d. Method 3 for gas analysis and calculation of excess air, using the integrated sampling technique.
 2. For Method 5, the sampling time for each run shall be at least 60 minutes and the minimum sample volume shall be 0.85 dscm (30.0 dscf) except that smaller sampling times or sample volumes, when necessitated by process

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variables or other factors, may be approved by the Director.

Historical Note

Former Section R18-2-704 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-704 renumbered from R18-2-504 effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 13 A.A.R. 2157, effective August 4, 2007 (Supp. 07-2).

R18-2-705. Standards of Performance for Existing Portland Cement Plants

- A. The provisions of this Section are applicable to the following affected facilities in portland cement plants: kiln, clinker cooler, raw mill system, finish mill system, raw mill dryer, raw material storage, clinker storage, finished product storage, conveyor transfer points, bagging and bulk loading and unloading systems.
- B. No person shall cause, allow or permit the discharge of particulate matter from any identifiable process source within any existing cement plant subject to the provisions of this Section which exceeds the amounts calculated by one of the following equations:
 1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 4.10P^{0.67}$$
 where:
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.
 P = the process weight rate in tons-mass per hour.
 2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:

$$E = 55.0P^{0.11} - 40$$
 where "E" and "P" are defined as indicated in subsection (B)(1).
- C. No process source within any portland cement plant shall exceed 20% opacity.
- D. No person shall cause, allow or permit discharge into the atmosphere of an amount in excess of 6 pounds of sulfur oxides, calculated as sulfur dioxide, per ton cement kiln feed from cement plants subject to the provisions of this Section.
- E. The owner or operator of any portland cement plant subject to the provisions of this Section shall record the daily production rates and the kiln feed rates.
- F. The test methods and procedures required by this Section are as follows:
 1. The reference methods in 40 CFR 60, Appendix A, except as provided for in R18-2-312 shall be used to determine compliance with the standards prescribed in subsection (B) as follows:
 - a. Method 5 for the concentration of particulate matter and the associated moisture content;
 - b. Method 1 for sample and velocity traverses;
 - c. Method 2 for velocity and volumetric flow rate;
 - d. Method 3 for gas analysis.
 2. For Method 5, the minimum sampling time and minimum sample volume for each run except when process variables or other factors justifying otherwise to the satisfaction of the Director, shall be as follows:
 - a. 60 minutes and 0.85 dscm (30.0 dscf) for the kiln,

- b. 60 minutes and 1.15 dscm (40.6 dscf) for the clinker cooler.
3. Total kiln feed rate, except fuels, expressed in metric tons per hour on a dry basis, shall be both:
 - a. Determined during each testing period by suitable methods; and
 - b. Confirmed by a material balance over the production system.
4. For each run, particulate matter emissions, expressed in g/metric ton of kiln feed, shall be determined by dividing the emission rate in g/hr by the kiln feed rate. The emission rate shall be determined by the equation, $g/hr = Q_s \times c$, where Q_s = volumetric flow rate of the total effluent in dscm/hr as determined in accordance with subsection (F)(1)(c), and c = particulate concentration in g/dscm as determined in accordance with subsection (F)(1)(a).

Historical Note

Former Section R18-2-705 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-705 renumbered from R18-2-505 effective November 15, 1993 (Supp. 93-4).

R18-2-706. Standards of Performance for Existing Nitric Acid Plants

- A. No person shall cause, allow or permit discharge from any nitric acid plant producing weak nitric acid, which is either:
 1. 30 to 70% in strength by either the increased pressure or atmospheric pressure process, or
 2. More than 1.5 kg of total oxides of nitrogen per metric ton (3.0 lbs/ton) of acid produced expressed as nitrogen dioxide.
- B. The opacity of any plume subject to the provisions of this Section shall not exceed 10%.
- C. A continuous monitoring system for the measurement of nitrogen oxides shall be installed, calibrated, maintained and operated by the owner or operator, in accordance with Section R18-2-313.
- D. The test methods and procedures required by this Section are as follows:
 1. The reference methods in 40 CFR 60, Appendix A shall be used to determine compliance with the standard prescribed in subsection (A) as follows:
 - a. Method 7 for the concentration of NO_x ;
 - b. Method 1 for sample and velocity traverses;
 - c. Method 2 for velocity and volumetric flow rate;
 - d. Method 3 for gas analysis.
 2. For Method 7, the sample site shall be selected according to Method 1 and the sampling point shall be the centroid of the stack or duct or at a point no closer to the walls than 1 m (3.28 ft.). Each run shall consist of at least four grab samples taken at approximately 15-minute intervals. The arithmetic mean of the samples shall constitute the run value. A velocity traverse shall be performed once per run.
 3. Acid production rate, expressed in metric tons per hour of 100% nitric acid, shall be both:
 - a. Determined during each testing period by suitable methods, and
 - b. Confirmed by a material balance over the production system.
 4. For each run, nitrogen oxides, expressed in g/metric ton of 100% nitric acid, shall be determined by dividing the emission rate in g/hr by the acid production rate. The emission rate shall be determined by the equation:

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$$\text{g/hr} = Q_s \times c$$

where Q_s = volumetric flow rate of the effluent in dscm/hr, as determined in accordance with subsection (D)(1)(c), and $c = \text{NO}_x$ concentration in g/dscm, as determined in accordance with subsection (D)(1)(a).

Historical Note

Former Section R18-2-706 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-706 renumbered from R18-2-506 effective November 15, 1993 (Supp. 93-4).

R18-2-707. Standards of Performance for Existing Sulfuric Acid Plants

- A. Facilities that produce sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfide and mercaptans or acid sludge shall not discharge into the atmosphere:
 1. Greater than 2 kg of sulfur dioxide per metric ton (4 lbs/ton) of sulfuric acid produced (calculated as 100% H_2SO_4), or
 2. Greater than 0.075 kg of sulfuric acid mist per metric ton (0.15 lbs/ton) or sulfuric acid produced (calculated as 100% H_2SO_4).
- B. This Section shall not apply to metallurgical plants or other facilities where conversion to sulfuric acid is utilized as a means of controlling emissions to the atmosphere of sulfur dioxide or other sulfur compounds.
- C. A continuous monitoring system for the measurement of sulfur dioxide shall be installed, calibrated, maintained and operated by the owner or operator, in accordance with R18-2-313.
- D. The test methods and procedures required by this Section are as follows:
 1. The reference methods in 40 CFR 60, Appendix A shall be used to determine compliance with standards prescribed in subsection (A) as follows:
 - a. Method 8 for concentration of SO_2 and acid mist;
 - b. Method 1 for sample and velocity traverses;
 - c. Method 2 for velocity and volumetric flow rate;
 - d. Method 3 for gas analysis.
 2. The moisture content can be considered to be zero. For Method 8 the sampling time for each run shall be at least 60 minutes and the minimum sample volume shall be 1.15 dscm (40.6 dscf) except that smaller sampling times or sample volumes, when necessitated by process variables or other factors, may be approved by the Director.
 3. Acid production rate, expressed in metric tons per hour of 100% H_2SO_4 , shall be both:
 - a. Determined during each testing period by suitable methods, and
 - b. Confirmed by a material balance over the production system.
 4. Acid mist and sulfur dioxide emissions, expressed in g/metric ton of 100% H_2SO_4 , shall be determined by dividing the emission rate in g/hr by the acid production rate. The emission rate shall be determined by the equation, $\text{g/hr} = Q_s \times c$, where Q_s = volumetric flow rate of the effluent in dscm/hr as determined in accordance with subsection (D)(1)(c), and c = acid mist and SO_2 concentrations in g/dscm as determined in accordance with subsection (D)(1)(a).

Historical Note

Former Section R18-2-707 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-707 renum-

bered from R18-2-507 effective November 15, 1993 (Supp. 93-4).

R18-2-708. Standards of Performance for Existing Asphalt Concrete Plants

- A. Fixed asphalt concrete plants and portable asphalt concrete plants shall meet the standards set forth in this Section.
- B. No person shall cause, allow or permit the discharge of particulate matter into the atmosphere in any one hour from any existing asphalt concrete plant in total quantities in excess of the amounts calculated by one of the following equations:
 1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 4.10P^{0.67}$$
 where:
 E = the maximum allowable particulate emission rate in pounds-mass per hour.
 P = the process weight rate in tons-mass per hour.
 2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:

$$E = 55.0P^{0.11-40}$$
 where " E " and " P " are defined as indicated in subsection (B)(1).
- C. Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- D. For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in determining the maximum allowable emission of particulate matter.
- E. Liquid fuel containing greater than 0.9% sulfur by weight shall not be utilized for asphalt concrete plants subject to this Section.
- F. Solid fuel containing greater than 0.5% sulfur by weight shall not be utilized for asphalt concrete plants subject to this Section.
- G. The test methods and procedures required under this Section are:
 1. The referenced methods given in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, shall be used to determine compliance with the standards prescribed in subsection (B).
 - a. Method 5 for the concentration of particulate matter and the associated moisture content,
 - b. Method 1 for sample and velocity traverses,
 - c. Method 2 for velocity and volumetric flow rate,
 - d. Method 3 for gas analysis.
 2. For Method 5, the sampling time for each run shall be at least 60 minutes and the sampling rate shall be at least 0.9 dscm/hr (0.53 dscf/min) except that shorter sampling times, when necessitated by process variables or other factors, may be approved by the Director.
 3. Percent sulfur in liquid fuel shall be determined by ASTM method D-129-91 (Test Method for Sulfur in Petroleum Products) (General Bomb Method), and the percent sulfur in solid fuel shall be determined by ASTM method D-3177-89 (Test Method for Total Sulfur in the Analysis Sample of Coal and Coke).

Historical Note

Former Section R18-2-708 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-708 renum-

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bered from R18-2-508 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

R18-2-709. Expired**Historical Note**

Former Section R18-2-709 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-709 renumbered from R18-2-509 and amended effective November 15, 1993 (Supp. 93-4). Section expired under A.R.S. § 41-1056(J) at 21 A.A.R. 15, effective September 30, 2015 (Supp. 15-4).

R18-2-710. Standards of Performance for Existing Storage Vessels for Petroleum Liquids

A. No person shall place, store or hold in any reservoir, stationary tank or other container having a capacity of 40,000 (151,400 liters) or more gallons any petroleum liquid having a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage conditions, unless such tank, reservoir or other container is a pressure tank maintaining working pressure sufficient at all times to prevent hydrocarbon vapor or gas loss to the atmosphere, or is equipped with one of the following vapor loss control devices, properly installed, in good working order and in operation:

1. A floating roof consisting of a pontoon type double-deck type roof resting on the surface of the liquid contents and equipped with a closure seal to close the space between the roof eave and tank wall and a vapor balloon or vapor dome, designed in accordance with accepted standards of the petroleum industry. The control equipment shall not be used if the petroleum liquid has a vapor pressure of 12 pounds per square inch absolute or greater under actual storage conditions.
 - a. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.
 - b. There shall be no visible holes, tears, or other openings in the seal or any seal fabric. Where applicable, all openings except drains shall be equipped with a cover, seal, or lid. The cover, seal, or lid shall be in a closed position at all times, except when the device is in actual use.
 - c. Automatic bleeder vents shall be closed at all times, except when the roof is floated off or landed on the roof leg supports.
 - d. Rim vents, if provided, shall be set to open when the roof is being floated off the roof leg supports, or at the manufacturer's recommended setting.
2. Other equipment proven to be of equal efficiency for preventing discharge of hydrocarbon gases and vapors to the atmosphere.

- B. Any other petroleum liquid storage tank shall be equipped with a submerged filling device, or acceptable equivalent, for the control of hydrocarbon emissions.
- C. All facilities for dock loading of petroleum products, having a vapor pressure of 1.5 pounds per square inch absolute or greater at loading pressure, shall provide for submerged filling or acceptable equivalent for control of hydrocarbon emissions.
- D. All pumps and compressors which handle volatile organic compounds shall be equipped with mechanical seals or other equipment of equal efficiency to prevent the release of organic contaminants into the atmosphere.
- E. The monitoring of operations required by this Section is as follows:

1. The owner or operator of any petroleum liquid storage vessel to which this Section applies shall for each such storage vessel maintain a file of each type of petroleum liquid stored, of the typical Reid vapor pressure of each type of petroleum liquid stored and of dates of storage. Dates on which the storage vessel is empty shall be shown.
2. The owner or operator of any petroleum liquid storage vessel to which this Section applies shall for such storage vessel determine and record the average monthly storage temperature and true vapor pressure of the petroleum liquid stored at such temperature if either:
 - a. The petroleum liquid has a true vapor pressure, as stored, greater than 26 mm Hg (0.5 psia) but less than 78 mm Hg (1.5 psia) and is stored in a storage vessel other than one equipped with a floating roof, a vapor recovery system or their equivalents; or
 - b. The petroleum liquid has a true vapor pressure, as stored, greater than 470 mm Hg (9.1 psia) and is stored in a storage vessel other than one equipped with a vapor recovery system or its equivalent.
3. The average monthly storage temperature shall be an arithmetic average calculated for each calendar month, or portion thereof, if storage is for less than a month, from bulk liquid storage temperatures determined at least once every seven days.
4. The true vapor pressure shall be determined by the procedures in American Petroleum Institute Bulletin 2517, amended as of February 1980 (and no future editions), which is incorporated herein by reference and on file with the Office of the Secretary of State. This procedure is dependent upon determination of the storage temperature and the Reid vapor pressure, which requires sampling of the petroleum liquids in the storage vessels. Unless the Director requires in specific cases that the stored petroleum liquid be sampled, the true vapor pressure may be determined by using the average monthly storage temperature and the typical Reid vapor pressure. For those liquids for which certified specifications limiting the Reid vapor pressure exist, the Reid vapor pressure may be used. For other liquids, supporting analytical data must be made available upon request to the Director when typical Reid vapor pressure is used.

Historical Note

Section R18-2-710 renumbered from R18-2-510 effective November 15, 1993 (Supp. 93-4).

R18-2-711. Expired**Historical Note**

Section R18-2-711 renumbered from R18-2-511 effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1). Section expired under A.R.S. § 41-1056(J) at 21 A.A.R. 15, effective September 30, 2015 (Supp. 15-4).

R18-2-712. Expired**Historical Note**

Section R18-2-712 renumbered from R18-2-512 effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1). Section expired under A.R.S. § 41-1056(J) at 21 A.A.R. 15, effective September 30, 2015 (Supp. 15-4).

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R18-2-713. Expired**Historical Note**

Section R18-2-713 renumbered from R18-2-513 effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1). Section expired under A.R.S. § 41-1056(J) at 21 A.A.R. 15, effective September 30, 2015 (Supp. 15-4).

R18-2-714. Standards of Performance for Existing Sewage Treatment Plants

- A.** No person shall cause, allow or permit to be emitted into the atmosphere, from any municipal sewage treatment plant sludge incinerator:
1. Smoke, fumes, gases, particulate matter or other gas-borne material which exceeds 20% opacity for more than 30 seconds in any 60-minute period.
 2. Particulate matter in concentrations in excess of 0.1 grain per cubic foot, based on dry flue gas at standard conditions, corrected to 12% carbon dioxide.
- B.** The owner or operator of any sludge incinerator subject to the provisions of this Section shall monitor operations by doing all of the following:
1. Install, calibrate, maintain and operate a flow measuring device which can be used to determine either the mass or volume of sludge charged to the incinerator. The flow measuring device shall have an accuracy of $\pm 5\%$ over its operating range.
 2. Provide access to the sludge charged so that a well-mixed representative grab sample of the sludge can be obtained.
 3. Install, calibrate, maintain and operate a weighing device for determining the mass of any municipal solid waste charged to the incinerator when sewage sludge and municipal solid wastes are incinerated together. The weighing device shall have an accuracy of $\pm 5\%$ over its operating range.
- C.** The test methods and procedures required by this Section are as follows:
1. The reference methods set forth in 40 CFR 60, Appendix A shall be used to determine compliance with the standards prescribed in subsection (A) as follows:
 - a. Method 5 for concentration of particulate matter and associated moisture content;
 - b. Method 1 for sample and velocity traverses;
 - c. Method 2 for volumetric flow rate; and
 - d. Method 3 for gas analysis.
 2. For Method 5, the sampling time for each run shall be at least 60 minutes and the sampling rate shall be at least 0.015 dscm/min (0.53 dscf/min), except that shorter sampling times, when necessitated by process variables or other factors, may be approved by the Director.

Historical Note

Section R18-2-714 renumbered from R18-2-514 effective November 15, 1993 (Supp. 93-4).

R18-2-715. Standards of Performance for Existing Primary Copper Smelters; Site-specific Requirements

- A.** No owner or operator of a primary copper smelter shall cause, allow or permit the discharge of particulate matter into the atmosphere from any process in total quantities in excess of the amount calculated by one of the following equations:
1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the

maximum allowable emissions shall be determined by the following equation:

$$E = 4.10P^{0.67}$$

where

E = the maximum allowable particulate emissions rate in pounds-mass per hour.

P = the process weight rate in tons-mass per hour.

2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:

$$E = 55.0P^{0.11-40}$$

where "E" and "P" are defined as indicated in subsection (A)(1).

- B.** Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- C.** For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in determining the maximum allowable emission of particulate matter for that process.
- D.** The opacity of emissions subject to the provisions of this Section shall not exceed 20%.
- E.** The reference methods set forth in the Arizona Testing Manual and 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, shall be used to determine compliance with the standards prescribed in this Section as follows:
1. Method A1 or Reference Method 5 for concentration of particulate matter and associated moisture content,
 2. Reference Method 1 for sample and velocity traverses,
 3. Reference Method 2 for volumetric flow rate,
 4. Reference Method 3 for gas analysis.
- F.** Except as provided in a consent decree or a delayed compliance order, the owner or operator of any primary copper smelter shall not discharge or cause the discharge of sulfur dioxide into the atmosphere from any stack required to be monitored by R18-2-715.01(K) in excess of the following:
1. For the copper smelter located near Hayden, Arizona at latitude 33°0'29"N and longitude 110°47'17" W:
 - a. Annual average emissions, as calculated under R18-2-715.01(C), shall not exceed 6,882 pounds per hour.
 - b. The number of three-hour average emissions, as calculated under R18-2-715.01(C), shall not exceed n cumulative occurrences in excess of E, the emission level, shown in the following table in any compliance period as defined in R18-2-715.01(J):

n, Cumulative Occurrences	E, (lb/hr)
0	24,641
1	22,971
2	21,705
4	20,322
7	19,387
12	18,739
20	17,656
32	16,988
48	16,358
68	15,808
94	15,090
130	14,423

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180	13,777
245	13,212
330	12,664
435	12,129
560	11,621
710	11,165
890	10,660
1100	10,205
1340	9,748
1610	9,319
1910	8,953
2240	8,556

2. For the copper smelter located near Miami, Arizona at latitude 33°24'50"N and longitude 110°51'25"W:
- Annual average emissions, as calculated under R18-2-715.01(C), shall not exceed 604 pounds per hour.
 - The number of three-hour average emissions, as calculated under R18-2-715.01(C), shall not exceed *n* cumulative occurrences in excess of *E*, the emission level, shown in the following table in any compliance period as defined in R18-2-715.01(J):

<i>n</i> , Cumulative Occurrences	<i>E</i> , (lb/hr)
0	8678
1	7158
2	5903
4	4575
7	4074
12	3479
20	3017
32	2573
48	2111
68	1703
94	1461
130	1274
180	1145
245	1064
330	1015
435	968
560	933
710	896
890	862
1100	828
1340	797
1610	765
1910	739
2240	712

- G. Except as provided in a consent decree or a delayed compliance order, for the copper smelter located near Hayden, Arizona at latitude 33°0'29"N and longitude 110°47'17"W, annual average fugitive emissions calculated under R18-2-715.01(T) shall not exceed 295 pounds per hour.
- H. In addition to the limits in subsection (F)(3), except as provided in a consent decree or a delayed compliance order, the

owner or operator of the copper smelter located near Miami, Arizona at latitude 33°24'50"N and longitude 110°51'25"W shall not discharge or cause the discharge of sulfur dioxide into the atmosphere from combined stack and fugitive emissions units in excess of the 2420 pounds per hour annual average calculated under R18-2-715.01(U).

- I. The owner and operator of the copper smelter located near Hayden, Arizona at the latitude and longitude provided in R18-2-715(F)(1) shall comply with Section R18-2-715(F)(1) and R18-2-715(G) until the effective date of R18-2-B1302 as determined by R18-2-B1302(A)(2). The owner and operator of the copper smelter located near Miami, Arizona at the latitude and longitude provided in R18-2-715(F)(2) shall comply with Section R18-2-715(F)(2) and R18-2-715(H) until the effective date of R18-2-C1302 as determined by R18-2-C1302(A)(2).

Historical Note

Section R18-2-715 renumbered from R18-2-515 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 575, effective January 15, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 3365, effective July 18, 2002 (Supp. 02-3). Amended by final rulemaking at 13 A.A.R. 2157, effective August 4, 2007 (Supp. 07-2). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1). Amended by final rulemaking at 23 A.A.R. 767, effective May 7, 2017, (Supp. 17-1).

R18-2-715.01. Standards of Performance for Existing Primary Copper Smelters; Compliance and Monitoring

- A. The cumulative occurrence and emission limits in R18-2-715(F) apply to the total of sulfur dioxide emissions from the smelter processing units and sulfur dioxide control and removal equipment, but not uncaptured fugitive emissions or emissions due solely to the use of fuel for space heating or steam generation.
- B. The owner or operator shall include periods of malfunction, startup, shutdown or other upset conditions when determining compliance with the cumulative occurrence or annual average emission limits in R18-2-715(F), (G), or (H).
- C. The owner or operator shall determine compliance with the cumulative occurrence and emission limits contained in R18-2-715(F) as follows:
- The owner or operator shall calculate annual average emissions at the end of each day by averaging the emissions for all hours measured during the compliance period defined in subsection (J) ending on that day. An annual emissions average in excess of the allowable annual average emission limit is a violation of R18-2-715(F) if either:
 - The annual average is greater than the annual average computed for the preceding day; or
 - The annual averages computed for the five preceding days all exceed the allowable annual average emission limit.
 - The owner or operator shall calculate a three-hour emissions average at the end of each clock hour by averaging the hourly emissions for the preceding three consecutive hours provided each hour was measured according to the requirements in subsection (K).
- D. For purposes of this Section, the compliance date, unless otherwise provided in a consent decree or a delayed compliance order, shall be January 14, 1986, except that:

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1. The compliance date for the cumulative occurrence and emissions limits in R18-2-715(F)(1) and R18-2-715(G) is January 15, 2002, and
 2. The compliance date for the cumulative occurrence and emissions limits in R18-2-715(F)(2), (F)(3), (G), and (H) is the effective date of this rule.
- E.** For purposes of subsection (C), a three-hour emissions average in excess of an emission level E violates the associated cumulative occurrence limit n listed in R18-2-715(F) if:
1. The number of all three-hour emissions averages calculated during the compliance period in excess of that emission level exceeds the cumulative occurrence limit associated with the emission level; and
 2. The average is calculated during the last operating day of the compliance period being reported.
- F.** A three-hour emissions average only violates the cumulative occurrence limit n of an emission level E on the day containing the last hour in the average.
- G.** Multiple violations of the same cumulative occurrence limit on the same day and violations of different cumulative occurrence limits on the same day constitute a single violation of R18-2-715(F).
- H.** The violation of any cumulative occurrence limit and an annual average emission limit on the same day constitutes only a single violation of the requirements of R18-2-715(F).
- I.** Multiple violations of a cumulative occurrence limit by different three-hour emissions averages containing any common hour constitutes a single violation of R18-2-715(F).
- J.** To determine compliance with subsections (C) through (I), the compliance period consists of the 365 calendar days immediately preceding the end of each day of the month being reported unless that period includes less than 300 operating days, in which case the number of days preceding the last day of the compliance period shall be increased until the compliance period contains 300 operating days. For purposes of this Section, an operating day is any day on which sulfur-containing feed is introduced into the smelting process.
- K.** To determine compliance with R18-2-715(F) or (H), the owner or operator of any smelter subject to R18-2-715(F) or (H) shall install, calibrate, maintain, and operate a measurement system for continuously monitoring sulfur dioxide concentrations and stack gas volumetric flow rates in each stack that could emit five percent or more of the allowable annual average sulfur dioxide emissions from the smelter.
1. The owner or operator shall continuously monitor sulfur dioxide concentrations and stack gas volumetric flow rates in the outlet of each piece of sulfur dioxide control equipment.
 2. The owner or operator shall continuously monitor captured fugitive emissions for sulfur dioxide concentrations and stack gas volumetric flow rates and include these emissions as part of total plant emissions when determining compliance with the cumulative occurrence and emission limits in R18-2-715(F) and (H).
 3. If the owner or operator demonstrates to the Director that measurement of stack gas volumetric flow in the outlet of any particular piece of sulfur dioxide control equipment would yield inaccurate results once operational or would be technologically infeasible, then the Director may allow measurement of the flow rate at an alternative sampling point.
 4. For purposes of this subsection, continuous monitoring means the taking and recording of at least one measurement of sulfur dioxide concentration and stack gas flow rate reading from the effluent of each affected stack, outlet, or other approved measurement location in each 15-minute period. Fifteen-minute periods start at the beginning of each clock hour, and run consecutively. An hour of smelter emissions is considered continuously monitored if the emissions from all monitored stacks, outlets, or other approved measurement locations are measured for at least 45 minutes of any hour according to the requirements of this subsection.
- 5.** The owner or operator shall demonstrate that the continuous monitoring system meets all of the following requirements:
- a. The sulfur dioxide continuous emission monitoring system installed and operated under this Section meets the requirements of 40 CFR 60, Appendix B, Performance Specification 6.
 - b. The sulfur dioxide continuous emission monitoring system installed and operated under this Section meets the quality assurance requirements of 40 CFR 60, Appendix F.
 - c. The owner or operator shall notify the Director in writing at least 30 days in advance of the start of relative accuracy test audit (RATA) procedures performed on the continuous monitoring system.
 - d. The Director shall approve the location of all sampling points for monitoring sulfur dioxide concentrations and stack gas volumetric flow rates in writing before installation and operation of measurement instruments.
 - e. The measurement system installed and used under this subsection is subject to the manufacturer's recommended zero adjustment and calibration procedures at least once per 24-hour operating period unless the manufacturer specifies or recommends calibration at shorter intervals, in which case specifications or recommendations shall be followed. The owner or operator shall make available a record of these procedures that clearly shows instrument readings before and after zero adjustment and calibration.
- L.** The owner or operator of a smelter subject to this Section shall measure at least 95 percent of the hours during which emissions occurred in any month.
- M.** Failure of the owner or operator of a smelter subject to this Section to measure any 12 consecutive hours of emissions according to the requirements of subsection (K) or (S) is a violation of this Section.
- N.** The owner or operator of any smelter subject to this Section shall maintain on hand and ready for immediate installation sufficient spare parts or duplicate systems for the continuous monitoring equipment required by this Section to allow for the replacement within six hours of any monitoring equipment part that fails or malfunctions during operation.
- O.** To determine total overall emissions, the owner or operator of any smelter subject to this Section shall perform material balances for sulfur according to the procedures prescribed by Appendix 8 of this Chapter.
- P.** The owner or operator of any smelter subject to this Section shall maintain a record of all average hourly emissions measurements and all calculated average monthly emissions required by this Section. The record of the emissions shall be retained for at least five years following the date of measurement or calculation. The owner or operator shall record the measurement or calculation results as pounds per hour of sul-

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fur dioxide. The owner or operator shall summarize the following data monthly and submit the summary to the Director within 20 days after the end of each month:

1. For all periods described in subsection (C) and (R), the annual average emissions as calculated at the end of each day of the month;
 2. The total number of hourly periods during the month in which measurements were not taken and the reason for loss of measurement for each period;
 3. The number of three-hour emissions averages that exceeded each of the applicable emissions levels listed in R18-2-715(F) and (G) for the compliance periods ending on each day of the month being reported;
 4. The date on which a cumulative occurrence limit listed in R18-2-715(F) or (G) was exceeded if the exceedance occurred during the month being reported; and
 5. For all periods described in subsection (T) and (U), the annual average emissions as calculated at the end of the last day of each month.
- Q.** An owner or operator shall install instrumentation to monitor each point in the smelter facility where a means exists to bypass the sulfur removal equipment, to detect and record all periods that the bypass is in operation. An owner or operator of a copper smelter shall report to the Director, not later than the 15th day of each month, the recorded information required by this Section, including an explanation for the necessity of the use of the bypass.
- R.** The owner or operator shall determine compliance with the cumulative occurrence and fugitive emission limits contained in R18-2-715(G) as follows:
1. The owner or operator shall calculate annual average emissions at the end of each day by averaging the emissions for all hours measured during the compliance period, as defined in subsection (R)(8), ending on that day. An annual emissions average in excess of the allowable annual average emission limit is a violation of R18-2-715(G) if either:
 - a. The annual average is greater than the annual average computed for the preceding day; or
 - b. The annual averages computed for the five preceding days all exceed the allowable annual average emission limit.
 2. The owner or operator shall calculate a three-hour emissions average at the end of each clock hour by averaging the hourly emissions for the preceding three consecutive hours provided each hour was measured according to the requirements contained in subsection (S).
 3. For purposes of subsection (R)(2), a three-hour emissions average in excess of an emission level E_f violates the associated cumulative occurrence limit listed in R18-2-715(G) if:
 - a. The number of all three-hour emissions averages calculated during the compliance period in excess of that emission level exceeds the cumulative occurrence limit associated with the emission level; and
 - b. The average is calculated during the last operating day of the compliance period being reported.
 4. A three-hour emissions average only violates the cumulative occurrence limit n of an emission level E_f on the day containing the last hour in the average.
 5. Multiple violations of the same cumulative occurrence limit on the same day and violations of different cumulative occurrence limits on the same day constitute a single violation of R18-2-715(G).
 6. The violation of any cumulative occurrence limit and an annual average emission limit on the same day constitutes only a single violation of the requirements of R18-2-715(G).
 7. Multiple violations of a cumulative occurrence limit by different three-hour emissions averages containing any common hour constitutes a single violation of R18-2-715(G).
 8. To determine compliance with subsections (R)(1) through (7), the compliance period consists of the 365 calendar days immediately preceding the end of each day of the month being reported unless that period includes less than 300 operating days, in which case the number of days preceding the last day of the compliance period shall be increased until the compliance period contains 300 operating days. For purposes of this Section, an operating day is any day on which sulfur-containing feed is introduced into the smelting process.
- S.** To determine compliance with R18-2-715(G), the owner or operator of the smelter subject to R18-2-715(G) shall install, calibrate, maintain, and operate a measurement system for continuously monitoring sulfur dioxide concentrations of the converter roof fugitive emissions.
1. For purposes of this subsection, continuous monitoring means the taking and recording of at least one measurement of sulfur dioxide concentration from an approved measurement location in each 15-minute period. Fifteen-minute periods start at the beginning of each clock hour, and run consecutively. An hour of smelter emissions is considered continuously monitored if the emissions from all approved measurement locations are measured for at least 45 minutes of any hour according to the requirements of this subsection.
 2. The owner or operator of a smelter subject to the requirements of this subsection shall conduct quality assurance procedures on the continuous monitoring system according to the methods in 40 CFR 60, Appendix F, except that an annual relative accuracy test audit (RATA) is not required.
- T.** The emission limit in R18-2-715(G) applies to the total of uncaptured fugitive sulfur dioxide emissions from the smelter processing units and sulfur dioxide control and removal equipment, but not emissions due solely to the use of fuel for space heating or steam generation. The owner or operator shall determine compliance with the emission limit contained in R18-2-715(G) as follows:
1. The owner or operator shall calculate annual average fugitive emissions at the end of the last day of each month by averaging the monthly emissions for the previous 12-month period ending on that day. To determine monthly fugitive emissions, the owner or operator shall perform material balances for sulfur according to the sulfur balance procedures prescribed in Appendix 8 of this Chapter.
 2. An annual emissions average in excess of the allowable annual average emission limit violates R18-2-715(G) if the fugitive annual average computed at the end of each month exceeds the allowable annual average emission limit.
- U.** The emission limit in R18-2-715(H) applies to the total of stack and uncaptured fugitive sulfur dioxide emissions from the smelter processing units and sulfur dioxide control and removal equipment, but not emissions due solely to the use of fuel for space heating or steam generation. The owner or oper-

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ator shall determine compliance with the emission limit contained in R18-2-715(H) as follows:

1. The owner or operator shall calculate annual average stack emissions at the end of the last day of each month by averaging the emissions for all hours measured during the previous 12-month period ending on that day according to the requirements contained in subsection (K).
 2. The owner or operator shall calculate annual average fugitive emissions at the end of the last day of each month by averaging the monthly emissions for the previous 12-month period ending on that day. To determine monthly fugitive emissions, the owner or operator shall perform material balances for sulfur according to the sulfur balance procedures prescribed in Appendix 8 of this Chapter.
 3. An annual emissions average in excess of the allowable annual average emission limit violates R18-2-715(H) if the total of the stack and fugitive annual averages computed at the end of each month exceeds the allowable annual average emission limit.
- V. The owner and operator of the copper smelter located near Hayden, Arizona at the latitude and longitude provided in R18-2-715(F)(1) shall comply with Section R18-2-715.01 until the effective date of R18-2-B1302 as determined by R18-2-B1302(A)(2). The owner and operator of the copper smelter located near Miami, Arizona at the latitude and longitude provided in R18-2-715(F)(2) shall comply with Section R18-2-715.01 until the effective date of R18-2-C1302 as determined by R18-2-C1302(A)(2).

Historical Note

Section R18-2-715.01 renumbered from R18-2-515.01 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 575, effective January 15, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 3365, effective July 18, 2002 (Supp. 02-3). Amended by final rulemaking at 23 A.A.R. 767, effective May 7, 2017, (Supp. 17-1).

R18-2-715.02. Standards of Performance for Existing Primary Copper Smelters; Fugitive Emissions

- A. For purposes of this Section, the compliance date, unless otherwise provided in a consent decree or a delayed compliance order, shall be January 14, 1986.
- B. No later than 24 months before the compliance date, the owner or operator of a smelter subject to R18-2-715 shall submit to the Director the results of an evaluation of the fugitive emissions from the smelter. The evaluation results shall contain all of the following information:
1. A measurement or accurate estimate of total fugitive emissions from the smelter during typical operations, including planned start-up and shutdown. The measurement or estimate shall contain the amount of both average short-term (24 hours) and average long-term (monthly) fugitive emissions from the smelter. The evaluation plan shall be approved in advance by the Department and shall specify the method used to determine the fugitive emission amounts, including the conditions determined to be "typical operations" for the smelter.
 2. A measurement or accurate estimate of the relative proportion, expressed as a percentage, of total fugitive emissions during typical operations, including planned start-up and shutdown, produced by any of the following smelter processes:
 - a. Roaster or dryer operation;

- b. Calcine or dried concentrate transfer;
 - c. Reverberatory furnace operations, including feeding, slag return, matte and slag tapping;
 - d. Matte transfer; and
 - e. Converter operations.
3. The measurement technique or method of estimation used to fulfill the requirement in subsection (B)(2) shall be approved in advance by the Department.
 4. The results of at least a six-month fugitive emission impact analysis conducted during that part of the year when fugitive emissions are expected to have the greatest ambient air quality impact. The study shall utilize sufficient measurements of fugitive emissions, meteorological conditions and ambient sulfur dioxide concentrations to associate fugitive emissions with specific measured ambient concentrations of sulfur dioxide. The study shall describe in detail the techniques used to make the required determinations. The design of the study shall be approved in advance by the Department.
- C. On the basis of the results of the evaluation as well as other data and information contained in the records of the Department, the Director shall determine whether fugitive emissions from a particular smelter have the potential to cause or significantly contribute to violations of the ambient sulfur dioxide standards in the vicinity of the smelter. If the Director finds that fugitive emissions from a particular smelter have the potential to cause or significantly contribute to violations of ambient sulfur dioxide standards in the vicinity of a smelter, then the Director shall adopt rules specifying the emission limits and undertake other appropriate measures necessary to maintain ambient sulfur dioxide standards.
- D. The requirements of subsection (B) shall not apply to a smelter subject to this Section if the owner or operator of that smelter can demonstrate to the Director both that:
1. Compliance with the applicable cumulative occurrence and emission limits listed in R18-2-715(F) will require the smelter to undergo major modifications to its physical configuration or work practices prior to the compliance date, and
 2. That the modification will reduce fugitive emissions to such an extent that such emissions will not cause or significantly contribute to violations of ambient sulfur dioxide standards in the vicinity of the smelter.
- E. In order to assess the sufficiency of the cumulative occurrence and emission limits contained in R18-2-715(F) to maintain the ambient air quality standards for sulfur dioxide set forth in R18-2-202, an owner or operator of a smelter subject to this Section shall continue to calibrate, maintain and operate any ambient sulfur dioxide monitoring equipment owned by the smelter owner or operator and in operation within the area of the smelter enclosed by a circle with 10-mile radius as calculated from a center point which shall be the point of the smelter's greatest sulfur dioxide emissions, for a period of at least three years after the compliance date.
1. Such monitors shall be operated and maintained in accordance with 40 CFR 50 and 58 and such other conditions as the Director deems necessary.
 2. The location of ambient sulfur dioxide monitors and length of time such monitors remain at a location shall be determined by the Director.
- F. The owner and operator of the copper smelter located near Hayden, Arizona at the latitude and longitude provided in R18-2-715(F)(1) shall comply with Section R18-2-715.02 until the effective date of R18-2-B1302 as determined by R18-

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2-B1302(A)(2). The owner and operator of the copper smelter located near Miami, Arizona at the latitude and longitude provided in R18-2-715(F)(2) shall comply with Section R18-2-715.02 until the effective date of R18-2-C1302 as determined by R18-2-C1302(A)(2).

Historical Note

Section R18-2-715.02 renumbered from R18-2-515.02 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 767, effective May 7, 2017, (Supp. 17-1).

R18-2-716. Standards of Performance for Existing Coal Preparation Plants

- A.** The provisions of this Section are applicable to any of the following affected facilities in coal preparation plants: thermal dryers, pneumatic coal-cleaning equipment, coal processing and conveying equipment including breakers and crushers, coal storage systems, and coal transfer and loading systems. For purposes of this Section, the definitions contained in 40 CFR 60.251 are adopted by reference and incorporated herein.
- B.** No person shall cause, allow or permit the discharge of particulate matter into the atmosphere in any one hour from any existing coal preparation plant in total quantities in excess of the amounts calculated by one of the following equations:
- For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 4.10P^{0.67}$$
 where:
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.
 P = the process weight rate in tons-mass per hour.
 - For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:

$$E = 55.0P^{0.11-40}$$
 where "E" and "P" are defined as indicated in subsection (B)(1).
- C.** Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- D.** For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in determining the maximum allowable emission of particulate matter.
- E.** Fugitive emissions from coal preparation plants shall be controlled in accordance with R18-2-604 through R18-2-607.
- F.** The test methods and procedures required by this Section are as follows:
- The reference methods in the 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, are used to determine compliance with standards prescribed in subsection (B) as follows:
 - Method 5 for the concentration of particulate matter and associated moisture content,
 - Method 1 for sample and velocity traverses,
 - Method 2 for velocity and volumetric flow rate,
 - Method 3 for gas analysis.
 - For Method 5, the sampling time for each run shall be at least 60 minutes and the minimum sample volume is 0.85 dscm (30 dscf) except that short sampling times or smaller volumes, when necessitated by process variables or other factors, may be approved by the Director. Sam-

pling shall not be started until 30 minutes after start-up and shall be terminated before shutdown procedures commence. The owner or operator of the affected facility shall eliminate cyclonic flow during performance tests in a manner acceptable to the Director.

- The owner or operator shall construct the facility so that particulate emissions from thermal dryers or pneumatic coal cleaning equipment can be accurately determined by applicable test methods and procedures under subsection (F)(1).

Historical Note

Section R18-2-716 renumbered from R18-2-516 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

R18-2-717. Expired**Historical Note**

Section R18-2-717 renumbered from R18-2-517 effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1). Section expired under A.R.S. § 41-1056(J) at 21 A.A.R. 15, effective September 30, 2015 (Supp. 15-4).

R18-2-718. Repealed**Historical Note**

Section R18-2-718 renumbered from R18-2-518 effective November 15, 1993 (Supp. 93-4). Section repealed by final rulemaking at 13 A.A.R. 2157, effective August 4, 2007 (Supp. 07-2).

R18-2-719. Standards of Performance for Existing Stationary Rotating Machinery

- A.** The provisions of this Section are applicable to the following affected facilities: all stationary gas turbines, oil-fired turbines, or internal combustion engines. This Section also applies to an installation operated for the purpose of producing electric or mechanical power with a resulting discharge of sulfur dioxide in the installation's effluent gases.
- B.** For purposes of this Section, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or other outlet. Compliance tests shall be conducted during operation at the normal rated capacity of each unit. The total heat input of all operating fuel-burning units on a plant or premises shall be used for determining the maximum allowable amount of particulate matter which may be emitted.
- C.** No person shall cause, allow or permit the emission of particulate matter, caused by combustion of fuel, from any stationary rotating machinery in excess of the amounts calculated by one of the following equations:
- For equipment having a heat input rate of 4200 million Btu per hour or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 1.02Q^{0.769}$$
 where:
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.
 Q = the heat input in million Btu per hour.
 - For equipment having a heat input rate greater than 4200 million Btu per hour, the maximum allowable emissions shall be determined by the following equation:

$$E = 17.0Q^{0.432}$$

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where "E" and "Q" have the same meaning as in subsection (C)(1).

- D. Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- E. No person shall cause, allow or permit to be emitted into the atmosphere from any stationary rotating machinery, smoke for any period greater than 10 consecutive seconds which exceeds 40% opacity. Visible emissions when starting cold equipment shall be exempt from this requirement for the first 10 minutes.
- F. When low sulfur oil is fired, stationary rotating machinery installations shall burn fuel which limits the emission of sulfur dioxide to 1.0 pound per million Btu heat input.
- G. When high sulfur oil is fired, stationary rotating machinery installations shall not emit more than 2.2 pounds of sulfur dioxide per million Btu heat input.
- H. Any permit issued for the operation of an existing source, or any renewal or modification of such a permit, shall include a condition prohibiting the use of high sulfur oil by the permittee. This condition may not be included in the permit if the applicant demonstrates to the satisfaction of the Director both that sufficient quantities of low sulfur oil are not available for use by the source and that it has adequate facilities and contingency plans to ensure that the sulfur dioxide ambient air quality standards set forth in R18-2-202 will not be violated.
 - 1. The terms of the permit may authorize the use of high sulfur oil under such conditions as are justified.
 - 2. In cases where the permittee is authorized to use high sulfur oil, it shall submit to the Department monthly reports detailing its efforts to obtain low sulfur oil.
 - 3. When the conditions justifying the use of high sulfur oil no longer exist, the permit shall be modified accordingly.
 - 4. Nothing in this Section shall be construed as allowing the use of a supplementary control system or other form of dispersion technology.
- I. The owner or operator of any stationary rotating machinery subject to the provisions of this Section shall record daily the sulfur content and lower heating value of the fuel being fired in the machine.
- J. The owner or operator of any stationary rotating machinery subject to the provisions of this Section shall report to the Director any daily period during which the sulfur content of the fuel being fired in the machine exceeds 0.8%.
- K. The test methods and procedures required by this Section are as follows:
 - 1. To determine compliance with the standards prescribed in subsections (C) through (H), the following reference methods shall be used:
 - a. Reference Method 20 in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, for the concentration of sulfur dioxide and oxygen.
 - b. ASTM Method D129-91 (Test Method for Sulfur in Petroleum Products) (General Bomb Method) for the sulfur content of liquid fuels.
 - c. ASTM Method D1072-90 (Test Method for Total Sulfur in Fuel Gases for the sulfur content of gaseous fuels).
 - 2. To determine compliance with the standards prescribed in subsection (J), the following reference methods shall be used:
 - a. ASTM Method D129-91 (Test Method for Sulfur in Petroleum Products) (General Bomb Method) for the sulfur content of liquid fuels.

- b. ASTM Method D1072-90 (Test Method for Total Sulfur in Fuel Gases) for the sulfur content of gaseous fuels.

Historical Note

Section R18-2-719 renumbered from R18-2-519 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-720. Standards of Performance for Existing Lime Manufacturing Plants

- A. The provisions of this Section are applicable to the following affected facilities used in the manufacture of lime: rotary lime kilns, vertical lime kilns, lime hydrators, and limestone crushing facilities. This Section is also applicable to limestone crushing equipment which exists apart from other lime manufacturing facilities.
- B. No person shall cause, allow or permit the discharge of particulate matter into the atmosphere in any one hour from any lime manufacturing or limestone crushing facility in total quantities in excess of the amounts calculated by one of the following equations:
 - 1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 4.10P^{0.67}$$
 where:
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.
 P = the process weight rate in tons-mass per hour.
 - 2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:

$$E = 55.0P^{0.11-40}$$
 where "E" and "P" are defined as indicated in subsection (B)(1).
- C. Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- D. For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in determining the maximum allowable emission of particulate matter.
- E. Fugitive emissions from lime plants shall be controlled in accordance with R18-2-604 through R18-2-607.
- F. The owner or operator subject to the provisions of this Section shall install, calibrate, maintain, and operate a continuous monitoring system, except as provided in subsection (G), to monitor and record the opacity of the gases discharged into the atmosphere from any rotary lime kiln. The span of this system shall be set at 70% opacity.
- G. The owner or operator of any rotary lime kiln using a wet scrubbing emission control device subject to the provisions of this Section shall not be required to monitor the opacity of the gases discharged as required in subsection (F).
- H. The test methods and procedures required by this Section are as follows:
 - 1. The reference methods in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, shall be used to determine compliance with this Section as follows:

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- a. Method 5 for the measurement of particulate matter,
 - b. Method 1 for sample and velocity traverses,
 - c. Method 2 for velocity and volumetric flow rate,
 - d. Method 3 for gas analysis,
 - e. Method 4 for stack gas moisture,
 - f. Method 9 for visible emissions.
2. For Method 5, the sampling time for each run shall be at least 60 minutes and the sampling rate shall be at least 0.85 dscm/hr (0.53 dscf/min), except that shorter sampling times, when necessitated by process variables or other factors, may be approved by the Director.
 3. Because of the high moisture content of the exhaust gases from the hydrators, in the range of 40 to 85% by volume, the Method 5 sample train may be modified to include a calibrated orifice immediately following the sample nozzle when testing lime hydrators. In this configuration, the sampling rate necessary for maintaining isokinetic conditions can be directly related to exhaust gas velocity without a correction for moisture content.

Historical Note

Section R18-2-720 renumbered from R18-2-520 and amended effective November 15, 1993 (Supp. 93-4).
Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

R18-2-721. Standards of Performance for Existing Nonferrous Metals Industry Sources

- A. The provisions of this Section are applicable to the following affected facilities:
 1. Mines,
 2. Mills,
 3. Concentrators,
 4. Crushers,
 5. Screens,
 6. Material handling facilities,
 7. Fine ore storage,
 8. Dryers,
 9. Roasters, and
 10. Loaders.
- B. No person shall cause, allow or permit the discharge of particulate matter into the atmosphere in any one hour from any process source subject to the provisions of this Section in total quantities in excess of the amounts calculated by one of the following equations:
 1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 4.10P^{0.67}$$
 where:
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.
 P = the process weight rate in tons-mass per hour.
 2. For process sources having a process weight greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:

$$E = 55.0P^{0.11-40}$$
 where "E" and "P" are defined as indicated in subsection (B)(1).
- C. Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- D. For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in

determining the maximum allowable emission of particulate matter.

- E. No person shall cause, allow or permit to be discharged into the atmosphere from any dryer or roaster the operating temperature of which exceeds 700°F, reduced sulfur in excess of 10% of the sulfur entering the process as feed. Reduced sulfur includes sulfur equivalent from all sulfur emissions including sulfur dioxide, sulfur trioxide, and sulfuric acid.
- F. The owner or operator of any mining property subject to the provisions of this Section shall record the daily process rates and hours of operation of all material handling facilities.
- G. A continuous monitoring system for measuring sulfur dioxide emissions shall be installed, calibrated, maintained and operated by the owner or operator where dryers or roasters are not expected to achieve compliance with the standard under subsection (E).
- H. The test methods and procedures required by this Section are as follows:
 1. The reference methods in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, shall be used to determine compliance with the standard prescribed in this Section as follows:
 - a. Method 5 for the concentration of particulate matter and the associated moisture content;
 - b. Method 1 for sample and velocity traverses;
 - c. Method 2 for velocity and volumetric flow rate;
 - d. Method 3 for gas analysis and calculation of excess air, using the integrated sample technique;
 - e. Method 6 for concentration of SO₂.
 2. For Method 5, Method 1 shall be used to select the sampling site and the number of traverse sampling points. The sampling time for each run shall be at least 60 minutes and the minimum sampling volume shall be 0.85 dscm (30 dscf), except that smaller sampling times or volumes, when necessitated by process variables or other factors, may be approved by the Director. The probe and filter holder heating systems in the sampling train shall be set to provide a gas temperature no greater than 160°C. (320°F.).
 3. For Method 6, the sampling site shall be the same as that selected for Method 5. The sampling point in the duct shall be at the centroid of the cross section or at a point no closer to the walls than 1 m (3.28 ft.). For Method 6, the sample shall be extracted at a rate proportional to the gas velocity at the sampling point.
 4. For Method 6, the minimum sampling time shall be 20 minutes and the minimum sampling volume 0.02 dscm (0.71 dscf) for each sample. The arithmetic mean of two samples shall constitute one run. Samples shall be taken at approximately 30-minute intervals.

Historical Note

Section R18-2-721 renumbered from R18-2-521 effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

R18-2-722. Standards of Performance for Existing Gravel or Crushed Stone Processing Plants

- A. The provisions of this Section are applicable to the following affected facilities: primary rock crushers, secondary rock crushers, tertiary rock crushers, screens, conveyors and conveyor transfer points, stackers, reclaimers, and all gravel or crushed stone processing plants and rock storage piles.

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- B. No person shall cause, allow or permit the discharge of particulate matter into the atmosphere except as fugitive emissions in any one hour from any gravel or crushed stone processing plant in total quantities in excess of the amounts calculated by one of the following equations:

1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 4.10P^{0.67}$$

where:

E = the maximum allowable particulate emissions rate in pounds-mass per hour.

P = the process weight rate in tons-mass per hour.

2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:

$$E = 55.0P^{0.11-40}$$

where "E" and "P" are defined as indicated in subsection (B)(1).

- C. Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- D. Spray bar pollution controls shall be utilized in accordance with "EPA Control of Air Emissions From Process Operations In The Rock Crushing Industry" (EPA 340/1-79-002), "Wet Suppression System" (pages 15-34, amended as of January 1979 (and no future amendments or editions)), as incorporated herein by reference and on file with the Office of the Secretary of State, with placement of spray bars and nozzles as required by the Director to minimize air pollution.
- E. Fugitive emissions from gravel or crushed stone processing plants shall be controlled in accordance with R18-2-604 through R18-2-607.
- F. The owner or operator of any affected facility subject to the provisions of this Section shall install, calibrate, maintain, and operate monitoring devices which can be used to determine daily the process weight of gravel or crushed stone produced. The weighing devices shall have an accuracy of $\pm 5\%$ over their operating range.
- G. The owner or operator of any affected facility shall maintain a record of daily production rates of gravel or crushed stone produced.
- H. The test methods and procedures required by this Section are as follows:
 1. The reference methods in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, shall be used to determine compliance with the standards prescribed in this Section as follows:
 - a. Method 5 for concentration of particulate matter and moisture content,
 - b. Method 1 for sample and velocity traverses,
 - c. Method 2 for velocity and volumetric flow rate,
 - d. Method 3 for gas analysis.
 2. For Method 5, the sampling time for each run shall be at least 60 minutes and the minimum sample volume is 0.85 dscm (30 dscf), except that shorter sampling times or smaller volumes, when necessitated by process variables or other factors, may be approved by the Director. Sampling shall not be started until 30 minutes after start-up and shall be terminated before shutdown procedures commence. The owner or operator of the affected facility shall eliminate cyclonic flow during performance tests in a manner acceptable to the Director.

Historical Note

Section R18-2-722 renumbered from R18-2-522 and amended effective November 15, 1993 (Supp. 93-4).
Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

R18-2-723. Standards of Performance for Existing Concrete Batch Plants

Fugitive dust emitted from concrete batch plants shall be controlled in accordance with R18-2-604 through R18-2-607.

Historical Note

Section R18-2-723 renumbered from R18-2-523 and amended effective November 15, 1993 (Supp. 93-4).

R18-2-724. Standards of Performance for Fossil-fuel Fired Industrial and Commercial Equipment

- A. This Section applies to industrial and commercial installations which are less than 73 megawatts capacity (250 million Btu per hour), but in the aggregate on any premises are rated at greater than 500,000 Btu per hour (0.146 megawatts), and in which fuel is burned for the primary purpose of producing steam, hot water, hot air or other liquids, gases or solids and in the course of doing so the products of combustion do not come into direct contact with process materials. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitations shall apply.
- B. For purposes of this Section, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or other outlet. The heat content of solid fuel shall be determined in accordance with R18-2-311. Compliance tests shall be conducted during operation at the nominal rated capacity of each unit. The total heat input of all fuel-burning units on a plant or premises shall be used for determining the maximum allowable amount of particulate matter which may be emitted.
- C. No person shall cause, allow or permit the emission of particulate matter, caused by combustion of fuel, from any fuel-burning operation in excess of the amounts calculated by one of the following equations:
 1. For equipment having a heat input rate of 4200 million Btu per hour or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 1.02Q^{0.769}$$
 where:
E = the maximum allowable particulate emissions rate in pounds-mass per hour.
Q = the heat input in million Btu per hour.
 2. For equipment having a heat input rate greater than 4200 million Btu per hour, the maximum allowable emissions shall be determined by the following equation:

$$E = 17.0Q^{0.432}$$
 where "E" and "Q" have the same meanings as in subsection (C)(1).
- D. Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- E. Fossil-fuel fired industrial and commercial equipment installations shall not emit more than 1.0 pounds of sulfur dioxide per million Btu heat input when low sulfur oil is fired.
- F. Fossil-fuel fired industrial and commercial equipment installations shall not emit more than 2.2 pounds of sulfur dioxide per million Btu heat input when high sulfur oil is fired.
- G. Any permit issued for the operation of an existing source, or any renewal or modification of such a permit, shall include a condition prohibiting the use of high sulfur oil by the permit-

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tee. This condition may be omitted from the permit if the applicant demonstrates to the satisfaction of the Director both that sufficient quantities of low sulfur oil are not available for use by the source and that it has adequate facilities and contingency plans to ensure that the sulfur dioxide ambient air quality standards set forth in R18-2-202 will not be violated.

1. The terms of the permit may authorize the use of high sulfur oil under such conditions as are justified.
 2. In cases where the permittee is authorized to use high sulfur oil, it shall submit to the Department monthly reports detailing its efforts to obtain low sulfur oil.
 3. When the conditions justifying the use of high sulfur oil no longer exist, the permit shall be modified accordingly.
 4. Nothing in this Section shall be construed as allowing the use of a supplementary control system or other form of dispersion technology.
- H.** When coal is fired, fossil-fuel fired industrial and commercial equipment installations shall not emit more than 1.0 pounds of sulfur dioxide per million Btu heat input.
- I.** The owner or operator subject to the provisions of this Section shall install, calibrate, maintain and operate a continuous monitoring system for measurement of the opacity of emissions discharged into the atmosphere from the control device.
- J.** For the purpose of reports required under excess emissions reporting required by R18-2-310.01, the owner or operator shall report all six-minute periods in which the opacity of any plume or effluent exceeds 15%.
- K.** The test methods and procedures required by this Section are as follows:
1. The reference methods in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, shall be used to determine compliance with the standards as prescribed in this Section.
 - a. Method 1 for selection of sampling site and sample traverses,
 - b. Method 3 for gas analysis to be used when applying Reference Methods 5 and 6,
 - c. Method 5 for concentration of particulate matter and the associated moisture content,
 - d. Method 6 for concentration of SO₂.
 2. For Method 5, Method 1 shall be used to select the sampling site and the number of traverse sampling points. The sampling time for each run shall be at least 60 minutes and the minimum sampling volume shall be 0.85 dscm (30 dscf), except that smaller sampling times or volumes, when necessitated by process variables or other factors, may be approved by the Director. The probe and filter holder heating systems in the sampling train shall be set to provide a gas temperature no greater than 160°C. (320°F.).
 3. For Method 6, the sampling site shall be the same as that selected for Method 5. The sampling point in the duct shall be at the centroid of the cross section or at a point no closer to the walls than 1 m (3.28 ft). For Method 6, the sample shall be extracted at a rate proportional to the gas velocity at the sampling point.
 4. For Method 6, the minimum sampling time shall be 20 minutes and the minimum sampling volume 0.02 dscm (0.71 dscf) for each sample. The arithmetic mean of two samples shall constitute one run. Samples shall be taken at approximately 30-minute intervals.
 5. Gross calorific value shall be determined in accordance with the applicable ASTM methods: D-2015-91 (Test for Gross Calorific Value of Solid Fuel by the Adiabatic

Bomb Calorimeter) for solid fuels; D-240-87 (Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter) for liquid fuels; and D-1826-88 (Test Method for Calorific Value of Gases in Natural Gas Range by Continuous Recording Calorimeter) for gaseous fuels. The rate of fuels burned during each testing period shall be determined by suitable methods and shall be confirmed by a material balance over the fossil-fuel fired system.

Historical Note

Section R18-2-724 renumbered from R18-2-524 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 7 A.A.R. 1164, effective February 15, 2001 (Supp. 01-1). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

R18-2-725. Standards of Performance for Existing Dry Cleaning Plants

- A.** No person shall conduct any dry cleaning operation using chlorinated synthetic solvents without minimizing organic solvent emissions by good modern practices including but not limited to the use of an adequately sized and properly maintained activated carbon absorber or other equally effective control device.
- B.** No person shall operate any dry cleaning establishment using petroleum solvents other than non-photochemically reactive solvents without reducing solvent emissions by at least 90%. For purposes of this subsection, a photochemically reactive solvent shall be any solvent with an aggregate of more than 20% of its total volume composed of the chemical compounds classified in subsections (B)(1) through (3), or which exceeds any of the following percentage composition limitations, referred to the total volume of solvent:
1. A combination of the following types of compounds having an olefinic or cyclo-olefinic type of unsaturation -- hydrocarbons, alcohols, aldehydes, esters, ethers, or ketones: 5%.
 2. A combination of aromatic compounds with 8 or more carbon atoms to the molecule except ethylbenzene: 8%.
 3. A combination of ethylbenzene, ketones having branched hydrocarbon structures, trichlorethylene or toluene: 20%.
- C.** Where a stack, vent or other outlet is at such a level that fumes, gas mist, odor, smoke, vapor or any combination thereof constituting air pollution is discharged to adjoining property, the Director may require the installation of abatement equipment or the alteration of such stack, vent, or other outlet by the owner or operator thereof to a degree that will adequately dilute, reduce or eliminate the discharge of air pollution to the adjoining property.

Historical Note

Section R18-2-725 renumbered from R18-2-525 effective November 15, 1993 (Supp. 93-4).

R18-2-726. Standards of Performance for Sandblasting Operations

No person shall cause or permit sandblasting or other abrasive blasting without minimizing dust emissions to the atmosphere through the use of good modern practices. Examples of good modern practices include wet blasting and the use of effective enclosures with necessary dust collecting equipment.

Historical Note

Section R18-2-726 renumbered from R18-2-526 effective November 15, 1993 (Supp. 93-4).

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R18-2-727. Standards of Performance for Spray Painting Operations

- A.** No person shall conduct any spray paint operation without minimizing organic solvent emissions. Such operations other than architectural coating and spot painting, shall be conducted in an enclosed area equipped with controls containing no less than 96% of the overspray.
- B.** No person shall either:
1. Employ, apply, evaporate or dry any architectural coating containing photochemically reactive solvents for industrial or commercial purposes; or
 2. Thin or dilute any architectural coating with a photochemically reactive solvent.
- C.** For purposes of subsection (B), a photochemically reactive solvent shall be any solvent with an aggregate of more than 20% of its total volume composed of the chemical compounds classified in subsections (1) through (3), or which exceeds any of the following percentage composition limitations, referred to the total volume of solvent:
1. A combination of the following types of compounds having an olefinic or cyclo-olefinic type of unsaturation -- hydrocarbons, alcohols, aldehydes, esters, ethers, or ketones: 5%.
 2. A combination of aromatic compounds with 8 or more carbon atoms to the molecule except ethylbenzene: 8%.
 3. A combination of ethylbenzene, ketones having branched hydrocarbon structures, trichlorethylene or toluene: 20%.
- D.** Whenever any organic solvent or any constituent of an organic solvent may be classified from its chemical structure into more than one of the groups or organic compounds described in subsection (C)(1) through (3), it shall be considered to be a member of the group having the least allowable percent of the total volume of solvents.

Historical Note

Section R18-2-727 renumbered from R18-2-527 effective November 15, 1993 (Supp. 93-4).

R18-2-728. Standards of Performance for Existing Ammonium Sulfide Manufacturing Plants

- A.** The provisions of this Section are applicable to the following affected facilities in ammonium sulfide manufacturing plants: sulfide unloading facilities, reactor-absorbers, bubble cap scrubbers, and fume incinerators.
- B.** No person shall cause, allow or permit to be emitted into the atmosphere, from any type of incinerator or other outlet smoke, fumes, gases, particulate matter or other gas-borne material, the opacity of which exceeds 20%.
- C.** No person shall cause, allow or permit to be emitted into the atmosphere from any emission point from any incinerator, or to pass a convenient measuring point near such emission point, particulate matter of concentrations in excess of 0.1 grain per cubic foot, based on dry flue gas at standard conditions, corrected to 12% carbon dioxide.
- D.** No person shall allow hydrogen sulfide to be emitted from any location in such manner and amount that the concentration of such emissions into the ambient air at any occupied place beyond the premises on which the source is located exceeds 0.03 parts per million by volume for any averaging period of 30 minutes or more.
- E.** Where a stack, vent or other outlet is at such a level that fumes, gas mist, odor, smoke, vapor or any combination thereof constituting air pollution are discharged to adjoining property, the Director may require the installation of abatement equipment or the alteration of such stack, vent, or other outlet by the

owner or operator thereof to a degree that will adequately dilute, reduce or eliminate the discharge of air pollution to adjoining property.

- F.** The owner or operator of any ammonium sulfide tailgas incinerator subject to the provisions of this Section shall do both of the following:
1. Install, calibrate, maintain, and operate a flow measuring device which can be used to determine either the mass or volume of tailgas charged to the incinerator. The flow measuring device shall have an accuracy of $\pm 5\%$ over its operating range.
 2. Provide access to the tailgas charged so that a well-mixed representative grab sample can be obtained.
- G.** The test methods and procedures required by this Section are as follows:
1. The reference methods in 40 CFR 60, Appendix A shall be used to determine compliance with the standards prescribed in this Section as follows:
 - a. Method 5 for the concentration of particulate matter and the associated moisture content;
 - b. Method 1 for sample and velocity traverse;
 - c. Method 2 for velocity and volumetric flow rate;
 - d. Method 3 for gas analysis and calculation of excess air, using the integrated sample technique;
 - e. Method 11 shall be used to determine the concentration of H_2S and Method 6 shall be used to determine the concentration of SO_2 .
 2. For Method 5, the sampling time for each run shall be at least 60 minutes and the minimum sample volume shall be 0.85 dscm (30.0 dscf) except that shorter sampling times and smaller sample volumes, when necessitated by process variables or other factors, may be approved by the Director.
 3. Particulate matter emissions, expressed in g/dscm, shall be corrected to 12% CO_2 by using the following formula:

$$C_{12} = \frac{12c}{\%CO_2}$$
 where:
 C_{12} = the concentration of particulate matter corrected to 12% CO_2 ,
 c = the concentration of particulate matter as measured by Method 5, and
 $\%CO_2$ = the percentage of CO_2 as measured by Method 3, or, when applicable, the adjusted outlet CO_2 percentage.
 4. If Method 11 is used, the gases sampled shall be introduced into the sampling train at approximately atmospheric pressure. Where fuel gas lines are operating at pressures substantially above atmosphere, this may be accomplished with a flow control valve. If the line pressure is high enough to operate the sampling train without a vacuum pump, the pump may be eliminated from the sampling train. The sample shall be drawn from a point near the centroid of the fuel gas line. The minimum sampling time shall be 10 minutes and the minimum sampling volume 0.01 dscm (0.35 dscf) for each sample. The arithmetic average of two samples of equal sampling time shall constitute one run. Samples shall be taken at approximately one-hour intervals. For most fuel gases, sample times exceeding 20 minutes may result in depletion of the collecting solution, although fuel gases containing low concentrations of hydrogen sulfide may necessitate sampling for longer periods of time.

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5. If Method 5 is used, Method 1 shall be used for velocity traverses and Method 2 for determining velocity and volumetric flow rate. The sampling site for determining CO₂ concentration by Method 3 shall be the same as for determining volumetric flow rate by Method 2. The sampling point in the duct for determining SO₂ concentration by Method 3 shall be at the centroid of the cross section if the cross sectional area is less than 5 m² (54 ft²) or at a point no closer to the walls than 1 m (3.28 feet) if the cross sectional area is 5 m² or more and the centroid is more than 1 meter from the wall. The sample shall be extracted at a rate proportional to the gas velocity at the sampling point. The minimum sampling time shall be 10 minutes and the minimum sampling volume 0.01 dscm (0.36 dscf) for each sample. The arithmetic average of two samples of equal sampling time shall constitute one run. Samples shall be taken at approximately one-hour intervals.

Historical Note

Section R18-2-728 renumbered from R18-2-528 effective November 15, 1993 (Supp. 93-4).

R18-2-729. Standards of Performance for Cotton Gins

- A. Fugitive dust, lint, bolls, cotton seed or other material emitted from a cotton gin or lying loose in a yard shall be collected and disposed of in an efficient manner or shall be treated in accordance with R18-2-604 through R18-2-607.
- B. No person shall cause, allow or permit to be emitted into the atmosphere, from any type of incinerator, smoke, fumes, gases, particulate matter or other gas-borne material which exceeds 40% opacity.
- C. No person shall cause, allow, or permit the discharge of particulate matter into the atmosphere in any one hour from any cotton gin in total quantities in excess of the amounts calculated by one of the following equations:
- For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 4.10P^{0.67}$$
 where:
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.
 P = the process weight rate in tons-mass per hour.
 - For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:

$$E = 55.0P^{0.11-40}$$
 where "E" and "P" are defined as indicated in subsection (C)(1).
- D. The test methods and procedures required by this Section are as follows:
- The reference methods in the Arizona Testing Manual and 40 CFR 60, Appendix A shall be used to determine compliance with this Section as follows:
 - Method A-2 for the measurement of particulate matter,
 - Method 1 for sample and velocity traverses,
 - Method 2 for velocity and volumetric flow rate,
 - Method 3 for gas analysis,
 - Method 9 for visible emissions.
 - For Method A-2, the sampling time for each run shall be at least 60 minutes and the sampling rate shall be at least

0.85 dry standard cubic meters per hour (0.53 dry standard cubic feet per minute), except that shorter sampling times, when necessitated by progress variables or other factors, may be approved by the Director.

Historical Note

Section R18-2-729 renumbered from R18-2-529 and amended effective November 15, 1993 (Supp. 93-4).
 Amended by final rulemaking at 13 A.A.R. 2157, effective August 4, 2007 (Supp. 07-2).

R18-2-730. Standards of Performance for Unclassified Sources

- A. No existing source which is not otherwise subject to standards of performance under this Article or Article 9 or 11 of this Chapter, shall cause or permit the emission of pollutants at rates greater than the following:
- For particulate matter discharged into the atmosphere in any one hour from any unclassified process source in total quantities in excess of the amounts calculated by one of the following equations:
 - For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 4.10P^{0.67}$$
 where:
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.
 P = the process weight rate in tons-mass per hour.
 - For process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:

$$E = 55.0P^{0.11-40}$$
 where "E" and "P" are defined as indicated in subsection (A)(1)(a).
 - Sulfur dioxide – 600 parts per million.
 - Nitrogen oxides expressed as NO₂ – 500 parts per million.
- B. For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in determining the maximum allowable emission of particulate matter.
- C. Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- D. No person shall emit gaseous or odorous materials from equipment, operations or premises under the person's control in such quantities or concentrations as to cause air pollution.
- E. No person shall operate or use any machine, equipment, or other contrivance for the treatment or processing of animal or vegetable matter, separately or in combination, unless all gaseous vapors and gas entrained effluents from such operations, equipment, or contrivance have been either:
- Incinerated to destruction, as indicated by a temperature measuring device, at not less than 1,200°F if constructed or reconstructed prior to January 1, 1989, or 1,600°F with a minimum residence time of 0.5 seconds if constructed or reconstructed thereafter; or
 - Passed through such other device which is designed, installed and maintained to prevent the emission of odors or other air contaminants and which is approved by the Director.

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- F.** Materials including solvents or other volatile compounds, paints, acids, alkalies, pesticides, fertilizers and manure shall be processed, stored, used and transported in such a manner and by such means that they will not evaporate, leak, escape or be otherwise discharged into the ambient air so as to cause or contribute to air pollution. Where means are available to reduce effectively the contribution to air pollution from evaporation, leakage or discharge, the installation and use of such control methods, devices, or equipment shall be mandatory.
- G.** Where a stack, vent or other outlet is at such a level that fumes, gas mist, odor, smoke, vapor or any combination thereof constituting air pollution is discharged to adjoining property, the Director may require the installation of abatement equipment or the alteration of such stack, vent, or other outlet by the owner or operator thereof to a degree that will adequately dilute, reduce or eliminate the discharge of air pollution to adjoining property.
- H.** No person shall allow hydrogen sulfide to be emitted from any location in such manner and amount that the concentration of such emissions into the ambient air at any occupied place beyond the premises on which the source is located exceeds 0.03 parts per million by volume for any averaging period of 30 minutes or more.
- I.** No person shall cause, allow or permit discharge from any stationary source carbon monoxide emissions without the use of complete secondary combustion of waste gases generated by any process source.
- J.** No person shall allow hydrogen cyanide to be emitted from any location in such manner and amount that the concentration of such emissions into the ambient air at any occupied place beyond the premises on which the source is located exceeds 0.3 parts per million by volume for any averaging period of eight hours.
- K.** No person shall allow sodium cyanide dust or dust from any other solid cyanide to be emitted from any location in such manner and amount that the concentration of such emissions into the ambient air at any occupied place beyond the premises on which the source is located exceeds 140 micrograms per cubic meter for any averaging period of eight hours.
- L.** No owner or operator of a facility engaged in the surface coating of miscellaneous metal parts and products may operate a coating application system subject to this Section that emits volatile organic compounds in excess of any of the following:
1. 4.3 pounds per gallon (0.5 kilograms per liter) of coating, excluding water, delivered to a coating applicator that applies clear coatings.
 2. 3.5 pounds per gallon (0.42 kilograms per liter) of coating, excluding water delivered to a coating applicator in a coating application system that is air dried or forced warm air dried at temperatures up to 194°F (90°C).
 3. 3.5 pounds per gallon (0.42 kilograms per liter) of coating, excluding water, delivered to a coating applicator that applies extreme performance coatings.
 4. 3.0 pounds per gallon (0.36 kilograms per liter) of coating, excluding water, delivered to a coating applicator for all other coatings and application systems.
- M.** If more than one emission limitation in subsection (L) applies to a specific coating, then the least stringent emission limitation shall be applied.
- N.** All VOC emissions from solvent washings shall be considered in the emission limitations in subsection (L), unless the solvent is directed into containers that prevent evaporation into the atmosphere.

Historical Note

Renumbered from R18-2-530 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

R18-2-731. Standards of Performance for Existing Municipal Solid Waste Landfills

- A.** This Section applies to each municipal solid waste landfill (MSW landfill) at which:
1. Construction, reconstruction, or modification began on or before July 17, 2014; and
 2. Waste was accepted at any time since November 8, 1987, or additional design capacity is available for future waste deposition.
- B.** For the purposes of this Section, "Municipal solid waste landfill or MSW landfill" means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. An MSW landfill may also receive other types of RCRA (Resource Conservation and Recovery Act) Subtitle D wastes such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of an MSW landfill may be separated by access roads. An MSW landfill may be publicly or privately owned.
- C.** MSW landfills covered by this Section shall comply with 40 CFR 60, Subpart Cf, effective as of the date of EPA approval of the state plan under section 111(d) of the Act. 40 CFR 60, Subpart WWW, "Standards of Performance for Municipal Solid Waste Landfills," will remain in effect until Arizona's state plan implementing Subpart Cf is approved by EPA. 40 CFR 60, Subpart Cf "Emissions Guidelines and Compliance Times for Municipal Solid Waste Landfills," as adopted on August 29, 2016 (and no future amendments) is hereby incorporated by reference as applicable requirements. MSW landfills may meet the requirements of Subpart Cf by complying with 40 CFR 60, Subpart XXX. 40 CFR 60, Subpart XXX "Standards of Performance for Municipal Solid Waste Landfills that Commenced Construction, Reconstruction or Modification After July 17, 2014," is incorporated by reference in R18-2-901.

Historical Note

Adopted effective April 4, 1997; filed with the Office of the Secretary of State March 14, 1997 (Supp. 97-1). Amended by final rulemaking at 24 A.A.R. 1864, effective August 10, 2018 (Supp. 18-2).

R18-2-732. Expired**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 3058, effective August 10, 1999 (Supp. 99-3). Amended by final rulemaking at 13 A.A.R. 2157, effective August 4, 2007 (Supp. 07-2). Section expired under A.R.S. § 41-1056(J) at 21 A.A.R. 15, effective September 30, 2015 (Supp. 15-4).

R18-2-733. Repealed**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4701, effective January 29, 2007 (Supp. 06-4). Section repealed by final rulemaking at 21 A.A.R. 711, effective June 30, 2015 (Supp. 15-2).

R18-2-733.01. Repealed**Historical Note**

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New Section made by final rulemaking at 12 A.A.R. 4701, effective January 29, 2007 (Supp. 06-4). Section repealed by final rulemaking at 21 A.A.R. 711, effective June 30, 2015 (Supp. 15-2).

R18-2-734. Standards of Performance for Mercury Emissions from Electric Generating Units

- A. Applicability and Purpose.** The requirements of this Section apply to owners and operators of electric generating units. The purpose of this Section is to establish:
1. Interim standards for mercury emissions from electric generating units that shall apply until compliance with the emissions limits in the federal mercury standards is required.
 2. State standards for mercury emissions from electric generating units that shall apply if the federal mercury standards are vacated by a federal court or repealed by the administrator.
- B. Interim Standards.** The following requirements shall apply until the date that compliance with the federal mercury standards or subsection (G) is required:
1. The owners and operators shall comply with the mercury control strategy operations and maintenance plan approved as part of the permit for the electric generating plant.
 2. The owners and operators shall operate and maintain the electric generating plant, including any associated air pollution control equipment, in a manner consistent with good air pollution control practices for minimizing mercury emissions. This requirement shall apply to any air pollution control equipment installed pursuant to subsection (B)(1) or to any new air pollution control equipment installed to comply with the federal mercury standards if such equipment replaces equipment installed pursuant to subsection (B)(1).
- C. Incorporation of Federal Mercury Standards.** The federal mercury standards in 40 CFR Part 63, Subpart UUUUU, as of July 1, 2013 (and no future amendments or editions) are incorporated by reference and shall remain effective to the extent specified in this Section regardless of whether they are vacated by a federal court or repealed by the administrator. Subpart UUUU of 40 C.F.R. Part 63 is published by the United States Government Printing Office, 732 North Capital Street, NW, Washington, DC 20401-0001, is on file with the Department of Environmental Quality, 1110 West Washington Street, Phoenix, Arizona 85007, and is available at the Arizona State Library, Archives & Public Records, 1700 West Washington Street, Phoenix, Arizona 85007 and at other Federal depository libraries in the state (see http://catalog.gpo.gov/fdlpdir/FDLPdir.jsp?st_12=AZ&flag=searchp). It is also available online at <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>. The owners and operators shall provide to the director a copy of all notices and reports submitted to the Administrator under the federal mercury standards, except for any reports or data submitted to the Administrator through electronic systems (for example, Compliance and Emissions Data Reporting Interface (CEDRI), Emission Collection Monitoring Plan System Client Tool (ECMPS) or the Emissions Reporting Tool (ERT)).
- D. Notice of State Standard Applicability.** The director shall provide notice to the responsible official for each electric generating plant of any repeal or federal court vacatur of the federal mercury standards. If the repeal or vacatur occurred after the date the electric generating plant was required to comply with the emission limits in the federal mercury standards, the plant

shall continue to comply with the federal mercury standards until the date that compliance with subsection (G) is required.

- E. Application for Permit Revision.** Within 120 days of receipt of written notice from the director under subsection (D), the owners and operators shall submit an application for a permit revision that proposes:
1. The mercury emission limit or limits in subsection (G) that shall apply to the electric generating plant.
 2. A date for demonstrating compliance with the mercury emission limit consistent with subsection (F)(2).
 3. A mercury monitoring plan consistent with subsection (H)(2).
- F. Permit Revision Setting State Standard.** A permit revision granted in response to the application submitted under subsection (E) shall contain the following conditions:
1. The mercury emission limit or limits in subsection (G) that shall apply to the electric generating plant.
 2. The date compliance with the emission limit or limits shall be required. Unless the application requests an earlier date, the compliance date shall be the later of December 31, 2016 or the end of the first averaging period commencing no later than 180 days after permit issuance.
 3. The date for demonstrating initial compliance with the emission limit or limits, which shall be 45 days after completion of the first full averaging period after the compliance date established under subsection (F)(2).
 4. The date on which compliance with subsection (B), or the obligation to comply with the federal mercury standards in subsection (D), as applicable, shall no longer be required.
 5. A mercury monitoring plan consistent with subsection (H).
 6. Compliance reporting requirements consistent with subsection (I).
- G. State Mercury Emission Limits.** Emissions from an electric generating unit shall comply with one or more of the emission limits specified in the following table, as selected by the owners and operators under subsection (F).

No.	Limit	Averaging Period	Applicable To
1.	10 % of inlet mercury	Rolling 12-month	Electric generating plant
2.	0.0087 pounds per gigawatt-hour	Rolling 12-month	Electric generating plant
3.	0.011 pounds per gigawatt-hour	Rolling 90-boiler operating days	EGUs identified in averaging group
4.	1.0 pounds per Trillion Btu	Rolling 90-boiler operating days	EGUs identified in averaging group
5.	0.013 pounds per gigawatt-hour	Rolling 30-boiler operating days	Individual electric generating unit
6.	1.2 pounds per Trillion Btu	Rolling 30-boiler operating days	Individual electric generating unit

- H. Compliance Monitoring and Recordkeeping.**
1. Compliance with subsection (G) shall be determined using a mercury CEMS or sorbent trap monitoring system

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pursuant to Appendix A of the federal mercury standards and in accordance with an approved mercury monitoring plan.

2. The mercury monitoring plan shall include the following elements:
 - a. Identification of the emission limit or limits in subsection (G) for which compliance will be demonstrated.
 - b. Identification of whether a mercury CEMS or sorbent trap monitoring system will be used as the primary compliance method. Backup methods may be identified and approved in the plan.
 - c. Description of the parameters that will be monitored, including mercury concentration, stack flow, fuel mercury content, fuel rate, electricity generation rate, moisture percent, and any diluent or other gas or process parameters necessary to calculate compliance in terms of the applicable emission limit.
 - d. Description and example of the calculations required to convert monitored parameters to mercury emissions in terms of the emission limit.
 - e. Establishment of CEMS analyzer data availability, and QA/QC requirements.
 - f. Procedures for completing an initial demonstration of compliance, except as otherwise provided in subsection (I)(1).
2. At least once per month, the mercury emissions data shall be compiled into a record demonstrating compliance with the emission limit or limits established in the permit revision issued under subsection (F). This record shall be completed no later than the 15th day of the following month.
3. Records shall be maintained as follows:
 - a. Records demonstrating compliance with the emissions limits shall be maintained for five years.
 - b. If a mercury CEMS is used, daily CEMS data, QA/QC data identified in the mercury monitoring plan, any maintenance work conducted on the CEMS or data logging system, and a calculation of all mercury CEMS downtime shall be maintained for five years.
 - c. If a sorbent trap monitoring system is used, all sorbent monitoring data and any maintenance work conducted on the system shall be maintained for five years.
- I. Reporting. The owners and operators shall submit to the director the following reports:
 1. An initial demonstration of compliance, which must be submitted to the director within 180 days after completion of the first full averaging period. This requirement shall not apply to an electric generating unit if an initial demonstration of compliance has been completed for that unit under 40 C.F.R. 63.10005(d)(3) and the demonstration shows compliance with subsection (G) for that unit. The report shall include:
 - a. The name of the electric generating plant and electric generating units.
 - b. The applicable emission limit or limits for the plant or the electric generating units.
 - c. The mercury emissions for the plant, group of averaged units, or each unit, as applicable, during the initial compliance demonstration in terms of the applicable standard.
 - d. A certification by a responsible official.

2. Semiannual compliance reports, which must be submitted to the director on the dates established in the electric generating plant's air quality permit. The report shall include:
 - a. The name of the electric generating plant and electric generating units;
 - b. The applicable emission limit or limits for the plant or the electric generating units.
 - c. The mercury emissions for the plant, or each unit, as applicable, for each month during the six month period ending the month prior to the semiannual report in terms of the applicable standard.
 - d. An explanation of any excess emissions, the duration of the excess emissions, and corrective actions taken, if any, to resolve those excess emissions.
 - e. A certification by a responsible official.
- J. Exemption. After receipt of notice under subsection (D), in lieu of submitting the permit revision application required by subsection (E), the owners and operators may notify the director in writing that they elect to comply with the vacated or repealed federal mercury standards at an electric generating plant. If the owners and operators for an electric generating plant make this election, the plant shall be exempt from subsections (E) through (I). If the owners and operators of an electric plant elect this option:
 1. "Administrator" shall mean "Director" whenever it appears in the federal mercury standards or regulations referenced therein.
 2. "EPA" shall mean "ADEQ, Air Quality Division" whenever it appears in the federal mercury standards or regulations referenced therein.
3. In lieu of reports submitted to the Administrator through electronic systems (for example, Compliance and Emissions Data Reporting Interface (CEDRI), Emission Collection Monitoring Plan System Client Tool (ECMPS) or Emissions Reporting Tool (ERT)) pursuant to the federal mercury standards, the owners or operators shall submit to the Director, semiannually at the time required by permit, the RATA or the rolling 30-day or rolling 90-day average mercury value for each EGU or the plant, as applicable.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4701, effective January 29, 2007 (Supp. 06-4). Amended by final rulemaking at 21 A.A.R. 711, effective June 30, 2015 (Supp. 15-2).

Table 1. Expired**Historical Note**

Table 1 adopted by final rulemaking at 5 A.A.R. 3058, effective August 10, 1999 (Supp. 99-3). Table 1 expired under A.R.S. § 41-1056(J) at 23 A.A.R. 3427, effective October 10, 2017 (Supp. 17-4).

Table 2. Expired**Historical Note**

Table 2 adopted by final rulemaking at 5 A.A.R. 3058, effective August 10, 1999 (Supp. 99-3). Table 2 expired under A.R.S. § 41-1056(J) at 23 A.A.R. 3427, effective October 10, 2017 (Supp. 17-4).

ARTICLE 8. EMISSIONS FROM MOBILE SOURCES (NEW AND EXISTING)**R18-2-801. Classification of Mobile Sources**

- A. This Article is applicable to mobile sources which either move while emitting air contaminants or are frequently moved

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during the course of their utilization but are not classified as motor vehicles, agricultural vehicles, or agricultural equipment used in normal farm operations.

- B.** Unless otherwise specified, no mobile source shall emit smoke or dust the opacity of which exceeds 40%.

Historical Note

Adopted effective February 26, 1988 (Supp. 88-1).
Amended effective September 26, 1990 (Supp. 90-3).
Amended effective February 3, 1993 (Supp. 93-1). Former Section R18-2-801 renumbered to Section R18-2-901, new Section R18-2-801 renumbered from R18-2-601 effective November 15, 1993 (Supp. 93-4).

R18-2-802. Off-road Machinery

- A.** No person shall cause, allow or permit to be emitted into the atmosphere from any off-road machinery, smoke for any period greater than 10 consecutive seconds, the opacity of which exceeds 40%. Visible emissions when starting cold equipment shall be exempt from this requirement for the first 10 minutes.
- B.** Off-road machinery shall include trucks, graders, scrapers, rollers, locomotives and other construction and mining machinery not normally driven on a completed public roadway.

Historical Note

Adopted effective February 26, 1988 (Supp. 88-1).
Amended effective September 26, 1990 (Supp. 90-3).
Former Section R18-2-802 renumbered to Section R18-2-902, new Section R18-2-802 renumbered from R18-2-602 effective November 15, 1993 (Supp. 93-4).

R18-2-803. Heater-planer Units

No person shall cause, allow or permit to be emitted into the atmosphere from any heater-planer operated for the purpose of reconstructing asphalt pavements smoke the opacity of which exceeds 20%. However three minutes' upset time in any one hour shall not constitute a violation of this Section.

Historical Note

Adopted effective February 26, 1988 (Supp. 88-1).
Amended effective September 26, 1990 (Supp. 90-3).
Former Section R18-2-803 renumbered to Section R18-2-903, new Section R18-2-803 renumbered from R18-2-603 effective November 15, 1993 (Supp. 93-4).

R18-2-804. Roadway and Site Cleaning Machinery

- A.** No person shall cause, allow or permit to be emitted into the atmosphere from any roadway and site cleaning machinery smoke or dust for any period greater than 10 consecutive seconds, the opacity of which exceeds 40%. Visible emissions when starting cold equipment shall be exempt from this requirement for the first 10 minutes.
- B.** In addition to complying with subsection (A), no person shall cause, allow or permit the cleaning of any site, roadway, or alley without taking reasonable precautions to prevent particulate matter from becoming airborne. Reasonable precautions may include applying dust suppressants. Earth or other material shall be removed from paved streets onto which earth or other material has been transported by trucking or earth moving equipment, erosion by water or by other means.

Historical Note

Adopted effective February 26, 1988 (Supp. 88-1).
Amended effective September 26, 1990 (Supp. 90-3).
Amended effective February 3, 1993 (Supp. 93-1). Former Section R18-2-804 renumbered to Section R18-2-

904, new Section R18-2-804 renumbered from R18-2-604 effective November 15, 1993 (Supp. 93-4).

R18-2-805. Asphalt or Tar Kettles

- A.** No person shall cause, allow or permit to be emitted into the atmosphere from any asphalt or tar kettle smoke for any period greater than 10 consecutive seconds, the opacity of which exceeds 40%.
- B.** In addition to complying with subsection (A), no person shall cause, allow or permit the operation of an asphalt or tar kettle without minimizing air contaminant emissions by utilizing all of the following control measures:
1. The control of temperature recommended by the asphalt or tar manufacturer;
 2. The operation of the kettle with lid closed except when charging;
 3. The pumping of asphalt from the kettle or the drawing of asphalt through cocks with no dipping;
 4. The dipping of tar in an approved manner;
 5. The maintaining of the kettle in clean, properly adjusted, and good operating condition;
 6. The firing of the kettle with liquid petroleum gas or other fuels acceptable to the Director.

Historical Note

Adopted effective February 26, 1988 (Supp. 88-1).
Amended effective September 26, 1990 (Supp. 90-3).
Former Section R18-2-805 renumbered to Section R18-2-905, new Section R18-2-805 renumbered from R18-2-605 effective November 15, 1993 (Supp. 93-4).

ARTICLE 9. NEW SOURCE PERFORMANCE STANDARDS**R18-2-901. Standards of Performance for New Stationary Sources**

Except as provided in R18-2-902 through R18-2-905, the following subparts of 40 CFR 60, New Source Performance Standards (NSPS), and all accompanying appendices, adopted as of June 28, 2013, unless otherwise specified, and no future editions or amendments, are incorporated by reference as applicable requirements. These standards are on file with the Department and shall be applied by the Department. These standards can be obtained from the U.S. Government Printing Office, Superintendent of Documents, bookstore.gpo.gov, Mail Stop: SSOP IDCC-SSOM, Washington, D.C. 20402-9328.

1. Subpart A - General Provisions.
2. Subpart D - Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971.
3. Subpart Da - Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978.
4. Subpart Db - Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units.
5. Subpart Dc - Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units.
6. Subpart E - Standards of Performance for Incinerators.
7. Subpart Ea - Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced after December 20, 1989 and on or Before September 20, 1994.
8. Subpart Eb - Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced after September 20, 1994 or for Which

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- Modification or Reconstruction is Commenced After June 19, 1996.
9. Subpart Ec - Standards of Performance for Hospital/Medical/ Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996.
 10. Subpart F - Standards of Performance for Portland Cement Plants.
 11. Subpart G - Standards of Performance for Nitric Acid Plants.
 12. Subpart Ga - Standards of Performance for Nitric Acid Plants for which Construction, Reconstruction, or Modification Commenced after October 14, 2011.
 13. Subpart H - Standards of Performance for Sulfuric Acid Plants.
 14. Subpart I - Standards of Performance for Hot Mix Asphalt Facilities.
 15. Subpart J - Standards of Performance for Petroleum Refineries.
 16. Subpart Ja - Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007.
 17. Subpart K - Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.
 18. Subpart Ka - Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.
 19. Subpart Kb - Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984.
 20. Subpart L - Standards of Performance for Secondary Lead Smelters.
 21. Subpart M - Standards of Performance for Secondary Brass and Bronze Production Plants.
 22. Subpart N - Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.
 23. Subpart Na - Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.
 24. Subpart O - Standards of Performance for Sewage Treatment Plants.
 25. Subpart P - Standards of Performance for Primary Copper Smelters.
 26. Subpart Q - Standards of Performance for Primary Zinc Smelters.
 27. Subpart R - Standards of Performance for Primary Lead Smelters.
 28. Subpart S - Standards of Performance for Primary Aluminum Reduction Plants.
 29. Subpart T - Standards of Performance for Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.
 30. Subpart U - Standards of Performance for Phosphate Fertilizer Industry: Superphosphoric Acid Plants.
 31. Subpart V - Standards of Performance for Phosphate Fertilizer Industry: Diammonium Phosphate Plants.
 32. Subpart W - Standards of Performance for Phosphate Fertilizer Industry: Triple Superphosphate Plants.
 33. Subpart X - Standards of Performance for Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.
 34. Subpart Y - Standards of Performance for Coal Preparation Plants.
 35. Subpart Z - Standards of Performance for Ferroalloy Production Facilities.
 36. Subpart AA - Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983.
 37. Subpart AAa - Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983.
 38. Subpart BB - Standards of Performance for Kraft Pulp Mills.
 39. Subpart BBa - Standards of Performance for Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013.
 40. Subpart CC - Standards of Performance for Glass Manufacturing Plants.
 41. Subpart DD - Standards of Performance for Grain Elevators.
 42. Subpart EE - Standards of Performance for Surface Coating of Metal Furniture.
 43. Subpart GG - Standards of Performance for Stationary Gas Turbines.
 44. Subpart HH - Standards of Performance for Lime Manufacturing Plants.
 45. Subpart KK - Standards of Performance for Lead-Acid Battery Manufacturing Plants.
 46. Subpart LL - Standards of Performance for Metallic Mineral Processing Plants.
 47. Subpart MM - Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations.
 48. Subpart NN - Standards of Performance for Phosphate Rock Plants.
 49. Subpart PP - Standards of Performance for Ammonium Sulfate Manufacture.
 50. Subpart QQ - Standards of Performance for Graphic Arts Industry: Publication Rotogravure Printing.
 51. Subpart RR - Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations.
 52. Subpart SS - Standards of Performance for Industrial Surface Coating: Large Appliances.
 53. Subpart TT - Standards of Performance for Metal Coil Surface Coating.
 54. Subpart UU - Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture.
 55. Subpart VV - Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.
 56. Subpart VVa - Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced after November 7, 2006.
 57. Subpart WW - Standards of Performance for Beverage Can Surface Coating Industry.
 58. Subpart XX - Standards of Performance for Bulk Gasoline Terminals.
 59. Subpart AAA - Standards of Performance for New Residential Wood Heaters.

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60. Subpart BBB - Standards of Performance for Rubber Tire Manufacturing Industry.
61. Subpart DDD - Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.
62. Subpart FFF - Standards of Performance for Flexible Vinyl and Urethane Coating and Printing.
63. Subpart GGG - Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries.
64. Subpart GGGa - Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006.
65. Subpart HHH - Standards of Performance for Synthetic Fiber Production Facilities.
66. Subpart III - Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.
67. Subpart JJJ - Standards of Performance for Petroleum Dry Cleaners.
68. Subpart KKK - Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.
69. Subpart LLL - Standards of Performance for Onshore Natural Gas Processing; SO₂ Emissions.
70. Subpart NNN - Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.
71. Subpart OOO - Standards of Performance for Nonmetallic Mineral Processing Plants.
72. Subpart PPP - Standards of Performance for Wool Fiberglass Insulation Manufacturing Plants.
73. Subpart QQQ - Standards of Performance for VOC Emissions From Petroleum Refinery Wastewater Systems.
74. Subpart RRR - Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.
75. Subpart SSS - Standards of Performance for Magnetic Tape Coating Facilities.
76. Subpart TTT - Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.
77. Subpart UUU - Standards of Performance for Calciners and Dryers in Mineral Industries.
78. Subpart VVV - Standards of Performance for Polymeric Coating of Supporting Substrates Facilities.
79. Subpart WWW - Standards of Performance for Municipal Solid Waste Landfills.
80. Subpart XXX - Standards of Performance for Municipal Solid Waste Landfills that Commenced Construction, Reconstruction, or Modification After July 17, 2014. This subpart and all accompanying appendices are adopted as of August 29, 2016 (and no future amendments), and are incorporated by reference as applicable requirements.
81. Subpart AAAA - Standards of Performance for Small Municipal Waste Combustion Units for Which Construction Is Commenced after August 30, 1999, or for Which Modification or Reconstruction Is Commenced after June 6, 2001.
82. Subpart CCCC - Standards of Performance for Commercial and Industrial Solid Waste Incineration Units for Which Construction Is Commenced after November 30, 1999, or for Which Modification or Reconstruction Is Commenced on or after June 1, 2001.
83. Subpart EEEE - Standards of Performance for Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006.
84. Subpart IIII - Standards of Performance for Stationary Compression Ignition Combustion Engines.
85. Subpart JJJJ - Standards of Performance for Stationary Spark Ignition Internal Combustion Engines.
86. Subpart KKKK - Standards of Performance for Stationary Combustion Turbines.
87. Subpart LLLL - Standards of Performance for New Sewage Sludge Incineration Units.
88. Subpart OOOO - Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution.
89. Subpart OOOOa - Standards of Performance for Crude Oil and natural gas Facilities for which Construction, Modification or Reconstruction Commenced After September 18, 2015.
90. Subpart PPPP [Reserved].
91. Subpart QQQQ - Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces.
92. Subpart TTTT - Standards of Performance for Greenhouse Gas Emission for Electric Generating Units

Historical Note

Adopted effective February 26, 1988 (Supp. 88-1).
 Amended effective September 26, 1990 (Supp. 90-3).
 Amended effective February 3, 1993 (Supp. 93-1). Section R18-2-901 renumbered to R18-2-1101, new Section R18-2-901 renumbered from R18-2-801 and amended effective November 15, 1993 (Supp. 93-4). Amended effective June 10, 1994 (Supp. 94-2). Amended effective December 7, 1995 (Supp. 95-4). Amended effective May 9, 1996 (Supp. 96-2). Amended effective April 4, 1997; filed with the Office of the Secretary of State March 14, 1997 (Supp. 97-1). Amended effective December 4, 1997 (Supp. 97-4). Amended by final rulemaking at 5 A.A.R. 3058, effective August 10, 1999, and at 5 A.A.R. 3221, effective August 12, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 4170, effective October 11, 2000 (Supp. 00-4). Amended by final rulemaking at 8 A.A.R. 2543, effective May 24, 2002 (Supp. 02-2). Amended by final rulemaking at 10 A.A.R. 3281, effective September 27, 2004 (Supp. 04-3). Amended by final rulemaking at 11 A.A.R. 5504, effective February 4, 2006 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 4199, effective January 5, 2008 (Supp. 07-4). Amended by final expedited rulemaking at 21 A.A.R. 2747, effective December 13, 2015 (Supp. 15-4). Amended by final expedited rulemaking at 24 A.A.R. 1564, with an immediate effective date of May 2, 2018 (Supp. 18-2). Amended by final rulemaking at 24 A.A.R. 1864, effective August 10, 2018 (Supp. 18-3).

R18-2-902. General Provisions

- A. As used in 40 CFR 60: "Administrator" means the Director of the Arizona Department of Environmental Quality, except that the Director shall not be authorized to approve alternate or equivalent test methods or alternative standards or work practices.

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- B.** From the general standards identified in R18-2-901, delete the following:
1. 40 CFR 60.4. All requests, reports, applications, submittals, and other communications to the Director pursuant to this Article shall be submitted to the Arizona Department of Environmental Quality, Air Quality Division, 1110 West Washington Street, Phoenix, Arizona 85007.
 2. 40 CFR 60.5 and 60.6.
- C.** The Director shall not be delegated authority to deal with equivalency determinations or innovative technology waivers as covered in Sections 111(h)(3) and 111(j) of the Act.

Historical Note

Adopted effective February 26, 1988 (Supp. 88-1).
 Amended effective September 26, 1990 (Supp. 90-3).
 Section R18-2-902 renumbered to R18-2-1102, new Section R18-2-902 renumbered from R18-2-802 and amended effective November 15, 1993 (Supp. 93-4).
 Amended effective June 10, 1994 (Supp. 94-2). Amended by final rulemaking at 13 A.A.R. 4199, effective January 5, 2008 (Supp. 07-4).

R18-2-903. Standards of Performance for Fossil-fuel Fired Steam Generators

As exceptions to 40 CFR 60.40 through 60.47:

1. In place of 40 CFR 60.43(a)(2), the following language shall be substituted: 340 nanograms per joule heat input (0.8 pounds per million Btu) derived from solid fossil fuel or solid fossil fuel and wood residue.
2. Delete 40 CFR 60.43(b).
3. If an owner or operator of a fossil-fuel fired steam generator obtained an installation permit for two or more fuel-burning equipment or steam-power generating installations before May 14, 1979, that permitted the installation to comply with the sulfur dioxide emission standards specified in R18-2-901 and this Section as if the equipment or installations were one emission discharge point:
 - a. The owner or operator shall comply with the applicable sulfur dioxide emission standards in the manner specified in the installation permit;
 - b. The Department shall incorporate the emission standards under subsection (3)(a) into each owner's or operator's operating permit as an enforceable permit condition;
 - c. No single fuel-burning equipment or steam-power generating installation shall emit sulfur dioxide in excess of:
 - i. 520 nanograms per joule heat input (1.2 pounds per million BTU) for solid fossil fuel or solid fossil fuel and wood residue; or
 - ii. 340 nanograms per joule heat input (0.8 pounds per million BTU) for liquid fossil fuel or liquid fossil fuel and wood residue.
4. When an owner or operator subject to subsection (3) changes the equipment configuration so that each fuel-burning equipment or steam-powered generating installation constitutes one emission discharge point:
 - a. The owner or operator shall comply with the emissions standards specified in subsection (1) and R18-2-901; and
 - b. The Department shall incorporate the emissions standards into the owner's or operator's operating permit as enforceable permit conditions.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective May 28, 1982 (Supp. 82-3). Former Section R9-3-903 renumbered without change as Section R18-2-903 (Supp. 87-3). Repealed effective February 26, 1988 (Supp. 88-1). New Section R18-2-903 renumbered from R18-2-803 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 14 A.A.R. 230, effective March 8, 2008 (Supp. 08-1).

R18-2-904. Standards of Performance for Incinerators

- A.** Incinerators with a charging rate of more than 45 metric tons or 49.6 tons per day shall conform to the requirements of 40 CFR 60.50 through 60.54.
- B.** Incinerators with a charging rate of 45 metric tons or 49.6 tons per day or less that commence construction or modification after May 14, 1979, shall conform to the requirements of 40 CFR 60.52 through 60.54 and of R18-2-704(A).

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective May 28, 1982 (Supp. 82-3). Former Section R9-3-904 renumbered without change as Section R18-2-904 (Supp. 87-3). Repealed effective February 26, 1988 (Supp. 88-1). New Section R18-2-904 renumbered from R18-2-804 and amended effective November 15, 1993 (Supp. 93-4).

R18-2-905. Standards of Performance for Storage Vessels for Petroleum Liquids

In addition to 40 CFR 60.110 - 60.113:

1. Any petroleum liquid storage tank of less than 40,000 gallons (151,412 liters) capacity shall be equipped with a submerged filling device or acceptable equivalent as determined by the Director for the control of hydrocarbon emissions.
2. All facilities for dock loading of petroleum products having a vapor pressure of 2.0 pounds per square inch absolute, or greater, at loading pressure shall provide for submerged filling or other acceptable equivalent for control of hydrocarbon emissions.
3. All pumps and compressors which handle volatile organic compounds shall be equipped with mechanical seals or other equipment of equal efficiency to prevent the release of organic contaminants into the atmosphere.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective May 28, 1982 (Supp. 82-3). Former Section R9-3-905 renumbered without change as Section R18-2-905 (Supp. 87-3). Repealed effective February 26, 1988 (Supp. 88-1). New Section R18-2-905 renumbered from R18-2-805 effective November 15, 1993 (Supp. 93-4).

R18-2-906. Repealed**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective May 28, 1982 (Supp. 82-3). Former Section R9-3-906 renumbered without change as Section R18-2-906 (Supp. 87-3). Repealed effective February 26, 1988 (Supp. 88-1).

R18-2-907. Reserved**R18-2-908. Reserved****R18-2-909. Reserved****R18-2-910. Repealed**

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Historical Note

Adopted effective August 9, 1985 (Supp. 85-4). Former Section R9-3-910 renumbered without change as Section R18-2-910 (Supp. 87-3). Repealed effective February 26, 1988 (Supp. 88-1).

R18-2-911. Reserved

R18-2-912. Reserved

R18-2-913. Repealed

Historical Note

Adopted effective August 9, 1985 (Supp. 85-4). Former Section R9-3-913 renumbered without change as Section R18-2-913 (Supp. 87-3). Repealed effective February 26, 1988 (Supp. 88-1).

R18-2-914. Reserved

R18-2-915. Reserved

R18-2-916. Reserved

R18-2-917. Reserved

R18-2-918. Reserved

R18-2-919. Reserved

R18-2-920. Reserved

R18-2-921. Reserved

R18-2-922. Repealed

Historical Note

Adopted effective August 9, 1985 (Supp. 85-4). Former Section R9-3-922 renumbered without change as Section R18-2-922 (Supp. 87-3). Repealed effective February 26, 1988 (Supp. 88-1).

ARTICLE 10. MOTOR VEHICLES; INSPECTIONS AND MAINTENANCE**R18-2-1001. Definitions**

The following definitions apply to this Article:

1. Abbreviations and symbols are defined as follows:
 - a. "A/F" means air/fuel.
 - b. "CO" means carbon monoxide.
 - c. "CO₂" means carbon dioxide.
 - d. "EGR" means exhaust gas recirculation.
 - e. "GVWR" means gross vehicle weight rating.
 - f. "HC" means hydrocarbon.
 - g. "HP" means horsepower.
 - h. "LNG" means liquefied natural gas.
 - i. "LPG" means liquid petroleum gas.
 - j. "MIL" means malfunction indicator lamp.
 - k. "MPH" means miles per hour.
 - l. "MVD" means the Motor Vehicle Division of the Arizona Department of Transportation.
 - m. "NDIR" means nondispersive infrared.
 - n. "NO_x" means the sum of nitrogen oxide and nitrogen dioxide.
 - o. "%" means percent.
 - p. "OEM" means original equipment manufacturer.
 - q. "OBD" means on-board diagnostics.
 - r. "PCV" means positive crankcase ventilation.
 - s. "PPM" means parts per million by volume.
 - t. "RPM" means revolutions per minute.
 - u. "VIN" means vehicle identification number.
2. "All-terrain vehicle" (ATV) means a vehicle that is defined as an "all-terrain vehicle" in A.R.S. § 28-101.
3. "Alternative fuel vehicle" means a vehicle powered by an alternative fuel as defined in A.R.S. § 1-215(4).
4. "Annual test" means a test for which an annual frequency is specified in the applicable table in R18-2-1006(B).
5. "Apportioned vehicle" means a vehicle that is subject to the proportional registration provisions of A.R.S. § 28-2233.
6. "Area A" has the meaning in A.R.S. § 49-541.
7. "Area B" has the meaning in A.R.S. § 49-541.
8. "Biennial test" means a test for which a biennial frequency is specified in the applicable table in R18-2-1006(B).
9. "Calibration gas" means a reference gas or gas mixture with assigned concentrations that is used to check the accuracy of emissions analyzers.
10. "Certificate of compliance" means a uniquely numbered document issued as part of the vehicle inspection report by a state station at the time of a vehicle inspection indicating that the vehicle has met the emissions standards.
11. "Certificate of exemption" means a uniquely numbered document issued by the Director providing an exemption from the testing requirements of this Article for a vehicle that is outside of the state on the emissions compliance expiration date.
12. "Certificate of inspection" means a uniquely numbered document issued by the Director indicating that a vehicle has been inspected under A.R.S. § 49-546 and has passed inspection.
13. "Certificate of waiver" means a uniquely numbered document issued by the Department indicating that the requirement of passing reinspection has been waived for a vehicle under A.R.S. § 49-542.
14. "CFR" means the Code of Federal Regulations, with standard reference in this Chapter by Title and Part, so that "40 CFR 280" means Title 40 of the Code of Federal Regulations, Part 280.
15. "Collectible vehicle" has the meaning in A.R.S. § 49-542(Z).
16. "Constant 4-wheel drive vehicle" means any 4-wheel drive vehicle that cannot be converted to 2-wheel drive except by disconnecting one of the vehicle's drive shafts, or any vehicle equipped with non-disengageable traction control which cannot be safely tested on conventional 2-wheel drive dynamometers.
17. "Constant volume sampler" means a system that dilutes engine exhaust to be sampled with ambient air so that the total combined flow rate of exhaust and dilution air mix is nearly constant for all engine operating conditions.
18. "Contractor" means a person, business, firm, partnership, or corporation with whom the Director has a contract that provides for the operation of one or more official emissions inspection stations.
19. "Dealer" means a person or organization licensed by the Arizona Department of Transportation as a new motor vehicle dealer or used motor vehicle dealer.
20. "Department" means the Department of Environmental Quality.
21. "Diagnostic Trouble Code" (DTC) means an alphanumeric code which is set in a vehicle's on-board diagnostic system when the OBD system detects an emissions control device or system failure.

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22. "Diesel" or "Diesel Fuel" has the same meaning as in A.R.S. § 3-3401.
23. "Director" means the Director of the Department of Environmental Quality.
24. "Director's certificate" means a uniquely numbered document issued by the Director in certain circumstances for the vehicle to show evidence of meeting the minimum standards for registration.
25. "Electrically-powered vehicle" means a vehicle that uses electricity as the means of propulsion and does not require the combustion of fossil fuel within the confines of the vehicle to generate electricity.
26. "Emissions compliance expiration date" means:
 - a. Each registration expiration date for a vehicle subject to an annual test; and
 - b. The registration expiration date in the second year after the initial biennial test required under this Article or R18-2-1005(B) for a vehicle subject to a biennial test.
27. "Emissions inspection station permit" means a certificate issued by the Director authorizing the holder to perform vehicle emissions inspections under this Article.
28. "Exhaust emissions" means products of combustion emitted into the atmosphere from any opening in the exhaust system downstream of the exhaust ports of a motor vehicle engine.
29. "Exhaust pipe" means the pipe that attaches to the muffler and exits the vehicle.
30. "Fleet emissions inspection station" or "fleet station" means any vehicle emissions inspection facility operated under a permit issued pursuant to A.R.S. § 49-546.
31. "Fleet vehicle" means any vehicle owned, leased, or operated by an individual or entity granted a vehicle emissions testing license under A.R.S. § 49-546.
32. "Fuel" means any material that is burned within the confines of a vehicle to propel the vehicle.
33. "Fuel Cell Electric Vehicle" or "FCEV" means a zero-emission vehicle that runs on compressed hydrogen fed into a fuel cell stack that produces electricity to power the vehicle.
34. "Golf cart" means a motor vehicle that is defined as a "golf cart" in A.R.S. § 28-101.
35. "Government vehicle" means a registered motor vehicle exempt from the payment of a registration fee, or a federally owned or leased vehicle.
36. "Gross vehicle weight rating" (GVWR) means the maximum vehicle weight that a vehicle is designed for as established by the manufacturer.
37. "Idle test" means an exhaust emissions test conducted with the engine of the vehicle running at the manufacturer's idle speed \pm 100 RPM but without pressure exerted on the accelerator.
38. "Inspection" means the mandatory vehicle emissions inspection including the tampering inspection.
39. "Mass emissions measurement" means measurement of a vehicle's exhaust in mass units such as grams.
40. "Maximum required repair cost" means the applicable maximum required repair cost under R18-2-1010(F) or (G) for a vehicle that has failed inspection.
41. "Model year" means the date of manufacture of the original vehicle within the annual production period of the vehicle as designated by the manufacturer or, if a reconstructed vehicle, the first year of titling.
42. "Motorcycle" means a vehicle that is defined as a "motorcycle" as in A.R.S. § 28-101.
43. "New aftermarket catalytic converter" means a new catalytic converter manufactured as an OEM part that meets the standards under 40 CFR 86.
44. "On-board diagnostics" or "OBD" means an on-board diagnostic system required by Section 202(m) of the Clean Air Act. For the purposes of the Article, OBD certification refers to United States Environmental Protection Agency OBD certification.
45. "Opacity" means the degree of absorption of transmitted light.
46. "Reconditioned OEM catalytic converter" means a catalytic converter remanufactured, as a non-OEM part, with new catalytic material housed in the original catalyst casing.
47. "Recognized repair facility" means a business with an Arizona Department of Revenue transaction privilege tax license pursuant to Title 15, Chapter 5 of the Arizona Revised Statutes whose primary purpose is vehicle repair, and who has at least one employee with a nationally recognized certification for emissions-related diagnosis and repair.
48. "Reconstructed vehicle" means a vehicle that has been assembled or constructed largely by means of essential parts, new or used, derived from vehicles or makes of vehicles of various names, models and types or that, if originally otherwise constructed, has been materially altered by the removal of essential parts or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles. For the purposes of this paragraph, "essential parts" means integral and body parts, the removal, alteration or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.
49. "Specially constructed vehicle" means any vehicle not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles.
50. "State inspector" means an employee of the Department designated to perform quality assurance or waiver functions under this Article.
51. "State station" means a facility, other than a fleet emissions inspection station, established for the purpose of conducting inspections under A.R.S. § 49-542.
52. "Tampering" means removing, defeating, or altering an emissions control device that was installed on a vehicle at the time the vehicle was manufactured.
53. "Two-stroke vehicle" means a vehicle equipped with an engine that requires one revolution of the crankshaft for each power stroke.
54. "Vehicle" or "Motor Vehicle" means any automobile, truck, truck tractor, motor bus, or self-propelled or motor-driven vehicle registered or to be registered in this state and used upon the public highways of this state for the purpose of transporting persons or property, except implements of husbandry, roadrollers, or road machinery temporarily operated upon the highway.
55. "Vehicle emissions inspector" means an individual who is licensed by the Director to perform vehicle emissions inspections under this Article.
56. "Waiver inspector" means an employee of the contractor or the Department who is authorized to issue waivers under R18-2-1008.

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57. "Zero Emissions Vehicle" means a battery electric vehicle that runs on electricity stored in the batteries and has only an electric motor rather than an internal combustion engine, or a fuel cell electric vehicle that produces no emissions from the on-board source of power.

Historical Note

Former Section R9-3-1001 repealed, new Section R9-3-1001 adopted effective January 13, 1976 (Supp. 76-1). Former Section R9-3-1001 repealed, former Section R9-3-1002 renumbered and amended as Section R9-3-1001 effective January 1, 1986 (Supp. 85-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1001 renumbered as Section R18-2-1001 and amended effective August 1, 1988 (Supp. 88-3). Amended effective September 19, 1990 (Supp. 90-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1002. Applicable Implementation Plan

- A. Substantive revisions to the rules in this Article that are included in the Arizona State Clean Air Act Implementation Plan cannot become effective until approved by the Administrator of the United States Environmental Protection Agency. Amendments adopted by the Department but not yet approved as of the date of the latest amendments are therefore identified in this Article as not applying until the Administrator approves them.
- B. The Administrator's approvals of revisions to an applicable implementation plan are published as final rules in the Federal Register, which is available online at <http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR>. The Department publishes a list of Article 10 provisions approved since the last revisions to the Article at: <http://azdeq.gov/VECS/Rulemaking>.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1003. Vehicles to be Inspected by the Mandatory Vehicle Emissions Inspection Program

- A. The following vehicles shall be inspected according to this Article:
1. A vehicle to be registered within Area A or Area B. For the purposes of this Article, registration within Area A or Area B shall be determined by the vehicle owner's permanent and actual residence. The permanent address in the MVD database shall be presumed to be the owner's permanent and actual residence. A post office box address listed on a title or registration document under A.R.S. § 28-2051(C) is not evidence of the owner's permanent and actual residence;
 2. Each vehicle delivered to a retail purchaser by a dealer licensed to sell used motor vehicles under A.R.S. Title 28 and whose place of business is located in Area A or Area B;
 3. Each vehicle registered outside Area A and Area B but used to commute to the driver's principal place of employment located within Area A or Area B;

4. Each vehicle owned by a person who is subject to A.R.S. §§ 15-1444(C) or 15-1627(G); and
5. An Area A or Area B vehicle owned or operated by the United States, this state, or a political subdivision of this state without regard to whether those vehicles are required to be registered in this state.

- B. The following vehicles are exempt from the inspection requirements of this Article:

1. A vehicle manufactured in or before the 1966 model year;
2. A vehicle leased to a person residing outside Area A and Area B by a leasing company whose place of business is in Area A or Area B, except as provided in subsection (A)(3);
3. A vehicle sold between motor vehicle dealers;
4. A zero-emissions vehicle;
5. An apportioned vehicle;
6. A golf cart;
7. A vehicle with an engine displacement of less than 90 cubic centimeters;
8. A vehicle registered at the time of change of name of ownership if an emissions test is current and valid, except when the change results from the sale by a dealership whose place of business is located in Area A or Area B;
9. A vehicle for which a current certificate of exemption or Director's certificate is issued;
10. A new vehicle before the sixth registration year after initial purchase or lease; except that:
 - a. A reconstructed vehicle or specially constructed vehicle is not exempt.
 - b. A vehicle converted to operate on an alternative fuel, as defined in A.R.S. § 1-215, is not exempt.
 - c. A vehicle failing an emissions inspection the owner chooses to have under A.R.S. § 49-543 is not exempt for the current registration year.
11. A vehicle designed to operate exclusively on hydrogen, as defined in A.R.S. § 1-215;
12. A collectible vehicle;
13. A motorcycle;
14. An all-terrain vehicle (ATV);
15. These exemptions apply after the Administrator approves this subsection, (B)(15), into the applicable implementation plan:
 - a. Cranes and oversized vehicles that require permits pursuant to A.R.S. §§ 28-1100, 28-1103, and 28-1144;
 - b. A vehicle not in use and owned by a resident of this state while on active military duty outside of this state.

- C. Government vehicles operated in Area A or Area B and not exempted by this Article shall be emissions inspected according to R18-2-1017.

Historical Note

Former Section R9-3-1003 repealed, new Section R9-3-1003 adopted effective January 13, 1976; Amended as an emergency effective January 19, 1976 (Supp. 76-1). Amended effective January 3, 1977 (Supp. 77-1). Amended effective January 3, 1979 (Supp. 79-1). Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1003 as amended effective January 3, 1979 and amended as an emergency effective January 2, 1981 now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended subsection (A) effective

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January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1003 renumbered as Section R18-2-1003 and amended effective August 1, 1988 (Supp. 88-3). Amended effective September 19, 1990 (Supp. 90-3). Amended effective November 14, 1994 (Supp. 94-4). Amended effective October 15, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 2722, effective June 28, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1004. Repealed**Historical Note**

Former Section R9-3-1004 repealed, new Section R9-3-1004 adopted effective January 13, 1976 (Supp. 76-1). Amended effective January 3, 1977 (Supp. 77-1). Former Section R9-3-1004 renumbered as Section R18-2-1004 and amended effective August 1, 1988 (Supp. 88-3). Section repealed by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4).

R18-2-1005. Time of Inspection

- A.** All Area A and Area B vehicles subject to an annual test shall be inspected at the following times:
1. For a non-fleet vehicle, within 90 days before each registration expiration date.
 2. For a fleet vehicle inspected at a licensed fleet station, at least once within each 12 month period following any initial registration.
 3. For a government vehicle:
 - a. For a vehicle not exempt under R18-2-1003(B)(10), within 12 months after acquisition by the operating entity and then annually on or before the anniversary date of the previous inspection;
 - b. For a vehicle exempt under R18-2-1003(B)(10), within 90 days after the vehicle becomes subject to testing, and then annually on or before the anniversary date of the previous inspection; and
 - c. A government vehicle is subject to testing on the anniversary of its date of acquisition.
 4. For a vehicle registered outside Area A and Area B and used to commute to the driver's principal place of work located in Area A or Area B, upon vehicle registration and annually thereafter.
 5. For a vehicle owned by a person subject to A.R.S. §§ 15-1444(D) or 15-1627(G), within 30 calendar days following the date of initial registration at the institution located in Area A or Area B and annually thereafter.
- B.** All Area A and Area B vehicles subject to a biennial test shall be inspected at the following times:
1. For a non-fleet vehicle, within 90 days before the vehicle's emissions compliance expiration date.
 2. For a fleet vehicle inspected at a fleet station, at least once within each successive 24 month period following initial registration.
 3. For a government vehicle:
 - a. For a vehicle not exempt under R18-2-1003(B)(10), within 12 months after acquisition by the operating entity, and biennially thereafter, on or before the anniversary date of the previous inspection; or
 - b. For a vehicle exempt under R18-2-1003(B)(10), within 90 days after the vehicle becomes subject to

testing, and biennially thereafter, on or before the anniversary date of the previous inspection.

4. For a vehicle registered outside Area A or Area B but used to commute to the driver's principal place of employment located in Area A or Area B, upon vehicle registration and biennially thereafter.
 5. For a vehicle owned by a person subject to A.R.S. §§ 15-1444(D) or 15-1627(G), within 30 days following the date of initial registration at the institution located in Area A or Area B and biennially thereafter.
- C.** All vehicles sold by a dealer licensed to sell used motor vehicles under A.R.S. Title 28, whose place of business is located in Area A or Area B, shall pass the applicable emissions test prescribed by R18-2-1006 before delivery of the vehicle to a retail purchaser.
- D.** An Area B vehicle being registered in Area A is subject to the appropriate annual or biennial test from Area A before registration even if the Area A test, or test period, is different from the test required for the same vehicle in Area B.
- E.** Nothing in this Section shall be construed to waive a late registration fee because of failure to meet inspection requirements by the registration deadline, except that a motor vehicle that fails the initial or subsequent test shall not be subject to a penalty fee for late registration renewal if:
1. The initial test is accomplished before the emissions compliance expiration date; and
 2. The registration renewal is received by MVD within 30 days of the initial test.
- F.** An owner of a vehicle may submit the vehicle for emissions inspection more than 90 days before the emissions compliance expiration date but the inspection does not satisfy the registration testing requirement under R18-2-1003.

Historical Note

Former Section R9-3-1005 repealed, new Section R9-3-1005 adopted effective January 31, 1976 (Supp. 76-1). Amended effective January 3, 1977 (Supp. 77-1). Amended effective March 2, 1978 (Supp. 78-2). Amended effective January 3, 1979 (Supp. 79-1). Amended effective February 20, 1980 (Supp. 80-1). Amended as an emergency effective January 2, 1981 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-2). Former Section R9-3-1005 as amended effective February 20, 1980 and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1005 renumbered as Section R18-2-1005 and subsections (A) and (C) amended effective August 1, 1988 (Supp. 88-3). Amended effective September 19, 1990 (Supp. 90-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1006. Emissions Test Procedures

- A.** This Section establishes the testing requirements for vehicles in the State of Arizona. Subsection (B) identifies which tests apply to a particular type and model year of vehicle. Subsection (C) establishes the procedures and criteria for, passing, failing, or being rejected from each test.
- B.** Test applicability.

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1. Area A and Area B non-diesel. The following general requirements govern test applicability for non-diesel vehicles in both Area A and Area B:
 - a. A rotary engine shall be inspected as a 4-stroke engine with four cylinders or less.
 - b. For a vehicle in which an engine has been replaced:
 - i. A vehicle owner shall not install a heavy-duty engine in a light-duty chassis.
 - ii. A vehicle owner shall not install a light-duty engine in a heavy-duty chassis.
 - iii. The replacement engine package shall include all emissions control equipment and devices that were required by the manufacturer for an engine-chassis certification. All emissions control equipment and devices shall be properly installed and in operating condition, and the resulting engine-chassis configuration shall be equivalent to a verified configuration of the same, or newer, model year as that of the vehicle chassis.
2. Area A Non-Diesel. Non-diesel vehicles in Area A are subject to the test procedures identified in this subsection:
 - a. Vehicles other than alternative fuel vehicles operated by a school district in Area A, heavy duty alternative fuel vehicles, reconstructed vehicles, and constant 4-wheel-drive vehicles that are not equipped with OBD, are subject to the following test procedures until the Administrator approves subsection (B)(2)(a)(i) into the applicable implementation plan:
 - iv. The Department shall inspect the vehicle according to the model year of the vehicle chassis.

Area A Non-Diesel Testing Procedures Until SIP Revision is Approved

Model Year	GVWR	Test Frequency	Tests Applicable	Test Subsection
1996 or later	8,500 pounds or less	Biennial	OBD Functional gas cap Tampering	C.4 C.16 C.17
1981 through 1995	8,500 pounds or less	Biennial	Transient loaded and evaporative system pressure Functional gas cap Tampering	C.5 C.16 C.17
1975 through 1980	8,500 pounds or less	Annual	Loaded test Functional gas cap Tampering	C.6 C.16 C.17
1975 or later	More than 8,500 pounds	Annual	Loaded test Functional gas cap Tampering	C.6 C.16 C.17
1967 through 1974	Any	Annual	Loaded test Functional gas cap	C.6 C.16

- i. Test procedures that apply after the Administrator approves this subsection, (B)(2)(a)(i), into the applicable implementation plan:

Area A Non-Diesel Testing Procedures After SIP Revision is Approved

Model Year	GVWR	OBD Certified?	Test Frequency	Tests Applicable	Test Subsection
1996 or Later	Any	Yes	Biennial	OBD Functional gas cap Tampering	C.4 C.16 C.17
1981 or later	8,500 pounds or less	No	Biennial	Transient loaded and evaporative system pressure Functional gas cap Tampering	C.5 C.16 C.17
1975 through 1980	8,500 pounds or less	No	Annual	Loaded test Functional gas cap Tampering	C.6 C.16 C.17
1975 or later	More than 8,500 pounds	No	Annual	Loaded test Functional gas cap Tampering	C.6 C.16 C.17
1967 through 1974	Any	No	Annual	Loaded test Functional gas cap	C.6 C.16

- b. Alternative fuel vehicles operated by a school district in Area A are subject to the following testing procedures until the Administrator approves subsection (B)(2)(b)(i) into the applicable implementation plan. After subsection (B)(2)(b)(i) has been approved into the applicable implementation plan, alternative fuel vehicles operated by a school district in Area A will be subject to subsection (B)(2)(b)(i).

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Area A Alt. Fuel Vehicles Operated by a School District Testing Procedures Until SIP Revision is Approved				
Model Year	OBD Certified?	Test Frequency	Tests Applicable	Test Subsection
1975 or later	No	Annual	Loaded test Functional gas cap Tampering	C.6 C.16 C.17
1967 through 1974	No	Annual	Loaded test Functional gas cap	C.8 C.16

- i. Test procedures that apply after the Administrator approves this subsection, (B)(2)(b)(i), into the applicable implementation plan.

Area A Alt. Fuel Vehicles Operated by a School District Testing Procedures After SIP Revision is Approved				
Model Year	OBD Certified?	Test Frequency	Tests Applicable	Test Subsection
Any	Yes	Biennial	OBD Functional gas cap Tampering	C.4 C.16 C.17
1975 or later	No	Annual	Loaded test Functional gas cap Tampering	C.6 C.16 C.17
1967 through 1974	No	Annual	Loaded test Functional gas cap	C.6 C.16

- c. Heavy duty alternative fuel vehicles in Area A that are not owned by a school district are subject to the following testing procedures.

Model Year	GVWR	OBD Certified?	Test Frequency	Tests Applicable	Test Subsection
Any	More than 14,500 pounds	Yes	Biennial	OBD Functional gas cap Tampering	C.4 C.16 C.17
1975 or later	More than 14,500 pounds	No	Annual	Idle test Functional gas cap Tampering	C.8 C.16 C.17
1967 through 1974	More than 14,500 pounds	No	Annual	Idle test Functional gas cap	C.8 C.16

3. Area B Non-Diesel. Non-diesel vehicles in Area B are subject to the test procedures identified in this subsection:
- a. Vehicles other than reconstructed vehicles and constant 4-wheel-drive vehicles that are not

equipped with OBD shall be subject to the following test procedures until the Administrator approves subsection (B)(2)(a)(i) into the applicable implementation plan:

Area B Non-Diesel Testing Procedures Until SIP Revision is Approved				
Model Year	GVWR	Test Frequency	Tests Applicable	Test Subsection
1996 or later	8,500 pounds or less	Annual	OBD Functional gas cap Tampering	C.4 C.16 C.17
1981 through 1995	8,500 pounds or less	Annual	Loaded test Functional gas cap Tampering	C.6 C.16 C.17
1975 through 1980	8,500 pounds or less	Annual	Idle test Functional gas cap Tampering	C.8 C.16 C.17
1975 or later	More than 8,500 pounds	Annual	Idle test Functional gas cap Tampering	C.8 C.16 C.17
1967 through 1974	Any	Annual	Idle test Functional gas cap	C.8 C.16

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- i. Test procedures that apply after the Administrator approves this subsection (B)(2)(a)(i) into the applicable implementation plan:

Area B Non-Diesel Testing Procedures After SIP Revision is Approved					
Model Year	GVWR	OBD Certified?	Test Frequency	Tests Applicable	Test Subsection
Any	Any	Yes	Biennial	OBD Functional gas cap Tampering	C.4 C.16 C.17
1981 or later	8,500 pounds or less	No	Annual	Loaded test Functional gas cap Tampering	C.6 C.16 C.17
1975 through 1980	8,500 pounds or less	No	Annual	Loaded Test Functional gas cap Tampering	C.6 C.16 C.17
1975 or later	More than 8,500 pounds	No	Annual	Idle test Functional gas cap Tampering	C.8 C.16 C.17
1967 through 1974	Any	No	Annual	Idle test Functional gas cap	C.9 C.16

4. Reconstructed non-diesel vehicles. Reconstructed non-diesel vehicles in both Area A and Area B are subject to the tests specified in the following table:

Model Year	Test Frequency	Tests Applicable	Test Subsection
1967 or later	Annual	Loaded test Visual gas cap	C.6 C.18

5. Constant 4-wheel-drive vehicles. Constant 4-wheel-drive vehicles in both Area A and Area B that are not equipped with OBD are subject to the tests specified in the following table:

Model Year	Test Frequency	Tests Applicable	Test Subsection
1975 or later	Annual	Idle Test Functional gas cap Tampering	C.8 C.16 C.17
1967 through 1974	Annual	Idle Test Functional gas cap	C.8 C.16

6. Area A Diesel. Diesel vehicles that require inspection in Area A are subject to the test procedures specified in this subsection until the Administrator approves subsection (B)(8) into the applicable implementation plan:

Area A Diesel Testing Procedures Until SIP Revision is Approved					
GVWR	OBD Certified?	Model Year	Test Frequency	Tests Applicable	Test Subsection
8,500 and less	Yes	Any	Annual	OBD Tampering	C.4 C.17
More than 8,500 pounds	No	1975 or later	Annual	Snap idle Tampering	C.10 C.17
More than 8,500 pounds	No	1967 through 1974	Annual	Snap idle	C.10
More than 4,000 and less than or equal to 8,500 pounds	No	1975 or later	Annual	Loaded opacity B Tampering	C.12 C.17
More than 4,000 and less than or equal to 8,500 pounds	No	1967 through 1974	Annual	Loaded opacity B	C.12
4,000 pounds or less	No	1975 or later	Annual	Loaded opacity C Tampering	C.13 C.17
4,000 pounds or less	No	1967 through 1974	Annual	Loaded opacity C	C.13

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7. Area B Diesel. Diesel vehicles that require inspection in Area B are subject to the test procedures specified in this subsection until the Administrator approves subsection (B)(8) into the applicable implementation plan:

Area B Diesel Testing Procedures Until SIP Revision is Approved				
GVWR	Model Year	Test Frequency	Tests Applicable	Test Subsection
More than 26,000 pounds	1975 or later	Annual	Loaded opacity A Tampering	C.12 C.18
More than 26,000 pounds	1967 through 1974	Annual	Loaded opacity A	C.12
More than 10,500 and less than or equal to 26,000 pounds	1975 or later	Annual	Any of the following: Loaded opacity A Loaded opacity B Tampering	C.12 C.13 C.18
More than 10,500 and less than or equal to 26,000 pounds	1967 through 1974	Annual	Any of the following: Loaded opacity A Loaded opacity B	C.12 C.13
More than 4,000 and less than or equal to 10,500	1975 or later	Annual	Loaded opacity B Tampering	C.13 C.18
More than 4,000 and less than or equal to 10,500	1967 through 1974	Annual	Loaded opacity B	C.13
4,000 pounds or less	1975 or later	Annual	Loaded opacity C Tampering	C.14 C.18
4,000 pounds or less	1967 through 1974	Annual	Loaded opacity C	C.14

8. Test procedures that apply for diesel vehicles in both Area A and Area B after the Administrator approves this subsection (B)(8) into the applicable implementation plan:

Area A and Area B Diesel Testing Procedures After SIP Revision is Approved					
GVWR	OBD Certified?	Model Year	Test Frequency	Tests Applicable	Test Subsection
Any	Yes	Any	Biennial	OBD Tampering	C.4 C.17
More than 8,500 pounds	No	1975 or later	Annual	Snap idle Tampering	C.10 C.17
More than 8,500 pounds	No	1967 through 1974	Annual	Snap idle	C.10
More than 4,000 and less than or equal to 8,500 pounds	No	1975 or later	Annual	Loaded opacity B Tampering	C.12 C.17
More than 4,000 and less than or equal to 8,500 pounds	No	1967 through 1974	Annual	Loaded opacity B	C.12
4,000 pounds or less	No	1975 or later	Annual	Loaded opacity C Tampering	C.13 C.17
4,000 pounds or less	No	1967 through 1974	Annual	Loaded opacity C	C.13

9. Dealer Fleet Testing Procedures. The test procedures in the table in this Section apply until the administrator approves subsections (B)(2)(a)(i), (B)(3)(a)(i), and (B)(8) into the applicable implementation plan for used vehicles sold by a motor vehicle dealer who is a fleet operator and who has been issued a permit pursuant to A.R.S. § 49-546. After those sections are approved into the applicable implementation plan, used vehicles sold by a motor vehicle dealer who is a fleet operator and who has been issued a permit pursuant to A.R.S. § 49-546 will be subject to the same testing procedures as vehicles tested at state stations and the table in this Section will no longer be applicable.

Area A and Area B Dealer Fleet Testing Procedures Until SIP Revision is Approved			
Model Year	Test Frequency	Tests Applicable	Test Subsection

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1981 or later	Annual	Two speed idle test Functional gas cap Tampering	C.6 C.16 C.17
1975 through 1980	Annual	Idle Test Functional gas cap Tampering	C.7 C.16 C.17
1967 through 1974	Annual	Idle Test Functional gas cap	C.8 C.16

C. Test Requirements

1. Conditions for Pass. A vehicle passes inspection if the vehicle:
 - a. Is subjected to all applicable tests required by Subsection (B);
 - b. Is not rejected from any of the tests for any of the reasons specified in (C)(2) or (C)(3) of this subsection; and
 - c. Does not fail any of the applicable tests for any of the reasons specified in this subsection.
2. Pre-Test Safety Inspection
 - a. The Department shall inspect each vehicle visually before the emissions test for any of the following unsafe or untestable conditions:
 - i. A fuel leak that causes wetness or pooling of fuel;
 - ii. A continuous engine or transmission oil leak onto the floor;
 - iii. A continuous engine coolant leak onto the floor such that the engine is overheating or may overheat within a short time;
 - iv. A tire on a driving wheel with less than 2/32-inch tread, metal protuberances, unmatched tire size, obviously low tire pressure as determined by visual inspection;
 - v. An exhaust pipe that does not allow for safe exhaust probe insertion;
 - vi. An exhaust pipe on a diesel-powered vehicle that does not allow for safe exhaust probe insertion and attachment of opacity meter sensor units;
 - vii. Improperly operating brakes;
 - viii. Any vehicle modification or mechanical condition that prevents dynamometer operation;
 - ix. Loud internal engine noise;
 - x. An obvious exhaust leak;
 - xi. Towing a trailer or carrying a heavy load;
 - xii. Carrying explosives or any hazardous material not used as a fuel for the vehicle; or
 - xiii. Any other condition that in the judgment of the inspector makes testing unsafe or the vehicle untestable.
 - b. If the inspector determines that a vehicle is unsafe or otherwise untestable by the visual inspection the following shall apply:
 - i. The vehicle shall be rejected without an emissions test;
 - ii. The inspector shall notify the vehicle owner or operator of all untestable or unsafe conditions found;
 - iii. A state station shall not charge a fee; and
 - iv. A state station shall not test the vehicle until the cause for rejection is repaired.
3. Test Operating Conditions. When conducting the emissions test required by this Section, the vehicle emissions

inspector shall ensure that all of the following requirements are satisfied:

- a. The vehicle shall be tested in the condition presented, unless rejected under R18-2-1006(C)(2);
- b. The vehicle's engine shall be operating at normal temperature and not be overheating as indicated by a gauge, warning light, or boiling radiator; and
- c. All vehicle accessories shall be turned off during testing.
4. OBD Test.
 - a. Test Procedure. The OBD test shall consist of:
 - i. A visual inspection of the MIL function; and
 - ii. An electronic examination of the OBD computer by connecting a scan tool to the data link connector and interrogating the OBD system to determine vehicle readiness status, MIL status, and the presence of diagnostic trouble codes.
 - b. Equipment Specifications. The OBD equipment shall conform to the requirements of "Performing Onboard Diagnostic System Checks as Part of a Vehicle Inspection and Maintenance Program," EPA420-R-01-015, EPA, June 2001 (and no future editions or amendments), which is incorporated by reference. A copy of this incorporated material is on file with the Department, the Secretary of State, and is available online at <http://azdeq.gov/VECS/Rulemaking>.
 - c. OBD scan tools shall have the most recent available software downloaded and installed before inspection.
 - d. Test Rejection. A vehicle shall be rejected from an OBD test if any of the following conditions occurs:
 - i. The number of unset readiness indicators, excluding continuous indicators, is three or more for a model year 1996-2000 vehicle, or two or more for a model year 2001 and newer vehicle;
 - ii. The data link connector cannot be located or is inaccessible;
 - iii. The data link connector is loose and the scan tool cannot be inserted into the connector;
 - iv. The data link connector has no voltage; or
 - v. The eVIN and monitors are mismatched.
 - e. Test Failure. A vehicle fails the OBD test if any of the following conditions occurs:
 - i. The vehicle's MIL does not illuminate when the ignition is on and the engine is off;
 - ii. The vehicle's MIL illuminates continuously or flashes with the engine running;
 - iii. The OBD system is not communicating;
 - iv. The vehicle's OBD system reports the MIL as commanded on;
 - v. The vehicle's OBD system data is inappropriate for the vehicle being tested; or

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- vi. The vehicle's OBD system data does not match the original equipment manufacturer (OEM) or a Department exempted OBD software configuration.
- 5. Transient Loaded and Evaporative System Pressure Test.
 - a. Transient Loaded Test Procedure.
 - i. The transient loaded test shall consist of 147 seconds of mass emissions measurement using a constant volume sampler while the vehicle is driven by an inspector through a computer-monitored driving cycle on a dynamometer with inertial weight settings appropriate for the weight of the vehicle.
 - ii. The driving cycle shall include the acceleration, deceleration, and idle operating modes described in Table 4.
 - iii. The 147-second sequence may be ended earlier using a fast-pass or fast-fail algorithm.
 - iv. A retest algorithm shall be used to determine if a test failure is due to insufficient vehicle preconditioning. As determined by the retest algorithm, an additional test may be performed on a failing vehicle.
 - v. The highest selectable drive gear shall be used for automatic transmissions and first gear shall be used for manual transmission acceleration from idle.
 - vi. Exhaust emissions concentrations in grams per mile for HC, CO, NO_x and CO₂ shall be recorded continuously beginning with the first second.
 - vii. All testing and test equipment for the transient loaded emissions test shall conform to "IM240 & Evap Technical Guidance," EPA420-R-00-007, EPA, April 2000, and no future editions or amendments, which is incorporated by reference, except that the transient driving cycle in Table 4, the standards in Table 4, and the fast-pass, fast-fail retest algorithms described in subsection (C)(5)(a) shall be used. A copy of the incorporated material is on file with the Department, the Secretary of State, and is available online at <http://azdeq.gov/VECS/Rulemaking>.
 - viii. In determining compliance under subsection (C)(5)(d) for a vehicle that operates on natural gas, HC emissions shall be multiplied by 0.19, when an analyzer with a flame ionization detector is used or 0.61, when an NDIR analyzer is used.
 - b. Evaporative System Pressure Test Procedure. The evaporative system pressure test shall consist of the following steps in sequence:
 - i. Connect the test equipment to either the fuel tank vent hose at the canister or the fuel tank filler neck;
 - ii. Pressurize the system to 14 ± 0.5 inches of water without exceeding 26 inches of water system pressure; and
 - iii. Close off the pressure source, seal the evaporative system, and monitor pressure decay for two minutes unless a failure is detected or a fast-pass determination is made as defined in EPA420-R-00-007, which is incorporated by reference in subsection (C)(5)(a)(vii) of this rule.
 - c. Test Rejection. A vehicle shall be rejected from the transient loaded and evaporative system pressure test if it has an audible or visible exhaust leak during emissions testing, or if the vehicle displays unsafe behavior on the dynamometer during testing.
 - d. Transient Loaded Test Failure. A vehicle fails the transient loaded test if emissions measured during the test exceed the Table 3 standard applicable to the model year and type of the vehicle being tested as follows:
 - i. The average emissions measured for the entire test exceed the "composite standard" for any pollutant; or
 - ii. The average emissions measured during seconds 65 through 146 exceed the "phase-2" standard for any pollutant.
 - e. Evaporative System Pressure Test Failure. A vehicle fails the evaporative system pressure test if any of the following conditions occurs:
 - i. The evaporative system cannot maintain a system pressure above eight inches of water for two minutes after being pressurized to 14 ± 0.5 inches of water;
 - ii. The canister is missing or damaged; or
 - iii. The hose or electrical system is missing, routed incorrectly, or disconnected, according to the vehicle emissions control information label.
 - f. Test Failure. A vehicle fails the transient loaded and evaporative system pressure test if it fails the test under either subsection R10-2-1006(C)(5)(d) or R10-2-1006(C)(5)(e).
- 6. Loaded Test.
 - a. Loaded Cruise Test Procedure. The vehicle's drive wheels shall be placed on a dynamometer and the vehicle shall be operated according to the Table 1 of this Article.
 - b. Besides the Arizona specific dynamometer test schedule, loaded tests shall conform to the procedures listed at 40 CFR 51, Subpart S, Appendix B, Section III, amended as of July 1st, 2017, which is incorporated by reference and on file with the Department, the Secretary of State, and is available online at <http://azdeq.gov/VECS/Rulemaking>.
 - c. Loaded Test Equipment Specifications.
 - i. The equipment used in Area A state stations for loaded cruise and curb idle testing shall conform to "IM240 & Evap Technical Guidance," EPA420-R-00-007, EPA, April 2000, and no future editions or amendments, which is incorporated by reference in subsection (C)(5)(a)(vii) of this rule.
 - ii. The equipment used in Area B state stations and all Arizona fleet emission testing stations for the loaded test shall comply with 40 CFR 51, Subpart S, Appendix A, Section I, amended as of July 1, 2017, which is incorporated by reference and on file with the Department, the Secretary of State, and is available online at <http://azdeq.gov/VECS/Rulemaking>.
 - d. In determining whether a vehicle that operates on natural gas complies with the HC emissions standards in Table 2 of this Article, the results of the test

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- shall be multiplied by 0.19, when an analyzer with a flame ionization detector is used or 0.61, when an NDIR analyzer is used.
- e. Test Rejection. A vehicle shall be rejected from a loaded cruise and curb idle test, if the CO₂ plus CO reading during the curb idle test is less than 6%.
 - f. Test Failure. A vehicle fails the loaded cruise and curb idle test if tailpipe emissions measured by the test exceed the applicable standards in Table 2 for loaded cruise mode or curb idle mode for the type and model year of the vehicle being tested.
7. Two Speed Idle Test
 - a. All two speed idle testing shall conform to the procedures listed at 40 CFR 51, Subpart S, Appendix B, Section II, amended as of July 1, 2017, and no future editions or amendments, which is incorporated by reference and on file with the Department, the Secretary of State, and is available online at <http://azdeq.gov/VECS/Rulemaking>.
 - b. All equipment used for two speed idle testing shall conform with the requirements of 40 CFR 51, Subpart S, Appendix A, Section I, amended as of July 1, 2017, and no future editions or amendments, which is incorporated by reference and on file with the Department.
 - c. Test Failure. A vehicle fails the two speed idle test if tailpipe emissions measured by the test exceed the applicable standards in Table 2 for the type and model year of the vehicle being tested.
 8. Idle Test
 - a. All idle testing shall conform to the procedures listed at 40 CFR 51, Subpart S, Appendix B, Section I, amended as of July 1, 2017, and no future editions or amendments, which is incorporated by reference and on file with the Department, the Secretary of State, and is available online at <http://azdeq.gov/VECS/Rulemaking>.
 - b. All equipment used for two speed idle testing shall conform with the requirements of 40 CFR 51, Subpart S, Appendix B, Section I, amended as of July 1, 2017, and no future editions or amendments, which is incorporated by reference and on file with the Department.
 - c. Test Failure. A vehicle fails the idle test if tailpipe emissions measured by the test exceed the applicable standards in Table 2 for the type and model year of the vehicle being tested.
 9. Exhaust Sampling Requirements for Annual Tests on Non-Diesel Vehicles.
 - a. All CO and HC emissions analyzers shall have water traps incorporated in the sampling lines. Sampling probes shall be capable of taking undiluted exhaust samples from a vehicle exhaust system.
 - b. A vehicle, other than a diesel-powered vehicle, shall be inspected with a gas analyzer capable of determining concentrations of CO and HC within the ranges and tolerances specified in Table 5.
 - c. A vehicle with multiple exhaust pipes shall be inspected by collecting and averaging samples by one of the following methods:
 - i. Collecting separate samples from each exhaust pipe and use the average concentration to determine the test result;
 - ii. Using manifold exhaust probes to simultaneously sample approximately equal volumes from each exhaust pipe; or
 - iii. Using manifold exhaust pipe adapters to collect approximately equal volume samples from each exhaust pipe.
 10. Snap Idle Test.
 - a. Snap Idle Test Procedure.
 - i. The Department shall test the vehicle with a procedure that conforms to Society of Automotive Engineers Recommended Practice J1667, February 1996, incorporated by reference and on file with the Department, the Secretary of State and is available online at <http://azdeq.gov/VECS/Rulemaking>. This incorporation by reference contains no future editions or amendments.
 - ii. All testing and test equipment shall conform to the J1667 Recommended Practice.
 - iii. The procedure shall use the corrections for ambient test conditions in Appendix B of the J1667 Recommended Practice for all tests.
 - iv. To expedite testing throughput, the Department may implement rapid testing procedures.
 - v. The test results shall be reported as the percentage of smoke opacity.
 - b. Snap Idle Test Failure.
 - i. Except as provided in subsection (C)(10)(c), a vehicle fails the snap idle test if the opacity of emissions exceeds the level specified in the following table:

Model Year	Standard
1991 or later	40%
1990 or earlier	55%
 - ii. The engine model year is determined by the emission control label. If the emission control label is missing, illegible, or incorrect, the test standard shall be 40%, unless a correct, legible, emission control label replacement is attached to the vehicle within 30 days of the inspection.
 - c. Alternative Opacity Standard. The Director shall identify an alternative, less stringent opacity standard for an engine family if the conditions of either subsection (C)(10)(c)(i) or (C)(10)(c)(ii) are satisfied.
 - i. The engine family exhibits smoke opacity greater than the applicable standard in subsection (C)(10)(b)(i) when in good operating condition and adjusted to the manufacturer's specifications. If this condition is satisfied, the Director shall identify a technologically appropriate less stringent standard based on a review of data obtained from engines in good operating condition and adjusted to manufacturer's specifications.
 - ii. The engine family has been granted an exemption from a standard equivalent to the applicable standard in subsection (C)(10)(b)(i) based on the J1667 Recommended Practice by the executive officer of the California Air Resources Board (CARB). If this condition is satisfied, the Director shall allow the engine family to comply with any technologically

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- appropriate less stringent standard identified by the executive officer of CARB.
- iii. A demonstration under subsection (C)(10)(c)(i) shall be based on data from at least three vehicles. Data from official inspections under this subsection (C)(10) showing that vehicles in the engine family meet the standard may be used to rebut the demonstration.
 - iv. The Director shall implement any new standard resulting from each exemption as soon as practicable for all subsequent tests and provide notice at all affected test stations and fleets.
11. Loaded Opacity A Test.
 - a. Test Procedure.
 - i. The vehicle shall be tested on a chassis dynamometer beginning with no power absorption by selecting a gear ratio that produces a maximum vehicle speed of 30-35 MPH at governed or maximum rated RPM.
 - ii. If the vehicle has a manual transmission or an automatic transmission with individual gear selection, the engine shall be operated at governed or maximum rated engine RPM, at normal operating temperature under a power absorption load applied to the dynamometer until the loading reduces the engine RPM to 80% of the governed speed at wide-open throttle position.
 - iii. If the vehicle has an automatic transmission and automatic gear kickdown, the engine shall be loaded to a speed just above the kickdown speed or 80% of the governed speed, whichever is greater.
 - iv. If the chassis dynamometer does not have enough horsepower absorption capability to lug the engine down to these speeds, the vehicle's brakes may be used to assist the dynamometer.
 - b. Test Failure. A vehicle fails the test if the opacity reading for a period of 10 consecutive seconds exceeds the applicable standard in R18-2-1030(B).
 12. Loaded Opacity B Test.
 - a. Test Procedure. The vehicle shall be tested by a loaded dynamometer test by applying a single load of 30 HP, \pm 2 HP, while operated at 50 MPH.
 - b. Test Failure. A vehicle fails the test if the opacity reading for a period of 10 consecutive seconds exceeds the applicable standard in R18-2-1030(B).
 13. Loaded Opacity C Test.
 - a. Test Procedure. The vehicle shall be tested by a loaded dynamometer test by applying a single load of between 6.4 - 8.4 HP while operated at 30 MPH.
 - b. Test Failure. A vehicle fails the test if the opacity reading for a period of 10 consecutive seconds exceeds the applicable standard in R18-2-1030(B).
 14. Exhaust Sampling Requirements for Diesel Vehicles Tests other than the Snap Idle Test.
 - a. For a diesel-powered vehicle equipped with multiple exhaust pipes, separate measurements shall be made on each exhaust pipe. The reading taken from the exhaust pipe that has the highest opacity reading shall be used for comparison with the standard in R18-2-1030(B).
 - b. A vehicle shall be inspected with either a full-flow or sampling-type opacity meter. The opacity meter shall be a direct reading, continuous reading light extinction-type using a collimated light source and photo-electric cell, accurate to a value within \pm 2% of full scale.
 15. Functional Gas Cap Test.
 - a. Test Procedure.
 - i. The vehicle shall undergo a functional test of the gas cap to determine cap leakage.
 - ii. A vehicle with a non-sealing gas cap shall be checked for the presence of a properly fitting gas cap.
 - b. Exemption. A vehicle with a vented fuel system is exempt from this subsection.
 - c. Exemption. A vehicle that is manufactured without a gas cap is exempt from this subsection.
 - d. Test Failure.
 - i. A vehicle fails the test if cap leakage exceeds 60 cubic centimeters of air per minute at a pressure of 30 inches of water gauge.
 - ii. Notwithstanding subsection 18-2-1006(C)(15)(d)(i), a vehicle does not fail the test if the failing cap is immediately replaced at the state station by a gas cap that satisfies the requirements of this subsection.
 16. Tampering Inspection.
 - a. The inspection shall be based on the original configuration of the vehicle as manufactured. The Department shall verify the applicable emissions system requirements shall be verified by the "Vehicle Emission Control Information" label. "Original configuration" for a foreign manufactured vehicle means the design and construction of a vehicle produced by the manufacturer for original entry and sale in the United States.
 - b. The Department's tampering inspection shall consist of the following:
 - i. A visual inspection to determine the presence and proper installation of each required catalytic converter system or OEM equivalent;
 - ii. An examination to determine the presence of an operational injection system, if applicable;
 - iii. A visual inspection to determine the presence of an operational positive crankcase ventilation system or closed crankcase ventilation system, if applicable; and
 - iv. A visual inspection to determine the presence of an operational evaporative control system, if applicable.
 17. Visual Gas Cap Test. The visual gas cap test consists of the inspector's ocular verification that a gas cap is properly fitted to the vehicle.
 18. Testing Vehicles that Operate on More than One Fuel. A vehicle, other than a vehicle for which an OBD test is required, designed to operate on more than one fuel, shall be tested on the fuel in use when the vehicle is presented for inspection, except vehicles that operate on alternative fuel, as defined in A.R.S. § 1-215.
 19. Testing Vehicles that Operate on Alternative Fuels.
 - a. The inspector shall test vehicles that operate on an alternative fuel, as defined in A.R.S. § 1-215, other than a vehicle for which an OBD test is required, on each fuel that the vehicle is intended to operate on, using the appropriate emissions test procedure and standards for that vehicle.

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- b. The vehicle shall be operated for a minimum of 30 seconds after switching fuels and before testing begins. The vehicle shall be rejected for testing if it is not able to operate on each fuel that the vehicle is intended to operate on or if the vehicle operator cannot switch fuels.
- c. A vehicle that operates exclusively on propane or natural gas, as defined in A.R.S. § 1-215, shall be exempt from the functional gas cap test in subsection 10-2-1006(C)(15) and the evaporative pressure system test in subsection 10-2-1006(C)(5)(b).

Historical Note

Former Section R9-3-1006 repealed, new Section R9-3-1006 adopted effective January 13, 1976 (Supp. 76-1). Amended effective November 1, 1976 (Supp. 76-5). Amended effective March 2, 1978 (Supp. 78-2). Amended effective January 3, 1979 (Supp. 79-1). Amended effective February 20, 1980 (Supp. 80-1). Former Section R9-3-1006 repealed, new Section R9-3-1006 adopted as an emergency effective January 2, 1981 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1006 as amended effective February 20, 1980 repealed and a new Section R9-3-1006 adopted as an emergency effective January 2, 1981 now adopted and amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1006 renumbered as Section R18-2-1006 and subsections (A), (C) and (D) amended effective August 1, 1988 (Supp. 88-3). Amended effective September 19, 1990 (Supp. 90-3). Amended effective November 14, 1994 (Supp. 94-4). Amended effective October 15, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 2722, effective June 28, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 14 A.A.R. 2834, effective July 1, 2008 (Supp. 08-3). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1007. Evidence of Meeting State Inspection Requirements

- A. A vehicle required to be inspected under this Article shall pass inspection before registration by meeting the requirements of R18-2-1006, unless the vehicle owner obtains a certificate of waiver under R18-2-1008.
- B. The MVD or its agent may use the MVD motor vehicles emissions database, if available, as evidence that a vehicle complies with the requirements of this Article.
- C. If the MVD motor vehicles emissions database is not available, the MVD or its agent shall accept any of the following documents identified in subsections (C)(1) to (C)(5), when complete, unaltered, and dated no more than 90 days before registration expiration date, as evidence that a vehicle complies with the requirements of this Article unless the MVD or its agent has reason to believe it is false. Documents accompanying a late registration may be dated subsequent to the registration expiration date:
 - 1. Certificate of compliance,
 - 2. Certificate of waiver (except from auto dealers licensed to sell used motor vehicles under Title 28),
 - 3. Certificate of exemption,

- 4. Director's certificate, or
- 5. The upper section of the vehicle inspection report with "PASS" in the final results block.

- D. A complete certificate of inspection or government vehicle certificate of inspection dated within 12 months of registration for an annually tested vehicle and 24 months for a biennially tested vehicle shall be accepted by the MVD or its agent as evidence that a vehicle is in compliance with the requirements of this Article unless the MVD or its agent has reason to believe it is false.
- E. Documents listed in subsection (C) and originating in Area B are not acceptable for meeting the inspection requirements in Area A, unless the tests required in Area A and Area B for the vehicle under R18-2-1006 are identical.
- F. Government vehicles for which only weight fees are paid shall be registered without evidence of inspection.

Historical Note

Former Section R9-3-1007 repealed, new Section R9-3-1007 adopted effective January 13, 1976 (Supp. 76-1). Former Section R9-3-1007 repealed, new Section R9-3-1007 adopted effective January 3, 1977 (Supp. 77-1). Amended effective February 20, 1980 (Supp. 80-1). Amended effective January 1, 1986 (Supp. 85-6). Former Section R9-3-1007 renumbered without change as Section R18-2-1007 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1008. Procedure for Issuing Certificates of Waiver

- A. Unless prohibited under subsection (D), a waiver inspector shall issue a certificate of waiver after reinspection at a state station to a vehicle that failed the emissions reinspection when the vehicle owner demonstrates any of the following conditions have been satisfied:
 - 1. The requirements of R18-2-1009 and R18-2-1010, to the extent applicable, have been satisfied;
 - 2. The vehicle owner has spent the maximum required repair cost on the maintenance and repair procedures required by R18-2-1010; or
 - 3. Any further repairs within the maximum required repair cost would not enable the vehicle to pass the required vehicle emissions inspection.
- B. The demonstration required by subsection (A) may consist of repair receipts, emissions test results, evidence of repairs performed, under hood verification, repair cost estimates, or similar evidence.
- C. A temporary certificate of waiver may be issued to a vehicle failing the tampering inspection if the vehicle owner provides to a waiver inspector a written statement from an automobile parts or repair business that an emission control device necessary to repair the tampering is not available and cannot be obtained from any usual source of supply, and if all requirements of R18-2-1008(A) have been met. All written statements are subject to verification for authenticity and accuracy by the waiver inspector. The Department may deny a temporary certificate of waiver if the state inspector has any reason to believe the written statement is false or a usual source of supply exists and the device necessary to repair the tampering is available. Certificates of waiver may be issued under this subsection for a specified period, not to exceed 90 days, that

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allows sufficient time for the procurement and installation of a proper emissions control device. A receipt or bill from a vehicle repair facility or automobile parts store shall be an acceptable proof of purchase. Before the end of the specified time period, the vehicle owner shall present to the waiver inspector proof of purchase and installation of the device. The Department shall track all issued temporary certificates of waiver and if no proof of purchase and installation is received before the end of the specified time period, the Department shall forward to the MVD an order to cancel the vehicle's registration.

- D.** The Director shall not issue a waiver to a vehicle under any of the circumstances described in subsections (D)(1) through (4).
1. The vehicle failed the emissions test due to the catalytic converter system. A vehicle fails the emissions test due to the catalytic converter system if:
 - a. The vehicle has a catalytic converter system that is missing or defeated;
 - b. The vehicle is equipped with an on-board diagnostic computer (OBD) with a malfunction indicator light (MIL), "check engine" or "service engine soon" light commanded on by the computer and containing diagnostic trouble codes indicating the catalytic converter must be replaced; or
 - c. A vehicle with a repair order or estimate paperwork provided the waiver technician at the time of waiver inspection shows that a diagnostic determination has been made by the mechanic that the catalytic converter must be replaced.
 2. The vehicle failed the emissions test with an HC, CO, NOx, or opacity emission level greater than two times the pass-fail standard in R18-2-1006.
 3. The same vehicle has previously received a certificate of waiver.
 4. The waiver request is based upon repair estimates and the waiver inspector demonstrates that a recognized repair facility can repair or improve the vehicle's test readings within the repair cost limit.
- E.** The fee for a certificate of waiver under this Section shall be fixed by the Director according to A.R.S. § 49-543, and shall be based upon the Director's estimated costs to the state for administering and enforcing the provisions of this Article for issuance of certificates of waiver under this Section. The fee shall be payable at the time the certificate of waiver is issued.
- F.** If a waiver inspector denies a certificate of waiver under this Section, the vehicle owner may request review of the denial by a state inspector.

Historical Note

Former Section R9-3-1008 repealed, new Section R9-3-1008 adopted effective January 13, 1976 (Supp. 76-1).

Former R9-3-1008 repealed, new Section R9-3-1008 adopted effective January 3, 1977 (Supp. 77-1). Amended effective March 2, 1978 (Supp. 78-2). Amended effective January 3, 1979 (Supp. 79-1). Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1008 as amended effective January 3, 1979, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended subsection (A) and added subsection (D) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1008 renumbered as Section R18-2-1008 and amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4).

Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1009. Tampering Repair Requirements

- A.** When a vehicle fails the visual inspection for properly installed catalytic converters, the vehicle owner shall replace the converters with new or reconditioned OEM converters, or equivalent new aftermarket converters.
- B.** When a vehicle fails the visual inspection for the presence of an operational air injection system, the vehicle owner shall install a new, used, or reconditioned, operational air pump on the vehicle according to manufacturer specifications.
- C.** When a gasoline vehicle fails the visual inspection for the presence or malfunction of the positive crankcase ventilation system, the vehicle owner shall repair or replace the system with OEM or equivalent aftermarket parts.
- D.** When a diesel-powered vehicle fails the visual inspection for the presence or malfunction of the closed crankcase ventilation system, the vehicle owner shall repair or replace the system with OEM or equivalent aftermarket parts.
- E.** When a vehicle fails the visual inspection for the presence or malfunction of the evaporative control system, the vehicle owner shall repair or replace the system with OEM or equivalent aftermarket parts.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1). Repealed effective January 3, 1977 (Supp. 77-1). New Section R9-3-1009 adopted effective January 1, 1986 (Supp. 85-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1009 renumbered without change as Section R18-2-1009 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 14 A.A.R. 2834, effective July 1, 2008 (Supp. 08-3). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1010. Low Emissions Tune-up, Emissions and Evaporative System Repair

- A.** Vehicle maintenance and repairs under subsection (B) and the failure-specific maintenance and repair requirements of subsection (C) must be performed before reinspection of a vehicle that fails a tailpipe emissions or OBD test under R18-2-1006.
- B.** Vehicle maintenance and repairs on a non-diesel powered vehicle consists of the following procedures:
 1. Emissions Failure Diagnosis. For a computer-controlled vehicle, the on-board computer shall be accessed and any stored trouble codes recorded. For a model year 1996 or newer vehicle equipped with an OBD system, a compatible scan tool shall be used to access and record diagnostic trouble codes. The following instruments or equipment are required to complete a low emissions tune-up:
 - a. Tachometer, although for 1996 and later vehicles an OBD scanner can be used to monitor engine RPMs;
 - b. A compatible OBD scan tool, if appropriate;
 - c. Engine analyzer or oscilloscope; and
 - d. A HC/CO NDIR analyzer to make final A/F adjustments, if specified by the manufacturer.
 2. Adjustment. All adjustments shall be made according to the manufacturer's specifications and procedures. Final

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adjustment shall be made on the vehicle engine only after the engine is at normal operating temperature.

3. Inspection of Air Cleaner, Choke, and Air Intake System. The vehicle owner shall repair or replace a dirty or plugged air cleaner, stuck choke, or restricted air intake system as required.
 4. Dwell and Basic Timing Check. Dwell and basic engine timing shall be checked and the vehicle owner shall make adjustments, if necessary, according to manufacturer's specifications.
 5. Inspection of PCV System. The PCV system shall be checked to ensure that it is the type recommended by the manufacturer and is correctly operating. Free flow through the PCV system passages and hoses shall be verified. The vehicle owner shall repair or replace the system as required.
 6. Inspection of Vacuum Hoses. The vacuum hoses shall be inspected for leaks, obstruction, and proper routing and connection. The vehicle owner shall repair or replace as required.
 7. Fuel Lines and System Components Inspection. A visual inspection for leaking fuel lines or system components shall be performed. The vehicle owner shall repair or replace any leaking lines or systems as required.
 8. Idle Speed and A/F Mixture Check. The idle speed and A/F mixture shall be checked and the vehicle owner shall make adjustments according to manufacturer's specifications and procedures. If the vehicle is equipped with a fuel injection system or an alternate fuel (LPG or LNG), the manufacturer's recommended adjustment procedure shall be followed.
- C. Failure-specific recommended repairs and maintenance. If the maximum required repair cost in subsection (F) or (G) is not exceeded after the diagnosis and vehicle maintenance and repairs described in subsection (B), then the following procedures apply:
1. CO failure.
 - a. If a vehicle fails CO only, the vehicle shall be checked for:
 - i. Proper canister purge system operation,
 - ii. High float setting,
 - iii. Leaky power valve, and
 - iv. Faulty or worn needles, seats, jets or improper jet size.
 - b. If applicable, the vehicle shall be checked for the following items:
 - i. Computer,
 - ii. Engine and computer sensors,
 - iii. Engine solenoids,
 - iv. Engine thermostats,
 - v. Engine switches,
 - vi. Coolant switches,
 - vii. Throttle body or port fuel injection system,
 - viii. Fuel injectors,
 - ix. Fuel line routing and integrity,
 - x. Air in fuel system including line and pump,
 - xi. Fuel return system,
 - xii. Injection pump,
 - xiii. Fuel injection timing,
 - xiv. Routing of vacuum hoses, and
 - xv. Electrical connections.
 - c. The items in subsections (C)(1)(a) and (b) shall be repaired or replaced as required.
 2. HC, or HC and CO failure.
 - a. If a vehicle fails HC, or HC and CO emissions, the vehicle shall be checked for:
 - i. Faulty spark plugs and faulty, open, crossed, or disconnected plug wires;
 - ii. Distributor module;
 - iii. Vacuum hose routing and electrical connections;
 - iv. Distributor component malfunctions including vacuum advance;
 - v. Faulty points or condenser;
 - vi. Distributor cap crossfire;
 - vii. Catalytic converter efficiency air supply;
 - viii. Vacuum leaks at intake manifold, carburetor base gasket, EGR, and vacuum-operated components.
 - b. The vehicle owner shall repair or replace the items in subsection (C)(2)(a) as required.
3. NOx failure.
- a. If a vehicle fails for NOx emissions, the vehicle shall be checked for:
 - i. Removed, plugged, or malfunctioning EGR valve, exhaust gas ports, lines, and passages;
 - ii. EGR valve electrical and vacuum control circuitry, components, and computer control, as applicable;
 - iii. Above normal engine operating temperature;
 - iv. Proper air management;
 - v. Lean A/F mixture;
 - vi. Catalytic converter efficiency; and
 - vii. Over-advanced off-idle timing.
 - b. The items in subsection (C)(3)(a) shall be repaired or replaced as required.
4. OBD failure. If the vehicle fails the OBD test, the vehicle owner shall repair the items indicated on the vehicle emissions report as causing the failure. If the failure results from diagnostic trouble codes (DTCs) that caused the malfunction indicator lamp (MIL) to be illuminated, the vehicle owner shall repair or replace the components or systems causing the DTCs. After repair of a DTC failure, and before reinspection, the vehicle shall be operated under conditions recommended by the vehicle manufacturer for the OBD computer to evaluate the repaired system.
- D. For Evaporative System Failures, the following procedures apply:
1. If a vehicle fails the evaporative system pressure test, the vehicle shall be checked for leaking or disconnected vapor hoses, line, gas cap, and fuel tank.
 2. If a vehicle fails a visual inspection of the evaporative system, the vehicle shall be checked for a missing or damaged canister, canister electrical and vacuum control circuits and components, disconnected, damaged, mis-routed or plugged hoses, and damaged or missing purge valves. The vehicle owner shall repair or replace the system with OEM or equivalent aftermarket parts.
- E. If a vehicle fails the functional gas cap pressure test described in R18-2-1006, the vehicle owner shall replace the gas cap with one that meets the requirements of that subsection. If a vehicle designed with a vented system fails a visual inspection for the presence of a gas cap, the vehicle owner shall install a properly fitting gas cap on the vehicle.
- F. The maximum required repair cost for a vehicle in Area A, not including cost to repair the vehicle for failing an evaporative

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system pressure test due to tampering, or other tampering repair cost, is:

1. For a diesel-powered vehicle with a GVWR greater than 26,000 pounds or a diesel-powered vehicle with tandem axles: \$500; and
 2. For a vehicle that is not a diesel-powered vehicle with a GVWR greater than 26,000 pounds and is not a diesel-powered vehicle with tandem axles:
 - a. Manufactured in or before the 1974 model year: \$200;
 - b. Manufactured in the 1975 through 1979 model years: \$300; and
 - c. Manufactured in or after the 1980 model year: \$450.
 3. Subsection (F) does not prevent a vehicle owner from authorizing or performing more than the required repairs. A vehicle operator who has a vehicle reinspected shall have the repair receipts available when requesting a certificate of waiver.
- G.** The maximum required repair cost for vehicles in Area B, not including tampering repair cost, is:
1. For a diesel-powered vehicle with a GVWR greater than 26,000 pounds or a diesel-powered vehicle with tandem axles: \$300; and
 2. For a vehicle that is not a diesel-powered vehicle with a GVWR greater than 26,000 pounds and is not a diesel-powered vehicle with tandem axles:
 - a. Manufactured in or before the 1974 model year: \$50;
 - b. Manufactured in the 1975 through 1979 model years: \$200; and
 - c. Manufactured in or after the 1980 model year: \$300.
 3. Subsection (G) does not prevent a vehicle owner from authorizing or performing more than the required repairs. A vehicle operator who has a vehicle reinspected shall have the repair receipts available when requesting a certificate of waiver.
- H.** Before reinspection of a diesel vehicle that has failed an inspection, the vehicle owner shall comply with the following maintenance and repair requirements to the extent that the total cost of meeting the requirements does not exceed the maximum required repair cost in subsection (F) or (G):
1. Inspect for dirty or plugged air cleaner, or restricted air intake system. Repair or replace as required.
 2. Check fuel injection system timing according to manufacturer's specifications. Adjust as required.
 3. Check for fuel injector fouling, leaking, or mismatch. Repair or replace as required.
 4. Check fuel pump and A/F ratio control according to manufacturer's specifications. Adjust as required.
 5. If the vehicle fails the J1667 procedure, check smoke-limiting devices, if any, including the aneroid valve and puff limiter. Repair or replace as required.
- I.** The vehicle owner shall use any available warranty coverage for a vehicle to obtain needed repairs before an expenditure can be counted toward the cost limits in subsection (F) and (G). If the operator of a vehicle within the age and mileage coverage of section 207(b) of the Clean Air Act presents a written denial of warranty coverage from the manufacturer or authorized dealer, warranty coverage is not considered available under this subsection.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1). Former Section R9-3-1010 repealed, new Section R9-3-1010 adopted effective January 3, 1977 (Supp. 77-1). Amended

effective March 2, 1978 (Supp. 78-2). Amended effective January 3, 1979 (Supp. 79-1). Amended effective February 20, 1980 (Supp. 80-1). Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1010 as amended effective February 20, 1980, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1010 renumbered as Section R18-2-1010 and subsection (D) amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994

(Supp. 94-4). Amended effective October 15, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 14 A.A.R. 2834, effective July 1, 2008 (Supp. 08-3). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1011. Vehicle Inspection Report

- A.** The Department shall provide a vehicle inspected at a state station with a uniquely numbered vehicle inspection report of a design approved by the Director that contains, at a minimum, the following information, as applicable to the tests required for the vehicle under R18-2-1006:
1. License plate number;
 2. Vehicle identification number;
 3. Model year of vehicle;
 4. Make of vehicle;
 5. Style of vehicle;
 6. Type of fuel;
 7. Odometer reading;
 8. Emissions standards for idle and loaded cruise modes, if applicable;
 9. Emissions measurements during idle and loaded cruise modes, if applicable;
 10. Opacity measurements and standards, if applicable;
 11. Emissions standards and measurements for the transient loaded test, and the evaporative system pressure test, if applicable;
 12. Results of OBD test including all diagnostic trouble codes that commanded the illumination of the malfunction indicator lamp;
 13. Tampering inspection results;
 14. Repair requirements;
 15. Final test results;
 16. Repairs performed;
 17. Cost of emissions-related repairs;
 18. Cost of tampering-related repairs;
 19. Name, address, and telephone number of the business or person making repairs;
 20. Signature and certification number of person certifying repairs;
 21. Date of inspection;
 22. Test results of the previous inspection if the inspection is a reinspection;
 23. Inspection station, lane locators; and
 24. Test number and time of test.
- B.** A vehicle failing the initial inspection shall receive the Department's approved inspection report supplement containing, at a minimum, the following:

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1. Diagnostic and tampering information including acceptable replacement units, and
 2. Applicable maximum repair costs.
- C. The inspection report shall include a section that may be used as a certificate of compliance for vehicles passing the inspection or as a certificate of waiver, if applicable. The section shall contain all of the following information:
1. License plate number,
 2. Vehicle identification number,
 3. Final results,
 4. Serial number of the inspection report,
 5. Date of inspection,
 6. Model year,
 7. Make,
 8. Date of initial inspection,
 9. Inspection fee, and
 10. Label as either a certificate of compliance or a certificate of waiver.
- D. At the time of registration, the certificate of compliance or certificate of waiver may be submitted to the Arizona Department of Transportation Motor Vehicle Division as evidence of meeting the requirements of this Article.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1). Former Section R9-3-1011 repealed, new Section R9-3-1011 adopted effective January 3, 1977 (Supp. 77-1). Amended effective January 3, 1979 (Supp. 79-1). Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1011 as amended effective January 3, 1979, and as amended as an emergency effective January 2, 1981 now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended subsections (A) and (B) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1011 renumbered as Section R18-2-1011 and amended by removing subsection (E) effective August 1, 1988 (Supp. 88-3). Amended effective September 19, 1990 (Supp. 90-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 14 A.A.R. 2834, effective July 1, 2008 (Supp. 08-3). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1012. Inspection and Reinspections; Procedures and Fee

- A. The fees vehicle owners are required to pay for emissions inspections at a state station shall be specified in the contract between the contractor and the state of Arizona according to A.R.S. § 49-543, and shall include the full cost of the vehicle emissions inspection program including administration, implementation, and enforcement. Each fee is payable by the vehicle owner directly to the contractor at the time and place of inspection as specified in the contract, and deposited into an account established by the Department for administration of fees. The contractor will be compensated by the Department for services provided on a schedule and in a manner defined in the contract.
- B. A vehicle failing the initial paid inspection or any subsequent paid inspection is entitled to one reinspection at no additional charge under the following conditions:

1. The vehicle is presented for inspection within 60 calendar days of the initial or any subsequent paid inspection.
 2. Emissions-related repairs or adjustments and any tampering repairs have been made.
 3. The vehicle is accompanied by the vehicle inspection report from the initial or subsequent inspection.
- C. A vehicle failing the reinspection shall be provided a vehicle inspection report and a vehicle inspection report supplement.
- D. A state station emissions inspector shall not recommend repairs or repair facilities.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1). Former Section R9-3-1012 repealed, new Section R9-3-1012 adopted effective January 3, 1977 (Supp. 77-1). Amended effective January 3, 1979 (Supp. 79-1). Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1012 as amended effective January 3, 1979, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended subsections (A) and (D) effective November 9, 1982 (Supp. 82-6). Amended effective January 1, 1986 (Supp. 85-6). Former Section R9-3-1012 renumbered as Section R18-2-1012 and amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1013. Repealed**Historical Note**

Adopted effective January 13, 1976 (Supp. 76-1). Former Section R9-3-1013 repealed, new Section R9-3-1013 adopted effective January 3, 1977 (Supp. 77-1). Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1013 adopted effective January 3, 1977, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1013 renumbered as Section R18-2-1013 and amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Repealed by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1014. Repealed**Historical Note**

Adopted effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Section repealed by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4).

R18-2-1015. Repealed**Historical Note**

Adopted effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective

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December 20, 1999 (Supp. 99-4). Section repealed by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4).

R18-2-1016. Licensing of Inspectors and Fleet Agents**A. Emissions inspectors shall be licensed as follows:**

1. To obtain a license as a vehicle emissions inspector, an applicant shall pass a written test with a score greater than or equal to 80%. After passing the written test, the applicant shall pass a separate practical examination.
 - a. Applications to become an emissions inspector may be obtained from the Department and an applicant must submit a completed application to the Department. The Department must deem an application administratively complete before an applicant will be allowed to sit for the written test. If the Department finds the application to be incomplete, the applicant shall be provided an opportunity to submit sufficient information to enable the Department to deem the application administratively complete.
 - b. The written test shall cover the following subjects:
 - i. The air pollution problem in Arizona, its causes and effects;
 - ii. The purpose, function, and goals of the vehicle inspection program;
 - iii. State vehicle inspection regulations and procedures;
 - iv. Technical details of the test procedures and rationale for their design;
 - v. Emission control device function, configuration, and inspection;
 - vi. Test equipment operation, calibration, and maintenance;
 - vii. Quality control procedures and their purpose;
 - viii. Public relations; and
 - ix. Safety and health issues related to the inspection process.
 - c. After passing the written test, the inspector applicant shall pass a practical exam where the applicant shall demonstrate the ability to conduct a proper emissions inspection, including proper use of equipment and procedures, in accordance with the testing procedures in R18-2-1006(C). An inspector applicant shall pass a practical examination for each type of test the applicant intends to perform.
2. Licenses issued to vehicle emissions inspectors shall be renewed biannually, on or before the expiration date.
3. An inspector whose license is expired or suspended shall not inspect vehicles.
4. A vehicle emissions inspector shall submit an application for a renewal of the vehicle emissions inspector's license at least 90 days before the current license expiration date.
5. The Department may suspend, revoke, or refuse to renew a license if the licensee has violated any provision of A.R.S. Title 49, Chapter 3, Article 5, any provision of this Article, or fails to continue to demonstrate proficiency to the Department.
6. A vehicle emissions inspector shall notify the Department of any change in employment status no later than fourteen days after the change.
7. The Department shall assign a single, unique, nontransferable inspector's number to each vehicle emissions inspector.
8. If a licensed emissions inspector fails to demonstrate the ability to conduct a proper vehicle emissions inspection

during any audit, the Department shall suspend the vehicle emissions inspector's license. The suspended emissions inspector shall pass a practical examination within 30 days after suspension or the inspector's license shall be revoked. An inspector's license may be reinstated once the inspector passes a written examination with a score of 80% or greater and demonstrates the ability to properly conduct a vehicle emissions test during a practical examination.

B. Fleet Agents shall be licensed as follows:

1. To obtain a license as a fleet agent, an applicant shall pass a written test with a score greater than or equal to 80%. A fleet agent is an individual associated with a fleet emissions testing permit who is ultimately responsible for making sure a fleet complies with the requirements of this Article. This license is separate and distinct from a fleet emissions inspector license.
 - a. Applications to become a fleet agent may be obtained from the Department. An application must be administratively complete and submitted in the manner required by the Department before an applicant will be allowed to sit for the written test.
 - b. The written test shall cover the following subjects:
 - i. The statutes and rules governing the operation and administration of a fleet emissions inspection station.
 - ii. The duties of a fleet agent.
 - iii. How to operate an account on the Department's web portal.
 - iv. Purchasing certificates of inspection.
2. If a licensed fleet agent fails to assure that the agent's fleet complies with this Article, the agent's license shall be suspended. The suspended agent shall pass a written test within 30 days of suspension or such license shall be revoked.
3. Licenses issued to fleet agents shall be renewed biannually, on or before the expiration date.
4. A fleet represented by an agent that has a suspended license may not inspect vehicles.
5. The Department may suspend, revoke, or refuse to renew a fleet agent's license if the licensee has violated any provision of A.R.S. Title 49, Chapter 3, Article 5, any provision of this Article, or fails to continue to demonstrate proficiency to the Department as required.
6. A fleet agent shall notify the Department of any change in employment status within seven days of the change.
7. The Department shall assign a single, unique, nontransferable agent's number to each fleet agent.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1).
 Amended effective January 3, 1977 (Supp. 77-1).
 Amended effective March 2, 1978 (Supp. 78-2).
 Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1016 as amended effective March 2, 1978, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1016 renumbered as Section R18-2-1016 and subsection (G) amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 562, effective

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January 14, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1017. Inspection of Government Vehicles

A. Government vehicles operated in Area A and Area B shall be inspected as follows:

1. At a licensed fleet station operated by the government entity;
2. At a state station upon payment of the fee; or
3. At a state station upon payment of the contracted fee, either singly or in combination with other government fleet operators.

B. A government vehicle, except a federally owned vehicle that is excluded from the definition of motor vehicle under 40 CFR 85.1703, shall be inspected according to this Article and shall have a government vehicle certificate of inspection (GVCOI) affixed to the vehicle if in compliance with state emissions requirements.

1. The vehicle emissions inspector performing the inspection shall punch out the appropriate year and month on the GVCOI to designate the date of the vehicle's next annual or biennial inspection.
2. If the vehicle emissions inspection is performed at a fleet station, the emissions inspector shall record administratively complete results of the inspection into the Department's web portal on the day of the inspection. The unique number on the GVCOI sticker must be entered along with the emissions testing results for the vehicle.
3. A government vehicle, with the exception of a motorcycle or an undercover law enforcement vehicle, shall have the GVCOI affixed to the lower left side of the rear window as determined from a position facing the window, from outside the vehicle. If a vehicle does not have a rear window, the GVCOI shall be affixed to the lower left corner of the windshield as determined from the driver's position.

C. The GVCOI shall be purchased from the Department's web portal.

1. The fee for a certificate of inspection shall be fixed by the Director according to A.R.S. § 49-543, and shall be based upon the Director's estimated costs to the state of administering and enforcing the provisions of this Article as they apply to issuance of certificates of inspections.
2. Only the Department may sell or otherwise transfer GVCOI.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1).
Amended effective January 3, 1977 (Supp. 77-1).
Amended effective January 3, 1979 (Supp. 79-1).
Amended effective January 1, 1986 (Supp. 85-6). Former Section R9-3-1017 renumbered as Section R18-2-1017 and subsection (E) amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1018. Certificate of Inspection

A. A fleet inspector shall submit and certify administratively complete certificates of inspection (COI) to the Department through the Department's web portal. A COI is used as evi-

dence that the vehicle it is assigned to has passed the tests required by this Article and complies with the applicable state emissions standards for that vehicle. Inspection data may be electronically transmitted to MVD under A.R.S. § 49-542(Q).

- B. On the day a vehicle is inspected, a licensed vehicle emissions inspector shall enter an administratively complete record of the inspection into the Department's web portal.
- C. A certificate of inspection issued to a fleet vehicle is valid for a period of 180 days unless the vehicle is reregistered with a new owner.
- D. The following individuals are authorized to purchase certificates of inspection as long as the fleet they are associated with meets the requirements of this Article:
 1. A fleet agent who is licensed by the Department under R18-2-1016;
 2. A responsible corporate officer; or
 3. A designated responsible officer.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1).
Amended effective January 3, 1977 (Supp. 77-1).
Amended effective March 2, 1978 (Supp. 78-2).
Amended subsection (A) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1018 renumbered as Section R18-2-1018 and amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1019. Fleet Station Procedures and Permits

A. A fleet emissions testing station applicant or permittee shall create and manage an account on the Department's web portal.

B. To obtain a fleet emissions inspection station permit, an applicant shall:

1. Be a registered owner or lessee of a fleet of at least 25 nonexempt vehicles.
 - a. A motor vehicle dealer's business inventory of vehicles held for resale over the previous 12 months shall be used to determine compliance with this subsection.
 - b. A motor vehicle dealer with less than 12 months of operations that applies for a fleet emissions testing permit shall certify that it intends to test at least 25 vehicles per year.
2. Be located within Area A, within 50 miles of the border of Area A, or within Area B. A dealer outside these areas who certifies to the Department that customers who reside in Area A are the primary source of the dealer's business may also apply for a fleet permit.
3. Maintain a facility that has space devoted principally to maintaining or repairing the fleet's motor vehicles.
 - a. The space shall be large enough to conduct maintenance or repair of at least one motor vehicle.
 - b. Any fleet station shall be exclusively rented, leased, or owned by the applicant.
4. Own or lease the machinery, tools, and equipment required for the specific tests the applicant wishes to perform. Equipment and testing requirements are listed in R18-2-1006(C).
5. Employ the following personnel:

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- a. At least one fleet agent licensed pursuant to R18-2-1016.
 - b. At least one emissions inspector licensed pursuant to R18-2-1016.
 - c. At least one person who is able to perform necessary emissions related repairs for fleet vehicles.
 - d. A single person may fill two or more of these roles for a fleet.
6. Provide data to the Department as required by this Section.
 7. Pass an initial inspection to determine compliance with this Section.
 8. Submit to the ongoing inspections and audits prescribed in this Article.
- C.** A fleet emissions inspection testing permittee shall continuously comply with all requirements of this Article.
- D.** The equipment used at a fleet emissions inspection station is subject to the following requirements:
1. A fleet emissions testing station applicant or permittee shall own or lease the equipment referenced in R18-2-1006 that is necessary for the specific type of testing that the permittee is licensed to perform.
 2. All testing equipment and instruments shall be maintained in accurate working condition as required by the manufacturer. An instrument requiring periodic calibration shall be calibrated according to instruction and recommendations of the instrument or equipment manufacturer. Calibration records shall be submitted through the web portal for review by the Department. The calibration records shall be certified by the technician performing each calibration.
 - a. Fleet station analyzers shall comply with, be calibrated, and be quality control checked according to 40 CFR 51, Subpart S, Appendix A, Section I, amended as of July 1, 2017, and no future editions or amendments, which is incorporated by reference in (C)(7)(b) and on file with the Department.
 - b. A fleet station opacity meter used for emission inspections is required to read the equivalent opacity value of neutral density filter within +/- 5% opacity at any point in the range of meter.
 3. Calibration gases used by the fleet station shall be subject to analysis and comparison to the Department's standard gases at any time.
 4. Fleet testing equipment shall be subject to both scheduled and unscheduled audits by state inspectors.
 5. A fleet's analyzer shall be calibrated at least monthly with calibration gases approved by the Department. A registered opacity meter shall be calibrated according to manufacturer's specifications before performing the first vehicle emissions inspection in any month.
- E.** For every test performed by a vehicle emissions inspector, that vehicle emissions inspector shall log into the Department's web portal the same day that the inspection takes place to report the results of the test to the Department.
- F.** A fleet's activities shall be governed by the following compliance and enforcement rules:
1. All requirements in this Article apply at all times after a fleet emissions testing license has been issued.
 2. The Director may suspend or revoke a fleet emissions testing license according to A.R.S. § 49-546(F) and A.R.S. Title 41, Chapter 6, if the permittee, or any person employed by the permittee:
 - a. Violates any provisions of A.R.S. Title 49, Chapter 3, Article 5 or any provision of this Article;
 - b. Misrepresents a material fact in obtaining a permit;
 - c. Fails to make, keep, and submit to the Department records for a vehicle tested; or
 - d. Does not provide a state inspector access to the information required in this Article.
 3. If a fleet emissions inspection permit is surrendered, suspended or revoked, all unused certificates of inspection shall be refunded.
 4. Any fleet vehicle is subject to inspection by a state inspector.
- G.** A fleet emissions inspection station permit is non-transferable and does not expire.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1).
 Amended effective January 3, 1977 (Supp. 77-1).
 Amended effective March 2, 1978 (Supp. 78-2).
 Amended effective January 3, 1979 (Supp. 79-1).
 Amended effective February 20, 1980 (Supp. 80-1).
 Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1019 as amended effective February 20, 1980, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1019 renumbered as Section R18-2-1019 and amended effective August 1, 1988 (Supp. 88-3).
 Amended effective September 19, 1990 (Supp. 90-3).
 Amended effective February 4, 1993 (Supp. 93-1).
 Amended effective November 14, 1994 (Supp. 94-4).
 Amended effective October 15, 1998 (Supp. 98-4).
 Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 14 A.A.R. 2834, effective July 1, 2008 (Supp. 08-3). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1020. Department Issuance of Alternative Fuel Certificates

Issuing Alternative Fuel Certificates. The Department shall inspect a vehicle converted to run on alternative fuel and issue an alternative fuel certificate according to A.R.S. § 28-2416(2)(b) if the vehicle is currently powered by an alternative fuel.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1021. Reserved**R18-2-1022. Procedure for Waiving Inspections Due to Technical Difficulties**

A vehicle emissions station manager employed by an official emissions inspection station may issue a Director's certificate for a vehicle that cannot be inspected as required by this Article because of technical difficulties inherent in the manufacturer's design or construction of the vehicle.

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Historical Note

Adopted effective January 13, 1976 (Supp. 76-1).
Amended effective January 3, 1977 (Supp. 77-1).
Amended effective March 2, 1978 (Supp. 78-2).
Amended effective January 3, 1979 (Supp. 79-1).
Amended effective January 1, 1986 (Supp. 85-6). Former Section R9-3-1022 renumbered without change as Section R18-2-1022 (Supp. 88-3). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1).

R18-2-1023. Certificate of Exemption for Out-of-State Vehicles

- A. If a vehicle being registered in Area A or Area B requires an emission test and will not be physically available for inspection within the state during the 90-day period before the emissions compliance expiration date, the owner or owner's agent may submit an application to the Department for a certificate of exemption.
- B. The owner or owner's agent shall apply for a certificate of exemption in the manner and form required by the Department.
- C. The Department may issue a certificate of exemption:
1. For a vehicle that will not be located in the state during the 90-day period before the emissions compliance expiration date and is located in an area where emissions testing is not available. This exemption shall only be granted if an affidavit confirming the location of the vehicle is signed and submitted with the application.
 2. For a vehicle that has passed an official emissions inspection in another state during the 90 days before emissions compliance expiration upon submission of the inspection compliance document issued by the entity conducting the inspection program.
- D. The fee for a certificate of exemption shall be fixed by the Director according to A.R.S. § 49-543 and shall be based upon the Director's estimated costs to the state of administering and enforcing the provisions of this Article as they apply to issuance of certificates of exemption. The payment for the certificates shall be included with the application for certificates.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1).
Amended effective January 3, 1977 (Supp. 77-1).
Amended effective January 3, 1979 (Supp. 79-1).
Amended as an emergency effective January 2, 1981 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1023 as amended effective January 3, 1979 and amended as an emergency effective January 2, 1981 now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Former Section R9-3-1023 renumbered without change as Section R18-2-1023 (Supp. 88-3). Amended effective February 4, 1993 (Supp. 93-1). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1024. Expired**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 84, effective December 14, 2001 (Supp. 01-4). Section expired under A.R.S. § 41-1056(E) at 15 A.A.R. 1128, effective April 30, 2008 (Supp. 09-2).

R18-2-1025. Inspection of Contractor's Equipment and Personnel

- A. State inspectors shall conduct performance audits to determine whether a state station is correctly performing all inspection and functions related to inspections as follows:
1. Overt audits shall be completed at least two times each year for each inspection lane. Overt audits shall include:
 - a. A check for the observance of appropriate document security;
 - b. A check to see that required recordkeeping practices are being followed;
 - c. A check for licenses, certificates, and other required display information;
 - d. An observation and evaluation of each vehicle emissions inspector's ability to perform an inspection; and
 - e. A check to ensure all emissions testing equipment is calibrated and operating correctly.
 2. If a vehicle emissions inspector fails an audit, the vehicle emissions inspector's license may be suspended or revoked under R18-2-1016(A)(4).
 3. Vehicle emissions inspection records shall be reviewed at least monthly to assess station performance and identify any problems, potential fraud, or incompetence.
 4. Covert audits may be performed as necessary to confirm compliance with this Article.
- B. If an equipment audit indicates that equipment is not calibrated and accurate, the equipment shall not be used to conduct emissions testing until it is replaced or repaired.
- C. Equipment that is removed from testing may be returned to service upon its repair and a state inspector's verification of a passing calibration audit.
- D. A state inspector shall inspect on-road emissions analyzers at least monthly.

Historical Note

Adopted effective January 3, 1977 (Supp. 77-1).
Amended effective March 2, 1978 (Supp. 78-2).
Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1025 as amended effective March 2, 1978, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended subsection (A) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1025 renumbered as Section R18-2-1025 and subsection (C) amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1026. Inspection of Fleet Stations

- A. Equipment used to perform emissions testing shall meet the requirements for the type of testing a fleet station is licensed to perform.
- B. A fleet station's gas analyzer shall not be used for an official emissions inspection if:
1. The calibration gases are not read within the following tolerances:

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- a. Within plus 0.50% CO to minus 0.25% CO in the range from 0 to 2% CO; and
- b. Within plus 60 PPM HC to minus 30 PPM HC in the range from 0 to 500 PPM HC when read as N-HEXANE.
2. The calibration gases are not read within the manufacturer specified tolerances;
3. There is a leak in the sampling systems or the calibration port; or
4. The sample handling system is restricted.
- C. The fleet emissions testing station shall acquire and utilize calibration gases with assigned HC and CO concentrations to calibrate fleet emission analyzers.
- D. A state inspector shall fail a fleet emissions analyzer if the analyzer does not meet the requirements of this Section. A fleet emission inspector shall not use the analyzer for inspection until the analyzer is cleared for return to service by a state inspector.
- E. A state inspector shall conduct performance audits to determine whether a fleet emissions inspection station is correctly performing inspections and functions related to inspections as follows:
 1. Overt audits at least two times each year that include:
 - a. A check for the observance of appropriate document security;
 - b. A check to see that required recordkeeping practices are being followed;
 - c. A check for licenses, certificates, and other required display information;
 - d. An observation and evaluation of each vehicle emissions inspector's ability to perform an inspection; and
 - e. A check to ensure all emissions testing equipment is calibrated and operating correctly.
 2. Fleet station and vehicle emissions inspector records shall be reviewed at least monthly to assess fleet performance and identify any problems, potential fraud, or incompetence.
 3. If a vehicle emissions inspector fails an audit, the vehicle emissions inspector's license may be suspended or revoked according to R18-2-1016(A)(4).
 4. Covert audits may be performed as necessary to confirm compliance with this Article.

Historical Note

Adopted effective January 3, 1977 (Supp. 77-1).
 Amended effective January 1, 1986 (Supp. 85-6).
 Amended subsections (A) and (J) and added subsection (K) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1026 renumbered as Section R18-2-1026 and subsections (B), (F), (G) and (H) amended effective August 1, 1988 (Supp. 88-3).
 Amended effective November 14, 1994 (Supp. 94-4).
 Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1027. Repealed**Historical Note**

Adopted effective January 3, 1977 (Supp. 77-1).
 Amended effective March 2, 1978 (Supp. 78-2).
 Amended effective January 3, 1979 (Supp. 79-1).
 Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days

(Supp. 81-1). Former Section R9-3-1027 as amended effective January 3, 1979, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1027 renumbered as Section R18-2-1027 and subsections (B), (D), (F) and (G) amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 14 A.A.R. 2834, effective July 1, 2008 (Supp. 08-3). Repealed by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1028. Repealed**Historical Note**

Adopted effective January 1, 1986 (Supp. 85-6).
 Amended subsections (A) and (F) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1028 renumbered as Section R18-2-1028 and subsection (D) amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1). Repealed by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1029. Vehicle Emission Control Devices

For the purposes of A.R.S. §§ 28-955 and 49-447, a registered motor vehicle shall have in operating condition all emission control devices installed by the vehicle manufacturer to comply with federal requirements for motor vehicle emissions or equivalent after-market replacement parts or devices.

Historical Note

Adopted effective January 3, 1977 (Supp. 77-1). Former Section R9-3-1029 renumbered as Section R18-2-1029 and amended effective August 1, 1988 (Supp. 88-3).
 Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1).

R18-2-1030. Visible Emissions; Mobile Sources

- A. A vehicle other than a diesel-powered vehicle or 2-stroke vehicle that emits any visible emissions for 10 consecutive seconds or more is "excessive" for the purposes of A.R.S. § 28-955(C).
- B. A diesel-powered vehicle shall not emit any visible emissions in excess of:
 1. Twenty percent visual opacity for 10 consecutive seconds or more at or below 2,000 feet elevation;
 2. Thirty percent visual opacity for 10 consecutive seconds or more above 2,000 feet and at or below 4,000 feet elevation; and
 3. Forty percent visual opacity for 10 consecutive seconds above 4,000 feet elevation.
- C. A vehicle that exceeds the standards in subsection (B) fails the inspection under R18-2-1006 and is considered to have "excessive" emissions under A.R.S. § 28-955(C).

Historical Note

Adopted effective January 3, 1977 (Supp. 77-1).
 Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1030 as adopted

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effective January 3, 1977, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended subsection (C) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1030 renumbered as Section R18-2-1030 and subsection (C) amended effective August 1, 1988 (Supp. 88-3). Amended effective September 19, 1990 (Supp. 90-3). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1).

R18-2-1031. Repealed**Historical Note**

Adopted effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1031 renumbered as Section R18-2-1031 and amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking

at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Repealed by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

Table 1. Dynamometer Loading Table - Annual Tests

Gross Vehicle Weight			
Rating (Pounds)	Engine Size	Speed (MPH)	Load (HP)
8500 or less	4 cyl. or less	22-25	2.8-4.1
8500 or less	5 or 6 cyl.	29-32	6.4-8.4
8500 or less	8 cyl. or more	32-35	8.4-10.8
8501 or more	All	37-40	12.7-15.8

Historical Note

Adopted effective November 14, 1994 (Supp. 94-4).

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Table 2. Emissions Standards - Annual Tests

MAXIMUM ALLOWABLE

Motorcycles

Vehicle Engine Type	Vehicle Model Year	Number of Cylinders	Conditioning Mode		Curb Idle Mode Test		Loaded Cruise Mode Test	
			HC PPM	CO %	HC PPM	CO %	HC PPM	CO %
2-Stroke	All	All	18,000	5.00	18,000	5.00	N/A	N/A
4-Stroke	All	All	500	5.00	1,800	5.50	N/A	N/A

Reconstructed Vehicles

Vehicle Engine Type	Vehicle Model Year	Number of Cylinders	Conditioning Mode		Curb Idle Mode Test		Loaded Cruise Mode Test	
			HC PPM	CO %	HC PPM	CO %	HC PPM	CO %
4-Stroke	1967-1980	All	700	5.25	1,200	7.50	1,200	5.60
4-Stroke	1980 & newer	All	700	5.25	1,200	7.50	700	5.25

Light-Duty Vehicles

Vehicle Engine Type	Vehicle Model Year	Number of Cylinders	Conditioning Mode		Curb Idle Mode Test		Loaded Cruise Mode Test	
			HC PPM	CO %	HC PPM	CO %	HC PPM	CO %
2-Stroke	All	All	18,000	5.00	18,000	5.00	18,000	5.00
4-Stroke	1967-1971	4 or less	450	3.75	500	5.50	500	4.20
4-Stroke	1967-1971	more than 4	380	3.00	450	5.00	450	3.75
4-Stroke	1972-1974	4 or less	380	3.50	400	5.50	400	4.20
4-Stroke	1972-1974	more than 4	300	3.00	400	5.00	400	3.75
4-Stroke	1975-1978	4 or less	120	1.00	250	2.20	250	1.65
4-Stroke	1975-1978	more than 4	120	1.00	250	2.00	250	1.50
4-Stroke	1979	4 or less	120	1.00	220	2.20	220	1.65
4-Stroke	1979	more than 4	120	1.00	220	2.00	220	1.50
4-Stroke	1980 & newer	All	100	0.50	220	1.20	220	1.20

Light-Duty Truck 1 (0-6000 lbs GVWR)

Vehicle Engine Type	Vehicle Model Year	Number of Cylinders	Conditioning Mode		Curb Idle Mode Test		Loaded Cruise Mode Test	
			HC PPM	CO %	HC PPM	CO %	HC PPM	CO %
2-Stroke	All	All	18,000	5.00	18,000	5.00	18,000	5.00
4-Stroke	1967-1971	4 or less	450	3.75	500	5.50	500	4.20
4-Stroke	1967-1971	more than 4	380	3.00	450	5.00	450	3.75
4-Stroke	1972-1974	4 or less	380	3.50	400	5.50	400	4.20
4-Stroke	1972-1974	more than 4	300	3.00	400	5.00	400	3.75
4-Stroke	1975-1978	4 or less	120	1.00	250	2.20	250	1.65
4-Stroke	1975-1978	more than 4	120	1.00	250	2.00	250	1.50
4-Stroke	1979	4 or less	120	1.00	220	2.20	220	1.65
4-Stroke	1979	more than 4	120	1.00	220	2.00	220	1.50
4-Stroke	1980 & newer	All	100	0.50	220	1.20	220	1.20

Light-Duty Truck 2 (6001 - 8500 lbs GVWR)

Vehicle Engine Type	Vehicle Model Year	Number of Cylinders	Conditioning Mode		Curb Idle Mode Test		Loaded Cruise Mode Test	
			HC PPM	CO %	HC PPM	CO %	HC PPM	CO %
2-Stroke	All	All	18,000	5.00	18,000	5.00	18,000	5.00
4-Stroke	1967-1971	4 or less	450	3.75	500	5.50	500	4.20
4-Stroke	1967-1971	more than 4	380	3.00	450	5.00	450	3.75
4-Stroke	1972-1974	4 or less	380	3.50	400	5.50	400	4.20
4-Stroke	1972-1974	more than 4	300	3.00	400	5.00	400	3.75
4-Stroke	1975-1978	All	300	3.00	350	4.00	350	3.00
4-Stroke	1979	4 or less	120	1.00	220	2.20	220	1.65
4-Stroke	1979	more than 4	120	1.00	220	2.00	220	1.50
4-Stroke	1980 & newer	All	100	0.50	220	1.20	220	1.20

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Heavy-Duty Truck (8501 lbs or greater GVWR)

Vehicle Engine Type	Vehicle Model Year	Number of Cylinders	Conditioning Mode		Curb Idle Mode Test		Loaded Cruise Mode Test	
			HC PPM	CO %	HC PPM	CO %	HC PPM	CO %
2-Stroke	All	All	18,000	5.00	18,000	5.00	18,000	5.00
4-Stroke	1967-1971	4 or less	450	3.75	500	5.50	500	4.20
4-Stroke	1967-1971	more than 4	380	3.00	450	5.00	450	3.75
4-Stroke	1972-1974	4 or less	380	3.50	400	5.50	400	4.20
4-Stroke	1972-1974	more than 4	300	3.00	400	5.00	400	3.75
4-Stroke	1975-1978	All	300	3.00	350	4.00	350	3.00
4-Stroke	1979 & newer	All	300	3.00	300	4.00	300	3.00

Historical Note

Renumbered from R18-2-1006 and amended effective November 14, 1994 (Supp. 94-4). See emergency amendment below (Supp. 94-4). Emergency amendment adopted effective December 23, 1994, pursuant to A.R.S. § 41-1026, valid for 180 days (Supp. 95-2). Emergency amendment expired, previous text placed back into effect effective June 21, 1995 (Supp. 95-3). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4).

Table 3. Emissions Standards - Transient Loaded Emissions Tests
FINAL STANDARDS (Standards are in grams per mile)

(i) Light Duty Vehicles

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Composite	Phase 2	Composite	Phase 2	Composite	Phase 2
1981-1982	3.0	2.5	25.0	21.8	3.5	3.4
1983-1985	2.4	2.0	20.0	17.3	3.5	3.4
1986-1989	1.6	1.4	15.0	12.8	2.5	2.4
1990-1993	1.0	0.8	12.0	10.1	2.5	2.4
1994+	0.8	0.7	12.0	10.1	2.0	1.9

(ii) Light Duty Trucks 1 (less than 6000 pounds GVWR)

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Composite	Phase 2	Composite	Phase 2	Composite	Phase 2
1981-1985	4.0	3.4	40.0	35.3	5.5	5.4
1986-1989	3.0	2.5	25.0	21.8	4.5	4.4
1990-1993	2.0	1.7	20.0	17.3	4.0	3.9
1994+	1.6	1.4	20.0	17.3	3.0	2.9

(iii) Light Duty Trucks 2 (greater than 6000 pounds GVWR)

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Composite	Phase 2	Composite	Phase 2	Composite	Phase 2
1981-1985	4.4	3.7	48.0	42.5	7.0	6.9
1986-1987	4.0	3.4	40.0	35.3	5.5	5.4
1988-1989	3.0	2.5	25.0	21.8	5.5	5.4
1990-1993	3.0	2.5	25.0	21.8	5.0	4.9
1994+	2.4	2.0	25.0	21.8	4.0	3.9

Historical Note

Adopted effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Table heading amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4).

Table 4. Transient Driving Cycle

Time second	Speed mph	Time second	Speed mph	Time second	Speed mph	Time second	Speed mph	Time second	Speed mph
0	0	30	20.7	60	26	90	51.5	120	54.9
1	0	31	21.7	61	26	91	52.2	121	55.4
2	0	32	22.4	62	25.7	92	53.2	122	55.6
3	0	33	22.5	63	26.1	93	54.1	123	56
4	0	34	22.1	64	26.5	94	54.6	124	56
5	3.3	35	21.5	65	27.3	95	54.9	125	55.8
6	6.6	36	20.9	66	30.5	96	55	126	55.2
7	9.9	37	20.4	67	33.5	97	54.9	127	54.5

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Time second	Speed mph	Time second	Speed mph	Time second	Speed mph	Time second	Speed mph	Time second	Speed mph
8	13.2	38	19.8	68	36.2	98	54.6	128	53.6
9	16.5	39	17	69	37.3	99	54.6	129	52.5
10	19.8	40	17.1	70	39.3	100	54.8	130	51.5
11	22.2	41	15.8	71	40.5	101	55.1	131	50.8
12	24.3	42	15.8	72	42.1	102	55.5	132	48
13	25.8	43	17.7	73	43.5	103	55.7	133	44.5
14	26.4	44	19.8	74	45.1	104	56.1	134	41
15	25.7	45	21.6	75	46	105	56.3	135	37.5
16	25.1	46	22.2	76	46.8	106	56.6	136	34
17	24.7	47	24.5	77	47.5	107	56.7	137	30.5
18	25.2	48	24.7	78	47.5	108	56.7	138	27
19	25.4	49	24.8	79	47.3	109	56.3	139	23.5
20	27.2	50	24.7	80	47.2	110	56	140	20
21	26.5	51	24.6	81	47.2	111	55	141	16.5
22	24	52	24.6	82	47.4	112	53.4	142	13
23	22.7	53	25.1	83	47.9	113	51.6	143	9.5
24	19.4	54	25.6	84	48.5	114	51.8	144	6
25	17.7	55	25.7	85	49.1	115	52.1	145	2.5
26	17.2	56	25.4	86	49.5	116	52.5	146	0
27	18.1	57	24.9	87	50	117	53		
28	18.6	58	25	88	50.6	118	53.5		
29	20	59	25.4	89	51	119	54		

Historical Note

Adopted effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4).

Table 5. Tolerances

	Range	State Station	Fleet Station
4 and 2 stroke vehicles: CO in MOL percent	0 to 2.0% 2 to 10.0%	±0.1% ±0.25%	±0.25% ±0.5%
4-stroke vehicles: HC as N-hexane in PPM	0 to 500 PPM 500 to 2000 PPM	±15 PPM ±50 PPM	±30 PPM ±100 PPM
2-stroke vehicles: HC as propane in PPM	0 to 25,000 PPM	±1250 PPM	±1250 PPM

Historical Note

Adopted effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

Table 6. Repealed**Historical Note**

Adopted effective November 14, 1994 (Supp. 94-4). See emergency amendment below (Supp. 94-4). Emergency amendment adopted effective December 23, 1994, pursuant to A.R.S. § 41-1026, valid for 180 days (Supp. 95-2). Emergency amendment expired, previous text placed back into effect effective June 21, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Table 6 repealed by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4).

ARTICLE 11. FEDERAL HAZARDOUS AIR POLLUTANTS**R18-2-1101. National Emission Standards for Hazardous Air Pollutants (NESHAPs)**

A. Except as provided in R18-2-1102, the following subparts of 40 CFR 61, National Emission Standards for Hazardous Air Pollutants (NESHAPs), and all accompanying appendices, adopted as of June 30, 2017, and no future editions or amendments, are incorporated by reference as applicable requirements. These standards are on file with the Department and

shall be applied by the Department. These standards can be obtained from the U.S. Government Printing Office, Superintendent of Documents, bookstore.gpo.gov, Mail Stop: SSOP IDCC-SSOM, Washington, D.C. 20402-9328.

1. Subpart A - General Provisions.
2. Subpart B - Radon Emissions from Underground Uranium Mines.
3. Subpart C - Beryllium.
4. Subpart D - Beryllium Rocket Motor Firing.
5. Subpart E - Mercury.
6. Subpart F - Vinyl Chloride.
7. Subpart H - Radionuclides Other Than Radon from Department of Energy Facilities.
8. Subpart I - Radionuclide Emissions from Federal Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H.
9. Subpart J - Equipment Leaks (Fugitive Emission Sources) of Benzene.
10. Subpart K - Radionuclide Emissions From Elemental Phosphorus Plants.
11. Subpart L - Benzene Emissions from Coke By-Product Recovery Plants.
12. Subpart M - Asbestos.

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13. Subpart N - Inorganic Arsenic Emissions from Glass Manufacturing Plants.
 14. Subpart O - Inorganic Arsenic Emissions from Primary Copper Smelters.
 15. Subpart P - Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production.
 16. Subpart Q - Radon Emissions from Department of Energy Facilities.
 17. Subpart R - Radon Emissions from Phosphogypsum Stacks.
 18. Subpart T - Radon Emissions from the Disposal of Uranium Mill Tailings.
 19. Subpart V - Equipment Leaks (Fugitive Emission Sources).
 20. Subpart W - Radon Emissions from Operating Mill Tailings.
 21. Subpart Y - Benzene Emissions From Benzene Storage Vessels.
 22. Subpart BB - Benzene Emissions from Benzene Transfer Operations.
 23. Subpart FF - Benzene Waste Operations.
- B.** Except as provided in R18-2-1102, the following subparts of 40 CFR 63, NESHAPs for Source Categories, and all accompanying appendices, adopted as of June 30, 2017, and no future editions or amendments, are incorporated by reference as applicable requirements. These standards are on file with the Department and shall be applied by the Department. These standards can be obtained from the U.S. Government Printing Office, Superintendent of Documents, bookstore.gpo.gov, Mail Stop: SSOP IDCC-SSOM, Washington, D.C. 20402-9328.
1. Subpart A - General Provisions.
 2. Subpart F - National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.
 3. Subpart G - National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.
 4. Subpart H - National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.
 5. Subpart I - National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.
 6. Subpart J - National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production.
 7. Subpart L - National Emission Standards for Coke Oven Batteries.
 8. Subpart M - National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.
 9. Subpart N - National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.
 10. Subpart O - Ethylene Oxide Emissions Standards for Sterilization Facilities.
 11. Subpart Q - National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.
 12. Subpart R - National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).
 13. Subpart S - National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry.
 14. Subpart T - National Emission Standards for Halogenated Solvent Cleaning.
 15. Subpart U - National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins.
 16. Subpart W - National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production.
 17. Subpart Y - National Emission Standards for Marine Tank Vessel Loading Operations.
 18. Subpart AA - National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants.
 19. Subpart BB - National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants.
 20. Subpart CC - National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries.
 21. Subpart DD - National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.
 22. Subpart EE - National Emission Standards for Magnetic Tape Manufacturing Operations.
 23. Subpart GG - National Emission Standards for Aerospace Manufacturing and Rework Facilities.
 24. Subpart HH - National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities.
 25. Subpart JJ - National Emission Standards for Wood Furniture Manufacturing Operations.
 26. Subpart KK - National Emission Standards for the Printing and Publishing Industry.
 27. Subpart LL - National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants.
 28. Subpart MM - National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semi-chemical Pulp Mills.
 29. Subpart OO - National Emission Standards for Tanks - Level 1.
 30. Subpart PP - National Emission Standards for Containers.
 31. Subpart QQ - National Emission Standards for Surface Impoundments.
 32. Subpart RR - National Emission Standards for Individual Drain Systems.
 33. Subpart SS - National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process.
 34. Subpart TT - National Emission Standards for Equipment Leaks - Control Level 1.
 35. Subpart UU - National Emission Standards for Equipment Leaks - Control Level 2 Standards.
 36. Subpart VV - National Emission Standards for Oil-Water Separators and Organic-Water Separators.
 37. Subpart WW - National Emission Standards for Storage Vessels (Tanks) - Control Level 2.
 38. Subpart XX - National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.
 39. Subpart YY - National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards.
 40. Subpart CCC - National Emission Standards for Hazardous Air Pollutants for Steel Pickling - HCl Process Facilities and Hydrochloric Acid Regeneration Plants.

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41. Subpart DDD - National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.
42. Subpart EEE - National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors.
43. Subpart GGG - National Emission Standards for Pharmaceuticals Production.
44. Subpart HHH - National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities.
45. Subpart III - National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.
46. Subpart JJJ - National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins.
47. Subpart LLL - National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry.
48. Subpart MMM - National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.
49. Subpart NNN - National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.
50. Subpart OOO - National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins.
51. Subpart PPP - National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production.
52. Subpart QQQ - National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting.
53. Subpart RRR - National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.
54. Subpart TTT - National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting.
55. Subpart UUU - National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units.
56. Subpart VVV - National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works.
57. Subpart XXX - National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese.
58. Subpart AAAA - National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills.
59. Subpart CCCC - National Emission Standards for Hazardous Air Pollutants: Manufacture of Nutritional Yeast.
60. Subpart DDDD - National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products.
61. Subpart EEEE - National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline).
62. Subpart FFFF - National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing.
63. Subpart GGGG - National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production.
64. Subpart HHHH - National Emissions Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production.
65. Subpart IIII - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks.
66. Subpart JJJJ - National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating.
67. Subpart KKKK - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans.
68. Subpart MMMM - National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products.
69. Subpart NNNN - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances.
70. Subpart OOOO - National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles.
71. Subpart PPPP - National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products.
72. Subpart QQQQ - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products.
73. Subpart RRRR - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture.
74. Subpart SSSS - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil.
75. Subpart TTTT - National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations.
76. Subpart UUUU - National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing.
77. Subpart VVVV - National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing.
78. Subpart WWWW - National Emissions Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production.
79. Subpart XXXX - National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing.
80. Subpart YYYYY - National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines.
81. Subpart ZZZZ - National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.
82. Subpart AAAAA - National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants.
83. Subpart BBBBB - National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing.
84. Subpart CCCCC - National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks.
85. Subpart DDDDD - National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters.
86. Subpart EEEEE - National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries.
87. Subpart FFFFF - National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing.
88. Subpart GGGGG - National Emission Standards for Hazardous Air Pollutants: Site Remediation.

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89. Subpart HHHHHH - National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing.
90. Subpart IIIII - National Emission Standards for Hazardous Air Pollutants: Mercury Emissions From Mercury Cell Chlor-Alkali Plants.
91. Subpart JJJJJ - National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing.
92. Subpart KKKKK - National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing.
93. Subpart LLLLL - National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing.
94. Subpart MMMMM - National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations.
95. Subpart NNNNN - National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production.
96. Subpart PPPPP - National Emission Standards for Hazardous Air Pollutants: Engine Test Cells/Stands.
97. Subpart QQQQQ - National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities.
98. Subpart RRRRR - National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing.
99. Subpart SSSSS - National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing.
100. Subpart TTTTT - National Emissions Standards for Hazardous Air Pollutants for Primary Magnesium Refining.
101. Subpart WWWWW - National Emission Standards for Hospital Ethylene Oxide Sterilizers.
102. Subpart YYYYY - National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities.
103. Subpart ZZZZZ - National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources.
104. Subpart BBBBBB - National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities.
105. Subpart CCCCCC - National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities.
106. Subpart DDDDDD - National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources.
107. Subpart EEEEE - National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources.
108. Subpart FFFFFF - National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources.
109. Subpart GGGGGG - National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources-Zinc, Cadmium, and Beryllium.
110. Subpart HHHHHH - National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources.
111. Subpart JJJJJJ - National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers Area Sources.
112. Subpart LLLLLL - National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources.
113. Subpart MMMMMM - National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources.
114. Subpart NNNNNN - National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds.
115. Subpart OOOOOO - National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources.
116. Subpart PPPPPP - National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources.
117. Subpart QQQQQQ - National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources.
118. Subpart RRRRRR - National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources.
119. Subpart SSSSSS - National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources.
120. Subpart TTTTTT - National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources.
121. Subpart VVVVVV - National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources.
122. Subpart WWWWWW - National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations.
123. Subpart XXXXXX - National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories.
124. Subpart YYYYYY - National Emission Standards for Hazardous Air Pollutants for Area Sources: Ferroalloys Production Facilities.
125. Subpart ZZZZZZ - National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and other Nonferrous Foundries.
126. Subpart AAAAAA - National Emission Standards for Hazardous Air Pollutants for Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing.
127. Subpart BBBBBBBB - National Emission Standards for Hazardous Air Pollutants for Area Sources: Chemical Preparations Industry.
128. Subpart CCCCCC - National Emission Standards for Hazardous Air Pollutants for Area Sources: Paints and Allied Products Manufacturing.
129. Subpart DDDDDDDD - National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing.
130. Subpart EEEEEEE - National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category.
131. Subpart HHHHHHHH - National Emission Standards for Hazardous Air Pollutant Emissions for Polyvinyl Chloride and Copolymers Production.

Historical Note

Former Section R18-2-1101 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-1101 renumbered from R18-2-901 and amended effective November

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15, 1993 (Supp. 93-4). Amended effective June 10, 1994 (Supp. 94-2). Amended effective February 17, 1995 (Supp. 95-1). Amended effective December 7, 1995 (Supp. 95-4). Amended effective May 9, 1996 (Supp. 96-2). Amended effective April 4, 1997; filed with the Office of the Secretary of State March 14, 1997 (Supp. 97-1). Amended effective December 4, 1997 (Supp. 97-4). Amended by final rulemaking at 5 A.A.R. 3221, effective August 12, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 4170, effective October 11, 2000 (Supp. 00-4). Amended by final rulemaking at 8 A.A.R. 2543, effective May 24, 2002 (Supp. 02-2). Amended by final rulemaking at 10 A.A.R. 3281, effective September 27, 2004 (Supp. 04-3). Amended by final rulemaking at 11 A.A.R. 5504, effective February 4, 2006 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 4199, effective January 5, 2008 (Supp. 07-4). Amended by final expedited rulemaking at 21 A.A.R. 2747, effective December 13, 2015 (Supp. 15-4). Amended by final expedited rulemaking at 23 A.A.R. 1564, effective May 2, 2018 (Supp. 18-2).

R18-2-1102. General Provisions

- A. When used in 40 CFR 61 or 63, "Administrator" means the Director of the Arizona Department of Environmental Quality except that the Director shall not be authorized to approve alternate or equivalent test methods or alternate standards or work practices, except as specifically provided in Part 63, Subpart B.
- B. From the general standards identified in R18-2-1101(A), delete 40 CFR 61.04. All requests, reports, applications, submittals, and other communications to the Director pursuant to this Article shall be submitted to the Arizona Department of Environmental Quality, Air Quality Division, 1110 West Washington Street, Phoenix, Arizona 85007.
- C. The Director shall not be delegated authority to deal with equivalency determinations that are nontransferable through Section 112(h)(3) of the Act.

Historical Note

Former Section R18-2-1102 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-1102 renumbered from R18-2-902 and amended effective November 15, 1993 (Supp. 93-4). Amended effective June 10, 1994 (Supp. 94-2). Amended effective February 17, 1995 (Supp. 95-1). Amended by final rulemaking at 13 A.A.R. 4199, effective January 5, 2008 (Supp. 07-4).

ARTICLE 12. VOLUNTARY EMISSIONS BANK**R18-2-1201. Definitions**

In addition to the definitions contained in Article 1 of this Chapter, and A.R.S. § 49-401.01, the following definitions apply to this Article:

- "Account holder" means any person or entity who has opened an account in the emissions bank under R18-2-1206.
- "Certification authority" means the Department or the county or multi-county district to which the Department has delegated authority to certify emission reduction credits under A.R.S. § 49-410(C).
- "Certified credit" means an emission reduction credit that has been issued under R18-2-1203(C)(2), R18-2-1204(B), or R18-2-1205(E)(3).
- "Conditional credit" means an emission reduction credit for a reduction in emissions by a plan generator that the certification

authority has issued under R18-2-1205(D)(2) but the Administrator has not yet approved under R18-2-1205(E)(3).

"Emissions bank" means the system created by the Department to record and make publicly available information on the issuance, certification, transfer, retirement, and use of emission reduction credits.

"Emission reduction credit" or "credit" means a reduction in qualifying emissions expressed in tons per year for which the generator has submitted an application under R18-2-1203, R18-2-1204, or R18-2-1205 and which has not been withdrawn from the emissions bank under R18-2-1208(B)(5) or (C).

"Emission reduction plan" means a plan submitted under R18-2-1205 for assuring that reductions in qualifying emissions by a plan generator are permanent, quantifiable, surplus, enforceable, and real.

"Enforceable" means that specific measures for assessing compliance with an emissions limitation, control, or other requirement are established in a permit, offset-creation rule, or emission reduction plan in a manner that allows compliance to be readily determined by an inspection of records and reports.

"Form" means a paper document or online form provided through a web portal.

"Generator" means any permitted source or other activity that has made or proposes to make reductions in qualifying emissions.

"Issue," with respect to emission reduction credits, means to create and provide evidence of the creation of conditional credits or certified credits in the form or manner prescribed by the Department.

"Offset-creation rule" means a state, county, or multi-county district rule that has been approved into the state implementation plan and provides a method for allowing emission reductions from specific activities to qualify as offsets. Rule 242 of the Maricopa County Air Pollution Control Regulations is an example of an offset-creation rule.

"Offsets" means reductions in emissions required under R18-2-404 or the equivalent rule of a county or multi-county district.

"Pending credits" means emission reduction credits for which an application has been submitted under R18-2-1203, R18-2-1204, or R18-2-1205 but that have not yet been issued as conditional or certified credits.

"Permanent" means that the reduction in qualifying emissions are long-lasting and unchanging for the remaining life of the relevant activity.

"Permitted generator" means a generator that is a stationary source subject to a permit, other than a general permit, issued under A.R.S. § 49-426 or 49-480 and that seeks credits for reductions that are or will be made enforceable through permit condition.

"Plan generator" means a generator that intends to achieve or has achieved reductions in qualifying emissions in compliance with an emission reduction plan under R18-2-1205.

"Planning authority" means the organization responsible for preparing the state implementation plan for an area under A.R.S. § 49-404 or 49-406.

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“Qualifying emissions” means emissions of any conventional air pollutant, other than elemental lead, or any precursor of a conventional air pollutant from any activity. Qualifying emissions does not include emissions from a fleet of motor vehicles if the fleet operates outside of a nonattainment area. A.R.S. § 49-410(H)(2).

“Quantifiable” means that the amount, rate, and characteristics of a reduction in qualifying emissions can be measured through reliable, replicable methods.

“Real” means that a reduction in qualifying emissions is a reduction in actual emissions released to the air resulting from a physical change or change in the method of operations of a generator.

“Regulatory generator” means a generator that has achieved reductions in qualifying emissions in compliance with an offset-creation rule.

“Surplus” means that a reduction in qualifying emissions is not otherwise required by an applicable requirement and not relied upon in the state implementation plan.

“Ton” includes fraction of a ton as necessary to reflect the total amount of emissions reductions achieved or to be achieved by a generator.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1). Amended by final rulemaking at 25 A.A.R. 1433, effective July 28, 2019 (Supp. 19-2).

R18-2-1202. Applicability

- A.** Applicability. This Article applies to the following persons and entities:
1. The owners or operators of generators.
 2. The owners or operators of stationary sources that intend to use credits as offsets.
 3. Other account holders.
 4. Planning authorities.
- B.** Voluntary Participation. The certification of credits and registration of credits in the emissions bank under this Article is voluntary and is not a condition to the creation or use of emission reductions as offsets.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1). Amended by final rulemaking at 25 A.A.R. 1433, effective July 28, 2019 (Supp. 19-2).

R18-2-1203. Certification of Credits for Emission Reductions by Permitted Generators

- A.** Application.
1. The owner or operator of a permitted generator may apply for credits for reductions in qualifying emissions at any time after filing either:
 - a. An application for a permit revision seeking the imposition of conditions to make the reductions in qualifying emissions enforceable; or
 - b. A notice of permit termination seeking to make the shutdown of a stationary source, and the resulting reductions in qualifying emissions, enforceable.
 2. An application for credits shall be filed with the certification authority on the form prescribed by the Department and shall include:

- a. The emissions bank account number obtained under R18-2-1206 for the owner or operator;
- b. Information on the identity, type, ownership, and location of the permitted generator;
- c. A description of the actions that have resulted or will result in the reductions in qualifying emissions;
- d. Information on the amount of and methodology for calculating the reductions in qualifying emissions for each pollutant subject to the application;
- e. Other information necessary to verify that the reductions in qualifying emissions qualify as permanent, quantifiable, surplus, enforceable, and real;
- f. The actual dates or anticipated dates of the reductions in qualifying emissions, as applicable; and
- g. A signed statement by a responsible official, as defined in R18-2-301, verifying the truthfulness and accuracy of all information provided in the application.

B. Notification and Consultation.

1. If the certification authority is not the permitting authority for the generator, the certification authority shall:
 - a. Provide a copy of the application for credits to the permitting authority; and
 - b. Consult with permitting authority on whether the reductions in qualifying emissions qualify as permanent, quantifiable, enforceable, surplus, and real.
2. If the owner or operator files the application for credits before final action on the permit revision or termination of the permit and the permitting authority for the generator is not the certification authority, the permitting authority shall provide notice of final action on the permit revision or termination of the permit to the certification authority.

C. Action on Application.

1. The certification authority shall deny the application for credits if:
 - a. The permitting authority denies the permit revision or termination on which enforceability of the reductions in qualifying emissions is based; or
 - b. None of the reductions in emissions qualify as permanent, quantifiable, surplus, enforceable, and real.
2. The certification authority shall grant the application and issue one certified credit for each ton per year of reduction that qualifies as permanent, quantifiable, surplus, enforceable, and real.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1). Amended by final rulemaking at 25 A.A.R. 1433, effective July 28, 2019 (Supp. 19-2).

R18-2-1204. Certification of Credits for Emission Reductions by Regulatory Generators

- A.** Application.
1. The owner or operator of a regulatory generator may apply for credits for reductions in qualifying emissions at any time after complying with the applicable offset-creation rule.
 2. An application for credits shall be filed with the certification authority on the form prescribed by the Department and shall include:
 - a. The emissions bank account number obtained under R18-2-1206 for the owner or operator;

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- b. A copy of a determination of compliance with the offset-creation rule by the agency administering the rule; and
- c. A signed statement by a responsible official, as defined in R18-2-301, verifying the truthfulness and accuracy of all information provided in the application.

B. Action on Application. The certification authority shall grant the application and issue one certified credit for each ton per year of reduction that the agency administering the offset-creation rule has determined to be in compliance with the rule.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1). Amended by final rulemaking at 25 A.A.R. 1433, effective July 28, 2019 (Supp. 19-2).

R18-2-1205. Certification of Credits for Emission Reductions by Plan Generators; Enforcement

- A. Application.** The owner or operator of a plan generator may apply for credits for reductions in qualifying emissions by filing an application with the certification authority. The application shall be filed on the form prescribed by the Department and shall include:
1. The emissions bank account number obtained under R18-2-1206 for the owner or operator;
 2. Information on the identity, type, ownership, and location of the plan generator;
 3. An emission reduction plan satisfying subsection (B); and
 4. A signed statement by a responsible official, as defined in R18-2-301, verifying the truthfulness and accuracy of all information provided in the application.
- B. Emission Reduction Plan Contents.** An emission reduction plan for a program to reduce qualifying emissions at a plan generator shall include the following elements:
1. A clearly defined purpose and goal;
 2. A clearly defined scope that identifies affected activities and assures that the program will not interfere with any other applicable requirements;
 3. The composition of any fleet of mobile sources that will participate in the program;
 4. A calculation of baseline emissions;
 5. A calculation of projected emissions after implementation of the program;
 6. Methods for accounting for uncertainty in the projection of program results;
 7. Reliable, replicable procedures for quantifying emissions or emission-related parameters, as appropriate;
 8. Monitoring, recordkeeping, and reporting requirements that are consistent with the specified quantification procedures and allow for compliance certification and enforcement;
 9. An implementation schedule, administrative system, and enforcement provisions adequate for ensuring enforceability of the program; and
 10. Such other elements as the Department may reasonably require in order to assure that reductions in qualifying emissions are permanent, quantifiable, surplus, enforceable, and real.
- C. Proposed Action and Public Process.**
1. The certification authority shall publish notice of the proposed action on an application submitted under this Section in the manner prescribed by A.R.S. § 49-444 and as follows:

- a. On the website for the certification authority; and
 - b. By mail or email to persons on a mailing list who have requested notice of applications under this Section.
2. By no later than the date public notice is published under subsection (C)(1), the certification authority shall make a copy of the following materials available at a public location in the same county as the proposed program to reduce qualifying emissions, at the closest office of the certification authority, and on the certification authority's website:
 - a. The application, including the emission reduction plan;
 - b. The proposed action;
 - c. The certification authority's analysis in support of the proposed action; and
 - d. All other materials in the certification authority's possession that are relevant to the proposed action.
 3. The certification authority shall accept public comment on the proposed action for at least 30 days after the first publication of the notice under subsection (C)(1).
 4. The certification authority shall hold a public hearing no sooner than 30 days after the first publication of the notice under subsection (C)(1).
 5. The notice shall include the following:
 - a. The identity and location of the applicant;
 - b. A concise description of the program for reducing qualifying emissions;
 - c. The locations at which materials relating to the proposed action are available under subsection (C)(2);
 - d. The date by and manner in which written comments on the proposed action may be submitted; and
 - e. The location, date, and time for the hearing under subsection (C)(4).
- D. Action on Application.**
1. The certification authority shall deny the application for certification if none of the reductions in emissions qualifies as permanent, quantifiable, surplus, enforceable, and real.
 2. The certification authority shall grant the application and issue one conditional credit for each ton per year of reductions that qualifies as permanent, quantifiable, surplus, enforceable, and real.
- E. Approval by Administrator.**
1. On grant of an application under subsection (D)(2) by a certification authority other than the Department, the certification authority shall transmit the conditional credits and the associated emission reduction plan to the Department for submission to the Administrator under subsection (E)(2). In addition to the credits and plan, the submission shall include all of the elements required for a revision to the state implementation plan under 40 CFR 51.
 2. On issuance of conditional credits by the Department under subsection (D)(2) or receipt of conditional credits under subsection (E)(1), the Department shall submit the conditional credits and the associated emission reduction plan to the Administrator for approval as a revision to the state implementation plan.
 3. On final action by the Administrator on the state implementation plan revision submitted under subsection (E)(2), the certification authority shall issue certified credits and revoke conditional credits as necessary to be consistent with the Administrator's action.

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- F. Enforcement.** A violation of any provision of an emission reduction plan approved by the Administrator under subsection (E) is a violation of this rule by the owner or operator of the plan generator.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1). Amended by final rulemaking at 25 A.A.R. 1433, effective July 28, 2019 (Supp. 19-2).

R18-2-1206. Opening Emissions Bank Accounts

- A.** Any person or entity may open an account in the emissions bank by submitting the form prescribed by the Department.
- B.** The owner or operator of a generator must open an account in the emissions bank before submitting an application under R18-2-1203(A), R18-2-1204(A), or R18-2-1205(A).

Historical Note

New Section made by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1). Amended by final rulemaking at 25 A.A.R. 1433, effective July 28, 2019 (Supp. 19-2).

R18-2-1207. Registration of Emission Reduction Credits in Emissions Bank

- A.** Notice to Department. A certification authority other than the Department shall provide notice on the form prescribed by the Department of the following events related to emissions reduction credits:
1. Receipt of an application under R18-2-1203(A), R18-2-1204(A), or R18-2-1205(A);
 2. Proposal to issue conditional credits;
 3. Issuance of conditional credits;
 4. Denial of an application for credits;
 5. Issuance of certified credits; and
 6. Revocation or reduction of credits.
- B.** Registration by Department.
1. The Department shall register pending credits in the emissions bank account for the owner or operator of the generator on:
 - a. Receipt of an application under R18-2-1203(A), R18-2-1204(A), or R18-2-1205(A); or
 - b. Receipt of notice under subsection (A)(1).
 2. The Department shall register conditional credits in the emissions bank account for the owner or operator of the generator on:
 - a. Approval of the application under R18-2-1205(D); or
 - b. Receipt of notice under subsection (A)(3).
 3. The Department shall register certified credits in the emissions bank account for the owner or operator of the generator on:
 - a. Issuance of certified credits under R18-2-1203(C)(2), R18-2-1204(B), or R18-2-1205(E)(3).
 - b. Receipt of notice under subsection (A)(5).
 4. The Department shall adjust each account in which credits are deposited as necessary to reflect:
 - a. The denial of an application for credits under R18-2-1203(C)(1) or R18-2-1205(D)(1);
 - b. The Administrator's final action on a state implementation plan under R18-2-1205(E);
 - c. The revocation or reduction of credits by a permitting authority or an agency responsible for administering an offset-creation rule.

- C.** Notice of Reductions. If reductions in qualifying emissions represented by credits have not occurred by the time pending credits are registered, the generator shall provide notice to the Department and the certifying authority on the form prescribed by the Department within five days after the reductions are achieved.

- D.** Registration Information. For credits registered in the emissions bank, the Department shall include the following information:

1. The name and contact information of the account holder;
2. The name, location, and description of the generator;
3. The name, contact information, and location of the owner or operator of the generator;
4. For each pollutant covered by the credits, the amount and date or expected date of the reductions;
5. The status of the credits, including whether the reductions in qualifying emissions represented by the credits have occurred and whether their use has been approved under R18-2-1208(B)(2).

Historical Note

New Section made by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1). Amended by final rulemaking at 25 A.A.R. 1433, effective July 28, 2019 (Supp. 19-2).

R18-2-1208. Transfer, Use, and Retirement of Emission Reduction Credits

- A.** Transfer Procedures.
1. An account holder may transfer certified credits held in its account to any other account holder by filing the form prescribed by the Department.
 2. On verification of the information in the transfer form, the Department shall adjust the emissions bank accounts of the transferor and transferee to reflect the transfer.
- B.** Use Procedures.
1. An account holder who intends to use credits held in its account as offsets shall file an application to use the credits on the form prescribed by the Department. The notice shall include:
 - a. Information on the identity, location, ownership, and emissions of the stationary source;
 - b. Specification of the amount of credits to be used;
 - c. Identification of the permitting authority with jurisdiction over the stationary source;
 - d. If the stationary source is seeking a permit revision, the identification number for the permit being revised.
 2. On approval of the application, the Department shall:
 - a. Issue a certificate representing the credits that may be included in the permit or permit revision application of the stationary source;
 - b. Notify the permitting authority of the issuance of the certificate; and
 - c. Change the status of the credits to use approved.
 3. The permitting authority shall provide notice to the Department of final action on the stationary source's application for a permit or permit revision.
 4. Reductions in qualifying emissions reflected in the credits must be implemented before actual construction of the new stationary source or modification begins.
 5. The Department shall register a withdrawal and use of credits used under subsection (B) on the later of:

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- a. Receipt of notice of approval of the application for a permit or permit revision for the stationary source; or
- b. Implementation of the reductions reflected in the credits.

C. Retirement.

- 1. An account holder may retire credits in its account without using them as offsets by submitting the form prescribed by the Department.
- 2. On verification of the information contained in the form, the Department shall register a withdrawal and retirement of the credits from the account.

D. Continuation of Credits. Except to the extent otherwise required by the act, certified credits do not expire and continue in effect until withdrawn under subsection (B) or (C).**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1). Section R18-2-1208 renumbered to R18-2-1210; new Section R18-2-1208 made by final rulemaking at 25 A.A.R. 1433, effective July 28, 2019 (Supp. 19-2).

R18-2-1209. Exclusion of Emission Reduction Credits from Planning

Except to the extent otherwise required by the act, with regard to credits for emission reductions in an area for which a planning authority has responsibility, the planning authority shall:

- 1. Include the emissions for which the credits have been issued in the emissions inventory for the area as if reductions in those emissions had not yet occurred;
- 2. Account for the emissions for which the credits have been issued in any reasonable further progress or attainment demonstration for the area as if the reductions had not yet occurred; and
- 3. Refrain from relying on the reductions in any revision to the state implementation plan for the area.

Historical Note

New Section R18-2-1209 made by final rulemaking at 25 A.A.R. 1433, effective July 28, 2019 (Supp. 19-2).

R18-2-1210. Fees

- A.** The owner or operator of a generator shall pay a non-refundable administrative fee of \$200.00 to the Department when submitting an application for certification. This fee is in addition to the fees specified in R18-2-326.
- B.** An account holder using a credit under R18-2-1207(B) shall pay a non-refundable administrative fee of \$200.00 to the Department when submitting the application for use. This fee is in addition to the fees specified in R18-2-326.

Historical Note

New Section R18-2-1210 renumbered from R18-2-1208 and amended by final rulemaking at 25 A.A.R. 1433, effective July 28, 2019 (Supp. 19-2).

ARTICLE 13. STATE IMPLEMENTATION PLAN RULES FOR SPECIFIC LOCATIONS**R18-2-1301. Expired****Historical Note**

New Section made by final rulemaking at 9 A.A.R. 1295, effective April 2, 2003 (Supp. 03-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1302. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 1295, effective April 2, 2003 (Supp. 03-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1303. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 1295, effective April 2, 2003 (Supp. 03-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1304. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 1295, effective April 2, 2003 (Supp. 03-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1305. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 1295, effective April 2, 2003 (Supp. 03-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1306. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 1295, effective April 2, 2003 (Supp. 03-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1307. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 1295, effective April 2, 2003 (Supp. 03-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

PART A. RESERVED**PART B. HAYDEN, ARIZONA, PLANNING AREA****R18-2-B1301. Limits on Lead Emissions from the Hayden Smelter****A. Applicability.**

- 1. This Section applies to the owner or operator of the Hayden Smelter.
- 2. Effective date. Except as otherwise provided, the requirements of this Section shall become applicable on the earlier of July 1, 2018 or 180 days after completion of all project improvements authorized by Significant Permit Revision No. 60647.

B. Definitions. In addition to general definitions contained in R18-2-101, the following definitions apply to this Section:

- 1. "ACFM" means actual cubic feet per minute.
- 2. "Anode furnace baghouse stack" means the dedicated stack that vents controlled off-gases from the anode furnaces to the Main Stack.
- 3. "Blowing" shall mean the introduction of air or oxygen-enriched air into the converter furnace molten bath through tuyeres that are submerged below the level of the molten bath. The flow of air through the tuyeres above

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the level of the molten bath or into an empty converter shall not constitute blowing.

4. "Capture system" means the collection of components used to capture gases and fumes released from one or more emission units, and to convey the captured gases and fumes to one or more control devices or a stack. A capture system may include, but is not limited to, the following components as applicable to a given capture system design: duct intake devices, hoods, enclosures, ductwork, dampers, manifolds, plenums, and fans.
 5. "Control device" means a piece of equipment used to clean and remove pollutants from gases and fumes released from one or more emission units that would otherwise be released to the atmosphere. Control devices may include, but are not limited to, baghouses, Electrostatic Precipitators (ESPs), and sulfuric acid plants.
 6. "Hayden Smelter" means the primary copper smelter located in Hayden, Gila County, Arizona at latitude 33°0'15"N and longitude 110°46'31"W.
 7. "Main Stack" means the center and annular portions of the 1,000-foot stack, which vents controlled off-gases from the INCO flash furnace, the converters, and anode furnaces and also vents exhaust from the tertiary hoods.
 8. "SCFM" means standard cubic feet per minute.
 9. "SLAMS monitor" means an ambient air monitor part of the State and Local Air Monitoring Stations network operated by State or local agencies for the purpose of demonstrating compliance with the National Ambient Air Quality Standards.
 10. "Smelting process-related fugitive lead emissions" means uncaptured and/or uncontrolled lead emissions that are released into the atmosphere from smelting copper in the INCO flash furnace, converters, and anode furnaces.
- C. Emission limit.** Main Stack lead emissions shall not exceed 0.683 pound of lead per hour.
- D. Operational Standards.**
1. Process equipment and control device operations. At all times, including periods of startup, shutdown, and malfunction, the owner or operator shall, to the extent practicable, maintain and operate smelter processes and associated emission capture and/or control equipment in a manner consistent with good air pollution control practices for minimizing lead emissions to the level required by subsection (C). Determination of whether acceptable operating and maintenance procedures are being used shall be based on all information available to the Department and EPA Region IX, which may include, but is not limited to, monitoring results, review of operating and maintenance procedures and records, and inspection of the relevant equipment.
 2. Capture system and control device operations and maintenance plan. The owner or operator shall develop and implement an operations and maintenance plan for each capture system and/or control device used to ventilate or control process gas or emissions from the flash furnace, including matte tapping, slag skimming and slag return operations; converter primary hoods, converter secondary hoods, tertiary ventilation system; and anode refining operations. The operations and maintenance plan must address the following requirements as applicable to each capture system and/or control device.
 - a. Monitoring devices. The plan shall provide for installation, operation, calibration, and maintenance of appropriate monitoring devices to measure and record operating limit values or settings at all times the required capture and control system is operating, except during periods of monitor calibration, repair, and malfunction. The initial plan shall provide for volumetric flow monitoring on the vent gas baghouse (inlet or outlet), each converter primary hood, each converter secondary hood, the tertiary ventilation system, and the anode furnace baghouse (inlet or outlet). All monitoring devices shall be accurate within +/- 10% and calibrated according to manufacturer's instructions. If direct measurement of the exhaust flow is infeasible due to physical limitations or exhaust characteristics, the owner or operator may propose a reliable equivalent method for approval. Initial monitoring may be adjusted as provided in subsection (D)(2)(e). Dampers that are manually set and remain in the same position while the capture system is operating are exempt from these monitoring requirements. Capture system damper position setting(s) shall be specified in the plan.
 - b. Operational limits. The owner or operator shall establish operating limits in the operations and maintenance plan for the capture systems and/or control devices that are representative and reliable indicators of the performance of the capture system and control device operations. Initial operating limits may be adjusted as provided in subsection (D)(2)(e). Initial operating limits shall include the following:
 - i. A minimum air flow for the furnace ventilation system and associated damper positions for each matte tapping hood or slag skimming hood when operating to ensure that the operation(s) are within the confines or influence of the capture system.
 - ii. A minimum air flow for the secondary hood baghouse and associated damper positions for each slag return hood to ensure that the operation is within the confines or influence of the capture system's ventilation draft during times when the associated process is operating.
 - iii. A minimum air infiltration ratio for the converter primary hoods of 1:1 averaged over 24 converter Blowing hours, rolled hourly measured as volumetric flow in primary hood less the volumetric flow of tuyere Blowing compared to the volumetric flow of tuyere Blowing.
 - iv. A minimum secondary hood exhaust rate of 35,000 SCFM during converter Blowing, averaged over 24 converter Blowing hours, rolled hourly.
 - v. A minimum secondary hood exhaust rate of 133,000 SCFM during all non-Blowing operating hours, averaged over 24 non-Blowing hours, rolled hourly.
 - vi. A minimum negative pressure drop across the secondary hood when the doors are closed equivalent to 0.007 inches of water.
 - vii. A minimum exhaust rate on the tertiary hooding of 400,000 ACFM during all times material is processed in the converter aisle, averaged over 24 hours and rolled hourly.

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- viii. Fan amperes or minimum air flow for the anode furnace baghouse and associated damper positions for each anode furnace hood to ensure that the anode furnace off-gas port is within the confines or influence of the capture system's ventilation draft during times when the associated furnace is operating.
- ix. The anode furnace charge mouth shall be kept covered when the tuyeres are submerged in the metal bath except when copper is being charged to or transferred from the furnace.
- c. Preventative maintenance. The owner or operator shall perform preventative maintenance on each capture system and control device according to written procedures specified in the operations and maintenance plan. The procedures must include a preventative maintenance schedule that is consistent with the manufacturer's or engineer's instructions, or operator's experience working with the equipment, and frequency for routine and long-term maintenance. This provision does not prohibit additional maintenance beyond that required by the plan.
- d. Inspections. The owner or operator shall perform inspections in accordance with written procedures in the operations and maintenance plan for each capture system and control device that are consistent with the manufacturer's, engineer's, or operator's instructions for each system and device.
- e. Plan development and revisions.
 - i. The owner or operator shall develop and keep current the plan required by this Section. Any plan or plan revision shall be consistent with this Section, shall be designed to ensure that the capture and control system performance conforms to the attainment demonstration in the Hayden 2008 Lead National Ambient Air Quality Standards Nonattainment Area State Implementation Plan (SIP), and shall be submitted to the Department for review. Any plan or plan revision submitted shall include the associated manufacturer's, engineer's or operator's recommendations and/or instructions used for capture system and control device operations and maintenance.
 - ii. The owner or operator shall submit the initial plan to the Department no later than May 1, 2018 and shall include the initial volumetric flow monitoring provisions in subsection (D)(2)(a), the initial operational limits in subsection (D)(2)(b), the preventative maintenance procedures in subsection (D)(2)(c), and the inspection procedures in subsection (D)(2)(d).
 - iii. The owner or operator shall submit to the Department for approval a plan revision with changes, if any, to the initial volumetric flow monitoring provisions in subsection (D)(2)(a) and initial operational limits in subsection (D)(2)(b) not later than six months after completing a fugitive emissions study conducted in accordance with Appendix 14. The Department shall submit the approved changes to the volumetric flow monitoring provisions and operational limits pursuant to this subsection to EPA Region IX as a SIP revision not later than 12 months after completion of a fugitive emissions study.
 - iv. Other plan revisions may be submitted at any time when necessary. All plans and plan revisions shall be designed to achieve operation of the capture system and/or control device consistent with the attainment demonstration in the Hayden 2008 Lead National Ambient Air Quality Standards Nonattainment Area SIP. Except for changes to the volumetric flow monitoring provisions in subsection (D)(2)(a) and operational limits in subsection (D)(2)(b), which shall require prior approval, plans and plan revisions may be implemented upon submittal and shall remain in effect until superseded or until disapproved by the Department. Disapprovals are appealable Department actions.
- 3. Emissions from the anode furnace baghouse stack shall be routed to the Main Stack.
- E. Performance Test Requirements.
 - 1. Main stack performance tests. No later than 180 calendar days after completion of all Converter Retrofit Project improvements authorized by Significant Permit Revision No. 60647, the owner or operator shall conduct initial performance tests on the following:
 - a. The gas stream exiting the anode furnaces baghouse prior to mixing with other gas streams routed to the Main Stack.
 - b. The gas stream exiting the acid plant at a location prior to mixing with other gas streams routed to the Main Stack.
 - c. The gas stream exiting the secondary baghouse at a location prior to mixing with other gas streams routed to the Main Stack.
 - d. The gas stream collected by the tertiary hooding at a location prior to mixing with other gas streams routed to the Main Stack.
 - e. The gas stream exiting the vent gas baghouse at a location prior to mixing with other gas streams routed to the Main Stack.
 - 2. Subsequent performance tests on the gas streams specified in subsection (E)(1) shall be conducted at least annually.
 - 3. Performance tests shall be conducted under such conditions as the Department specifies to the owner or operator based on representative performance of the affected sources and in accordance with 40 CFR 60, Appendix A, Reference Method 29.
 - 4. At least 30 calendar days prior to conducting a performance test pursuant to subsection (E)(1), the owner or operator shall submit a test plan, in accordance with R18-2-312(B) and the Arizona Testing Manual, to the Department for approval. The test plan must include the following:
 - a. Test duration;
 - b. Test location(s);
 - c. Test method(s), including those for test method performance audits conducted in accordance with subsection (E)(6); and
 - d. Source operation and other parameters that may affect the test result.
 - 5. The owner or operator may use alternative or equivalent performance test methods as defined in 40 CFR § 60.2

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when approved by the Department and EPA Region IX, as applicable, prior to the test.

6. The owner or operator shall include a test method performance audit during every performance test in accordance with 40 CFR § 60.8(g).

F. Compliance Demonstration Requirements.

1. For purposes of determining compliance with the Main Stack emission limit in subsection (C), the owner or operator shall calculate the combined lead emissions in pounds per hour from the gas streams identified in subsection (E)(1) based on the most recent performance tests conducted in accordance with subsection (E).
2. The owner or operator shall determine compliance with the requirements in subsection (D)(2) as follows:
 - a. Maintaining and operating the emissions capture and control equipment in accordance with the capture system and control device operations and maintenance plan required in subsection (D)(2) and recording operating parameters for capture and control equipment as required in subsection (D)(2)(b); and
 - b. Conducting a fugitive emissions study in accordance with Appendix 14 starting not later than six months after completion of the Converter Retrofit Project authorized by Significant Permit Revision No. 60647. The fugitive emissions study shall demonstrate, as set forth in Appendix 14, that fugitive emissions from the smelter are consistent with estimates used in the attainment demonstration in the Hayden 2008 Lead National Ambient Air Quality Standards Nonattainment Area SIP.
3. The owner or operator shall include periods of startup, shutdown, malfunction, or other upset conditions when determining compliance with the emission limit in subsection (C).

G. Recordkeeping. The owner or operator shall maintain the following records for at least five years and keep on-site for at least two years:

1. All records as specified in the operations and maintenance plan required under subsection (D)(2).
2. All records of major maintenance activities and inspections conducted on emission units, capture systems, monitoring devices, and air pollution control equipment, including those set forth in the operations and maintenance plan required by subsection (D)(2).
3. All records of performance tests, test plans, and audits required by subsection (E).
4. All records of compliance calculations required by subsection (F).
5. All records of fugitive emission studies and study protocols conducted in accordance with Appendix 14.
6. All records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of concentrate drying, smelting, converting, anode refining, and casting emission units; and any malfunction of the associated air pollution control equipment that is inoperative or not operating correctly.
7. All records of reports and notifications required by subsection (H).

H. Reporting. The owner or operator shall provide the following to the Department:

1. Notification of commencement of construction of any equipment necessary to comply with the operational or emission limits.

2. Semiannual progress reports on construction of any such equipment postmarked by July 30 for the preceding January-June period and January 30 for the preceding July-December period.
3. Notification of initial startup of any such equipment within 15 business days of such startup.
4. Whenever the owner or operator becomes aware of any exceedance of the emission limit set forth in subsection (C), the owner or operator shall notify the Department orally or by electronic or facsimile transmission as soon as practicable, but no later than two business days after the owner or operator first knew of the exceedance.
5. Within 30 days after the end of each calendar-year quarter, the owner or operator shall submit a quarterly report to the Department for the preceding quarter that shall include dates, times, and descriptions of deviations when the owner or operator operated smelting processes and related control equipment in a manner inconsistent with the operations and maintenance plan required by subsection (D)(2).
6. Reports from performance testing conducted pursuant to subsection (E) shall be submitted to the Department within 60 calendar days of completion of the performance test. The reports shall be submitted in accordance with the Arizona Testing Manual and A.A.C. R18-2-312(A).

Historical Note

New Section R18-2-B1301 made by final rulemaking at 23 A.A.R. 767, effective on the earlier of July 1, 2018, or 180 calendar days after completion of all Converter Retrofit Project improvements authorized by Significant Permit Revision No. 60647 (Supp. 17-1).

R18-2-B1301.01.Limits on Lead-Bearing Fugitive Dust from the Hayden Smelter

A. Applicability.

1. This Section applies to the owner or operator of the Hayden Smelter.
2. Effective Date. Except as otherwise provided, the requirements of this Section shall become applicable on December 1, 2018.

B. Definitions. In addition to definitions contained in R18-2-101 and R18-2-B1301, the following definitions apply to this Section:

1. "Acid plant scrubber blowdown drying system" means the process in which Venturi scrubber blowdown solids are dried and packaged via a thickener, filter press, electric dryer, and supersack filling stations.
2. "Control measure" means a piece of equipment used, or actions taken, to minimize lead-bearing fugitive dust emissions that would otherwise be released to the atmosphere. Control equipment may include, but are not limited to, wind fences, chemical dust suppressants, and water sprayers. Actions may include, but are not limited to, relocating sources, curtailing operations, or ceasing operations.
3. "Hayden Lead Nonattainment Area" means the townships in Gila and Pinal Counties, as identified and codified in 40 CFR § 81.303, that are designated nonattainment for the 2008 Lead National Ambient Air Quality Standards.
4. "High wind event" means any period of time beginning when the average wind speed, as measured at a meteorological station maintained by the owner or operator that is approved by the Department, is greater than or equal to

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15 mph over a 15 minute period, and ending when the average wind speed, as measured at the approved meteorological station maintained by the owner or operator, falls below 15 mph over a 15 minute period.

5. "Lead-bearing fugitive dust" means uncaptured and/or uncontrolled particulate matter containing lead that is entrained in the ambient air and is caused by activities, including, but not limited to, the movement of soil, vehicles, equipment, and wind.
 6. "Material pile" means material, including concentrate, uncrushed reverts, crushed reverts, and bedding material, that is stored in a pile outside a building or warehouse and is capable of producing lead-bearing fugitive dust.
 7. "Non-smelting process sources" means sources of lead-bearing fugitive dust that are not part of the hot metal process, which includes smelting in the INCO flash furnace, converting, and anode refining and casting. Non-smelting process sources include storage, handling, and unloading of concentrate, uncrushed reverts, crushed reverts, and bedding material; acid plant scrubber blowdown solids; and paved and unpaved roads.
 8. "Ongoing visible emissions" means observed emissions to the outside air that are not brief in duration.
 9. "Road" means any surface on which vehicles pass for the purpose of carrying people or materials from one place to another in the normal course of business at the Hayden Smelter.
 10. "Slag" means the inorganic molten material that is formed during the smelting process and has a lower specific gravity than copper-bearing matte.
 11. "Slag hauler" means any vehicle used to transport molten slag.
 12. "Storage and handling" means all activities associated with the handling and storage of materials that take place at the Hayden Smelter, including, but not limited to, stockpiling, transport on conveyor belts, transport or storage in rail cars, crushing and milling, arrival and handling of offsite concentrate, bedding, and handling of reverts.
 13. "Trackout/carry-out" means any materials that adhere to and agglomerate on the surfaces of motor vehicles, haul trucks, and/or equipment (including tires) and that may then fall onto the road.
- C. Operational Standards.
1. Equipment operations. At all times, the owner or operator shall operate and maintain all non-smelting process sources, including all associated air pollution control equipment, control measures, and monitoring equipment, in a manner consistent with good air pollution control practices for minimizing lead-bearing fugitive dust, and in accordance with the fugitive dust plan required by subsection (C)(2) and performance and housekeeping requirements in subsection (D). A determination of whether acceptable operating and maintenance procedures are being used shall be based on all available information to the Department and EPA Region IX, which may include, but is not limited to, monitoring results, review of operating and maintenance procedures and records, review of fugitive dust plans, and inspection of the relevant equipment.
 2. Fugitive dust plan. The owner or operator shall develop, implement, and follow a fugitive dust plan that is designed to minimize lead-bearing fugitive dust from non-smelting process sources. At minimum, the fugitive dust plan shall contain the following:
 - a. Performance and housekeeping requirements in subsection (D).
 - b. Design plans and specifications for each wind fence to be installed to control lead-bearing fugitive dust from non-smelting process sources identified in subsections (D)(11) through (D)(14). The dust plan shall contain height limits for the materials being stored in each wind fence, consistent with the design plans and specifications for that particular wind fence. Wind fence design and specifications shall:
 - i. Require full encircling of the source to be controlled, with reasonable and sufficient openings for ingress and egress;
 - ii. Consider the orientation of the wind fence to the prevailing winds;
 - iii. Consider the strength of the winds in the area where the fence will be located;
 - iv. Consider the porosity of the material to be used, which shall not exceed 50%; and
 - v. Consider the height of the fence relative to the height of the material being stored. At minimum, wind fence height shall be greater than or equal to the material pile height.
 - c. Design plans and specifications for each new or modified water sprayer system used to control lead-bearing fugitive dust from non-smelting process sources specified in subsections (D)(11) through (D)(14). The number, type, location, watering intensity, flow rates, and other operational parameters of the water sprayers must meet moisture content objectives for sources specified in subsections (D)(11) through (D)(14). The owner or operator may include in the dust plan an exemption to the water requirements at times when the materials are sufficiently moist or it is raining and thus there is no need for additional wetting until the next scheduled watering to meet moisture content objectives. The dust plan shall include the following for each water sprayer:
 - i. Watering schedule;
 - ii. Watering intensity;
 - iii. Minimum flow rate or pressure drop;
 - iv. Appropriate and/or continuous monitoring;
 - v. Schedule for calibration based on the manufacturer's recommended calibration schedule;
 - vi. Preventative maintenance schedule; and
 - vii. Other applicable operational parameters.
 - d. Necessary improvements and/or modifications to material conveyor systems, along with a schedule for implementing improvements or modifications, targeted to minimize lead-bearing fugitive dust from non-smelting process sources specified in subsections (D)(11) through (D)(14), as applicable, to the greatest extent practicable. The improvements or modifications may include, but is not limited to, hooding of transfer points, utilizing water sprayers, and employing scrapers, brushes, or cleaning systems at all points where belts loop around themselves to catch and contain material before it falls to the ground.
 - e. Design plans for the concrete pads for the non-smelting process sources specified in subsections (D)(11) and (D)(13). The concrete pads shall be designed to capture, store, and control stormwater or

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sprayed water to minimize emissions to the greatest extent practicable, including curbing around the outer edges of the concrete pad where feasible.

- f. Additional controls and measures for sources specified in subsections (D)(11) through (D)(14) to be implemented during high wind events. These additional controls or measures, which must include curtailment or other alteration of activity when appropriate, must be implemented at these sources during all periods of high wind.
 - g. Sample inspection sheets, checklists, or logsheets for each of the inspections identified in subsection (D)(6), and in accordance with the following:
 - i. The inspection sheets or checklists shall include:
 - (1) Specific descriptions of the equipment being inspected and the specific functions being evaluated;
 - (2) The findings of the inspection;
 - (3) The date, time, and location of inspections; and
 - (4) An identification of who performed the inspection or logged the results.
 - ii. The logsheets for high wind events shall include:
 - (1) High wind event start time;
 - (2) High wind event end time;
 - (3) Description of area or activity inspected; and
 - (4) Description of corrective action taken if necessary.
 - h. Design plans of the new acid plant scrubber blow-down drying system specified in subsection (D)(15).
 - i. The name and location of the meteorological station, which must be approved by the Department, that is to be used by the owner or operator for determining high wind events pursuant to subsection (B)(4) and for implementing control requirements pursuant to subsection (D)(5).
3. Plan development and revisions. The owner or operator shall develop and keep current the fugitive dust plan required by subsection (C)(2). Any plan or plan revision shall be consistent with this Section and shall be submitted to the Department for review. The initial plan shall be submitted to the Department for review no later than May 1, 2017. Plans and plan revisions shall be consistent with good air pollution control practice for fugitive dust. Except for the meteorological station to be used for high wind events pursuant to subsection (D)(5), which shall require prior approval, plans and plan revisions may be implemented upon submittal and shall remain in effect until superseded or until disapproved by the Department. Disapprovals are appealable Department actions.
- D. Performance and Housekeeping Requirements.** The owner or operator shall comply with these requirements at all times regardless of a fugitive dust plan.
1. Water sprayers. The owner or operator shall implement a recordkeeping system to capture sprayer operations, including identification of the particular operation, lead-bearing fugitive dust source, timing and intensity of watering, and data regarding the quantity of water used at each water sprayer.
 2. Wind fences. The owner or operator shall ensure that wind fences used to control lead-bearing fugitive dust from the non-smelting process sources specified in subsections (D)(11) through (D)(14) meet the following requirements:
 - a. Wind fence height shall be greater than or equal to the material pile height. The allowed material pile height shall be posted in a readily visible location at each wind fence.
 - b. Wind fence porosity shall not exceed 50%.
 3. Material conveyor systems. For sources specified in subsections (D)(11) through (D)(14), as applicable, the owner or operator shall:
 - a. Minimize conveyor drop heights to the greatest extent practicable.
 - b. Clean any spills from conveyors within 30 minutes of discovery. The material collected must be handled in such a way so as to minimize lead-bearing fugitive dust to the maximum extent practicable.
 4. Vehicle transport of materials. The owner or operator shall maintain vehicle cargo compartments used to transport materials capable of producing lead-bearing fugitive dust so that the cargo compartment is free of holes or other openings and is covered by a tarp.
 5. High wind event requirements.
 - a. During high wind events, the owner or operator shall evaluate the non-smelting process sources specified in subsections (D)(11) through (D)(14) for ongoing visible emissions using the appropriate logsheet for each source.
 - b. If ongoing visible emissions are observed, the owner or operator shall promptly wet the source of emissions with the objective of mitigating further emissions.
 - c. If wetting does not appear to mitigate the ongoing visible emissions to 20% opacity or less, the owner or operator shall postpone associated handling of the source until the high wind event has ceased.
 6. Physical inspections. The owner or operator shall conduct physical inspections as follows:
 - a. Daily inspections of all water sprayers to make sure they are functioning and are in accordance with the dust plan;
 - b. Daily visual inspections of all material piles to make sure they are maintained within areas protected by a wind fence, that they are not higher than allowed for the wind fence, and to verify that moisture content requirements are met;
 - c. Daily inspections of all material handling areas to identify and clean up track out or spills of materials;
 - d. Daily inspections of conveyor systems to identify and clean up material spills;
 - e. Daily inspections of rumble grates sump levels;
 - f. Daily spot inspections of vehicles carrying lead-bearing fugitive dust-producing materials when vehicles are in use to ensure that material is not overloaded, is properly covered, and cargo compartments are intact;
 - g. Weekly inspections of wind fences for material integrity and structural stability;
 - h. Daily inspections of all paved roads to identify and clean up track out or spills of materials;
 - i. Daily inspections of unpaved roads in subsection (D)(10)(a) to identify areas where chemical dust suppressant coverage has broken down; and

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- j. Bi-weekly inspections of the acid plant scrubber blowdown drying system enclosure.
- 7. Opacity limit and Method 9 readings.
 - a. Opacity from lead-bearing fugitive dust emissions shall not exceed 20% from any part of the facility at any time. Opacity shall be determined by using 40 CFR 60, Appendix A, Reference Method 9, except for unpaved roads, in which opacity shall be determined pursuant to subsection (D)(10)(c).
 - b. In the event that an employee observes ongoing visible emissions at a non-smelting process source covered by this Section, that employee shall promptly contact a Reference Method 9-certified observer, who shall promptly evaluate the emissions and conduct a Reference Method 9 reading, if possible.
 - c. A Reference Method 9-certified observer shall conduct a weekly visible emissions survey of all non-smelting process sources covered by this Section and perform a Reference Method 9 reading for any plumes that on an instantaneous basis appear to exceed 15% opacity.
- 8. Corrective actions.
 - a. At any time that visible emissions from the non-smelting process sources covered by this Section appear to exceed 15% opacity, the owner or operator shall take prompt corrective action to identify the source of the emissions and abate such emissions, with the corrective action starting within 30 minutes after discovery. For any non-smelting process source that produces visible emissions that appear to exceed 15% opacity, the owner or operator shall perform an analysis of the root cause, and implement a strategy designed to prevent, to the extent feasible, the ongoing recurrence of the source of visible emissions. Within 14 days of completion of its analysis, if appropriate, the owner or operator shall modify the fugitive dust plan in subsection (C)(2) for any changes identified from the analysis differing from the current provisions of the fugitive dust plan.
 - b. At any time that the owner or operator becomes aware that provisions of the fugitive dust plan and/or performance and housekeeping provisions required by this Section are not being met, the owner or operator shall take prompt action to return to compliance, which may include modifications to monitoring, recordkeeping, and reporting requirements in the fugitive dust plan. This includes, but is not limited to, the following actions:
 - i. Return water sprayers to full operational status;
 - ii. Repair damaged conveyor hoodings or other enclosures;
 - iii. Apply additional water to ensure that sources are meeting moisture content requirements;
 - iv. Clean any trackout or spillage of dust-producing material, including dropoff of dust producing material from conveyors, using a street sweeper, vacuum, or wet broom with sufficient water and at the speed recommended by the manufacturer;
 - v. Reapplication of chemical dust suppressants in areas where the coating has broken down on unpaved roads; and
 - vi. Revisions to the fugitive dust plan to undertake improved monitoring, recordkeeping, and reporting requirements necessary to ensure that the controls contained in the fugitive dust plan are being implemented as contemplated by the fugitive dust plan.
- 9. Paved Roads. These requirements apply to all roads at the facility currently paved and roads to be paved in the future. The owner or operator shall:
 - a. Clean roads at least once daily with a sweeper, vacuum, or wet broom in accordance with applicable manufacturer recommendations.
 - b. Maintain the integrity of the road surface.
 - c. Clean up trackout and carry-out of material on the following schedule:
 - i. As expeditiously as practicable, when trackout and carry-out extends a cumulative distance of 50 linear feet or more; and
 - ii. At the end of the workday, for all other trackout and carry-out.
 - d. Comply with a speed limit not to exceed 15 mph for all vehicular traffic. At minimum, speed limit signs shall be posted at all entrances and truck loading and unloading areas and/or at conspicuous areas along the roadway.
- 10. Unpaved Roads. These requirements apply to the unpaved roads identified in subsections (D)(10)(a)(i) through (D)(10)(a)(iii) below, including any access points where the unpaved roads adjoin paved roads and any areas of vehicular handling of material. The owner or operator shall:
 - a. Implement a chemical dust suppressant application intensity and schedule, which at minimum shall be:
 - i. For the slag hauler road and all other unpaved roads used or to be used by the slag hauler, chemical dust suppressant shall be applied at least once per week during the summer, and once per every two weeks during the winter.
 - ii. For the main road to the secondary crusher, chemical dust suppressant shall be applied at least once every six weeks, year-round.
 - iii. For unpaved roads near reverts and silica flux crushing operations, chemical dust suppressant shall be applied at least once per two weeks during the summer, and once per month in the winter.
 - b. Increase the frequency of chemical dust suppressant application if necessary to reduce fugitive dust emissions from unpaved roads.
 - c. Not allow visible emissions to exceed 20% opacity and shall not allow silt loading equal to or greater than 0.33 oz/ft². However, if silt loading is equal to or greater than 0.33 oz/ft², then the owner or operator shall not allow the average percent silt content to exceed 6%. Compliance with these requirements shall be determined by the test methods described in Appendix 15.
 - d. Maintain sufficient watering trucks and personnel to operate such trucks to be employed as an interim measure whenever visible emissions or a breakdown in dust suppressant covering are observed at any point along the treated unpaved road system.
 - e. Immediately, but no later than 30 minutes after initial observation of any visible emissions, apply water or chemical dust suppressant to the portion of

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- the unpaved road where the visible emissions were observed.
- f. Reapply chemical dust suppressant within 24 hours of discovery of any area where the surface chemical dust suppressant coverage has broken down.
 - g. Collect and prevent from becoming airborne any runoff or material from rinsing or sweeping as soon as practicable.
 - h. Comply with a speed limit not to exceed 15 mph for all vehicular traffic. At minimum, speed limit signs shall be posted at all entrances and truck loading and unloading areas and/or at conspicuous areas along the roadway.
11. Concentrate Storage, Handling, and Unloading. The owner or operator shall:
 - a. Consolidate and manage all concentrate storage piles in one or more concrete storage pads.
 - b. Store concentrate in an area with a wind fence in accordance with requirements set forth in the fugitive dust plan and pursuant to subsection (D)(2).
 - c. Maintain water sprayers in accordance with requirements set forth in the fugitive dust plan and to ensure the surfaces of concentrate piles are wetted to maintain a nominal 10% surface moisture content as determined from representative samples using ASTM Method D2216-10 or other equivalent methods approved by the Department and EPA Region IX.
 - d. Minimize the footprint of the concentrate storage piles by pushing into the stockpile with a front end loader and sweeping open areas of the pads with a self-powered vacuum sweeper at least daily during use.
 12. Uncrushed Reverts Handling and Storage. The owner or operator shall:
 - a. Manage uncrushed revert material only in areas protected by a wind fence in accordance with requirements set forth in the fugitive dust plan and pursuant to subsection (D)(2).
 - b. Maintain water sprayers in accordance with requirements set forth in the fugitive dust plan and to ensure the surface of uncrushed revert material is wetted with the objective to minimize lead-bearing fugitive dust emissions to the greatest extent practicable.
 13. Reverts Crushing Operations and Crushed Reverts Storage. The owner or operator shall:
 - a. Crush revert and store crushed revert only on one or more concrete pads.
 - b. Crush revert and store crushed revert only within an area protected by a wind fence in accordance with requirements set forth in the fugitive dust plan and pursuant to subsection (D)(2).
 - c. Maintain water sprayers in accordance with requirements set forth in the fugitive dust plan and to ensure the surfaces of all crushed revert material, including revert managed after it is crushed, is wetted to maintain a nominal 10% surface moisture content as determined from representative samples using ASTM Method D2216-10 or other equivalent methods approved by the Department and EPA Region IX.
 - d. By October 2017, relocate all revert crushing operations to 33° 00' 25.84" N, 110° 46' 26.55" W and shall crush revert only at this new location.
 14. Bedding Operations, Including Handling, Storage, and Unloading. The owner or operator shall:
 - a. Perform all bedding activities, including loading and unloading of materials to be blended, only within an area protected by a wind fence in accordance with requirements set forth in the fugitive dust plan and pursuant to subsection (D)(2). These activities include the storage and handling areas for potentially lead-bearing fugitive dust-producing material within the bedding plant area.
 - b. Maintain water sprayers in accordance with requirements set forth in the fugitive dust plan and to ensure the surfaces of material in the bedding area is wetted to maintain a nominal 10% surface moisture content as determined from representative samples using ASTM Method D2216-10 or other equivalent methods approved by the Department and EPA Region IX.
 - c. Maintain rumble grates at all of the bedding plant's entrances and exits to shake off material on the loader tires as they enter and exit the area. Material that is tracked out of the bedding area must be cleaned up at the end of the workday.
 - d. Operate its bedding activities in a manner designed to avoid any trackout outside an area protected by a wind fence. Areas of material spillage or trackout, whether inside or outside of an area protected by a wind fence, shall be rinsed or cleaned daily.
 15. Acid Plant Scrubber Blowdown Drying System.
 - a. The owner or operator shall dry acid plant scrubber blowdown solids only in an enclosed system that uses a venturi scrubber, thickener, filter press, and electric dryer that is maintained under negative pressure at all times that materials are being dried.
 - b. The owner or operator shall maintain the negative pressure of the electric dryer using a 2,500 ACFM dryer ventilation fan that must run at all times the electric dryer is operational. Monitoring of the negative pressure shall be demonstrated through the run and stop states of the ventilation fan and electric dryer.
 - c. The acid plant scrubber blowdown drying system shall include the following elements:
 - i. Venturi scrubber slurry that reports to a new thickener.
 - ii. Underflow from the thickener that goes to a filter press for further liquid removal, with the resulting filter cake sent to two electric dryers operating in parallel to provide final drying of the dust cake.
 - iii. Exhaust from the dryers sent to the packed gas cooling tower inlet duct.
 - iv. Dried cake discharged directly into bags.
 - d. The owner or operator shall clean all areas previously used for scrubber blowdown drying and no longer use previous areas for scrubber blowdown drying.
- E. Contingency Requirements.
1. If the owner or operator does not meet the compliance schedule below in subsection (E)(3), or if the Hayden Lead Nonattainment Area does not attain the 2008 Lead National Ambient Air Quality Standards by the attainment date established in the Act, whichever occurs first, then the owner or operator shall increase the paved road

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cleaning frequency specified in subsection (D)(9) to twice per day.

2. The owner or operator shall implement the contingency measure in subsection (E)(1) within 60 days of notification by EPA Region IX of either a failure to meet the compliance schedule in subsection (E)(3) or a failure to attain by the attainment date established in the Act, whichever occurs first.
3. The compliance schedule is as follows. The Fugitive Dust Plan referred to in the compliance schedule shall mean the Fugitive Dust Plan submitted to the Administrator by the owner or operator to comply with requirements set forth in Consent Decree No. CV-15-02206-PHX-DLR, which became effective on December 30, 2015 in the United States District Court for the District of Arizona, as that plan may be later revised pursuant to subsection (C)(3):

Control Measure	Date of Implementation
Implementation of chemical dust suppression for unpaved roads.	Within 30 days of Administrator approval of application intensity and schedules in Fugitive Dust Plan.
Implementation of wind fences for materials piles (uncrushed reverts, reverts crushing and crushed reverts, bedding materials, and concentrate).	Within 120 days of Administrator approval of the Fugitive Dust Plan or the date of completion in the approved Fugitive Dust Plan, whichever is later.
Implementation of water sprays for materials piles (uncrushed reverts, reverts crushing and crushed reverts, bedding materials, and concentrate).	Within 120 days of Administrator approval of the Fugitive Dust Plan or the date of completion in the approved Fugitive Dust Plan, whichever is later.
Implementation of new acid plant scrubber blow-down drying system.	November 30, 2016
Implementation of new primary, secondary, and tertiary hooding systems for converter aisle for purposes of complying with requirements in R18-2-B1301.	July 1, 2018
Implementation of new ventilation system for matte tapping and slag skimming for flash furnace for purposes of complying with requirements in R18-2-B1301.	July 1, 2018

F. Ambient Air and Meteorological Monitoring Requirements.

1. The owner or operator shall conduct ambient air monitoring and sampling for lead as follows:
 - a. At minimum, the owner or operator shall continue to maintain and operate the ambient lead monitors located at ST-14 (the smelter parking lot), ST-23 (Hillcrest area), ST-26 (post office), and ST-18 (next to the concentrate handling area).

- b. Samples must be collected continuously at all monitor sites specified in subsection (F)(1)(a). For the purposes of this requirement, "continuously" means that 24-hour filters are placed and collected at minimum, every six calendar days at all sites consistent with 40 CFR § 58.12.
 - c. The owner or operator shall follow the Hayden Smelter's Quality Assurance Project Plan (QAPP) applicable to these monitors.
 - d. The monitors must be operated and maintained in accordance with 40 CFR 58, Appendix A.
 - e. The owner or operator shall submit each filter removed from each monitor to a certified laboratory for analysis no later than 18 calendar days after the filter's removal. The owner or operator shall ensure that the laboratory performs its analysis and submits the results to the owner or operator no later than 21 calendar days from the lab's receipt of the filter.
 - f. The owner or operator shall calculate, update, and maintain as a record the following data within 14 calendar days of receipt of any results pertaining to the monitor filters received from a certified lab:
 - i. The total pollutants on the filters collected and analyzed; and
 - ii. Calculations of 30-day rolling average ambient air levels of lead for the ST-23, ST-26, and ST-18 monitors, and 60-day rolling average ambient air levels of lead for the ST-14 monitor, expressed as µg/m³.
 - g. The owner or operator shall retain lead samples collected pursuant to this Section for at least three years. The samples shall be stored in individually sealed containers and labeled with the applicable monitor and date. Upon request, the samples shall be provided to the Department within five business days.
2. The owner or operator shall conduct meteorological monitoring as follows:
 - a. Continuously monitor and record wind speed and direction data using equipment and a meteorological station approved by the Department.
 - b. The owner or operator shall calculate and record average wind speed in miles per hour over 15 minutes, rolled each minute.
 - c. Conduct wind speed and direction measurements using methods in accordance with EPA's Quality Assurance Handbook for Air Pollution Measurement Systems, Volume IV, Meteorological Measurements, Version 2.0.
 3. The ambient air and meteorological monitoring stations required by this Section may be discontinued at the end of three full calendar years after the Hayden Lead Nonattainment Area is redesignated attainment for the 2008 Lead National Ambient Air Quality Standards.

G. Compliance Demonstration Requirements. The owner or operator shall demonstrate compliance with this Section by complying with all requirements in the fugitive dust plan pursuant to subsection (C)(2) and implementing all housekeeping and performance requirements pursuant to subsection (D).

H. Recordkeeping.

1. The owner or operator shall maintain the following records for at least five years and keep on-site for at least two years:

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- a. Current and past fugitive dust plans required by subsection (C)(2).
 - b. Physical inspection sheets, checklists, and logsheets for inspections conducted in accordance with subsection (D)(6).
 - c. All records of opacity and stabilization tests, if any, conducted in accordance with subsection (D)(10)(c).
 - d. All records of surface moisture content tests, if any, conducted in accordance with subsection (D)(11), subsection (D)(13), and subsection (D)(14).
 - e. All records of major maintenance activities and inspections conducted on monitors required by subsection (F).
 - f. All records of quality assurance and quality control activities for the monitors required by subsection (F).
 - g. All air quality monitoring samples, rolling averages of ambient lead concentrations and necessary calculations, and data required by subsection (F).
 - h. All records of wind data from the meteorological station required by subsection (F).
 - i. All records of any periods during which a monitoring device required by subsection (F) is inoperative or not operating correctly.
 - j. All records of reports and notifications required by subsection (I).
2. All of the following records maintained for the purposes of the fugitive dust plan required by subsection (C)(2) must be maintained in a recordkeeping log or recordkeeping system. As part of the records, the owner or operator shall include the dates and times for each of the following observations or activities, the name of the employee documenting each activity or observation, and the nature and location of each observation activity:
 - a. Each instance of observed visible emissions of 15% opacity or greater, along with a description of any corrective action undertaken and its success.
 - b. Water sprayer operations, including timing and intensity of watering to be captured in the water sprayer recordkeeping system.
 - c. Timing, location, type, and amount of chemical suppressant and water applied to unpaved roads, and a description of the nature and timing of any additional corrective action taken, as necessary, to minimize emissions to the greatest extent practicable.
 - d. Timing and location of all sweeping and cleaning of trackout or spillage material.
 - e. Timing and location of all washdown of concrete areas.
 - f. Timing and location of sump cleanouts.
 - g. Results of all visible emissions surveys and Reference Method 9 readings.
 - h. Appropriate records for operating conditions, including electric dryer ventilation fan start and stop times for the newly designed acid plant scrubber blowdown drying system.
 - i. Calibration records for all measurement devices, including maintenance of manufacturer's manuals or other documentation for suggested calibration schedules and accuracy levels for each measurement device.
 - j. Dates, times, and descriptions of deviations when the owner or operator's operations was carried out in a manner inconsistent with the fugitive dust plan required by subsection (C)(2).
- I. Reporting. Within 30 days after the end of each calendar-year quarter, the owner or operator shall submit a report to the Department covering the prior quarter that includes the following:
 1. All instances where observed fugitive emissions coming from sources covered in this Section were 15% or greater.
 2. The date of all high wind events, with an identification of the location of the reading, wind speed, and duration of the event, and a description of actions taken as a result of the event on a source-by-source basis.
 3. All instances where corrective action was required with identification of the emission source involved, what triggered the corrective action, what action the owner or operator undertook to abate or mitigate the problem, and whether the corrective action achieved the intended results.
 4. A summary of all times when the electronic recordkeeping system was not recording data, and a summary and indication of the period when recorded data was outside of established operating parameters.
 5. A summary of progress of all new construction, installation, upgrades, or modifications to equipment or structures at the facility required by the fugitive dust plan and subsection (D), including dates of commencement and completion of construction, dates of operations of new or modified equipment or structures, and dates old or outdated equipment or structures were permanently retired.
 6. Raw monitoring data and calculated ambient lead concentrations from the ambient air monitoring stations required by subsection (F).

Historical Note

New Section R18-2-B1301.01 made by final rulemaking at 23 A.A.R. 767, effective December 1, 2018 (Supp. 17-1).

R18-2-B1302. Limits on SO₂ Emissions from the Hayden Smelter

- A. Applicability.
 1. This Section applies to the owner or operator of the Hayden Smelter. It establishes limits on sulfur dioxide emissions from the Hayden Smelter and monitoring, recordkeeping and reporting requirements for those limits.
 2. Effective date. Except as otherwise provided, the requirements of this Section shall become applicable on the earlier of July 1, 2018 or 180 days after completion of all project improvements authorized by Significant Permit Revision No. 60647.
- B. Definitions. In addition to definitions contained in R18-2-101 and R18-2-B1301, the following definitions apply to this rule.
 1. "Continuous emissions monitoring system" or "CEMS" means the total equipment, required under the emission monitoring provisions in this Chapter, used to sample, condition (if applicable), analyze, and to provide, on a continuous basis, a permanent record of emissions.
 2. "Operating day" means any calendar day in which any of the following occurs:
 - a. Concentrate is smelted in the smelting furnace;
 - b. Copper or sulfur bearing materials are processed in the converters;
 - c. Blister or scrap copper is processed in the anode furnaces;

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- d. Molten metal, including slag, matte or blister copper, is transferred between vessels; or
 - e. Molten metal is cast into anodes or other intermediate or final products.
3. "Out of control period" means the time that begins with the completion of the fifth, consecutive, daily calibration drift check with a calibration drift in excess of two times the allowable limit, or the time corresponding to the completion of the daily calibration drift check preceding the daily calibration drift check that results in a calibration drift in excess of four times the allowable limit, and the time that ends with the completion of the calibration check following corrective action that results in the calibration drifts at both the zero (or low-level) and high-level measurement points being within the corresponding allowable calibration drift limit.
- C. Sulfur Dioxide Emissions Limitations.**
- 1. Emissions from the Main Stack shall not exceed 1069.1 pounds per hour on a 14-operating day average unless 1,518 pounds or less is emitted during each hour of the 14-operating day period.
 - 2. The owner and operator shall not cause to be discharged into the atmosphere from any affected unit subject to 40 CFR 60 subpart P any gases which contain sulfur dioxide in excess of the limit set forth in 40 CFR § 60.163(a) (as in effect on July 1, 2016 and no later editions).
- D. Operational Standards.**
- 1. Process equipment and control device operations. At all times, including periods of startup, shutdown, and malfunction, the owner or operator shall, to the extent practicable, maintain and operate smelter processes and associated emission control and/or control equipment in a manner consistent with good air pollution control practices for minimizing SO₂ emissions to the levels required by subsection (C). Determination of whether acceptable operating and maintenance procedures are being used will be based on all information available to the Director and EPA Region IX, which may include, but is not limited to, monitoring results, review of operating and maintenance procedures and records, and inspection of the relevant equipment.
 - 2. Capture system and control device operations and maintenance plan. The owner or operator shall develop and implement an operations and maintenance plan for each capture system and/or control device used to ventilate or control process gas or emissions from the flash furnace including matte tapping, slag skimming, and slag return operations; converter primary hoods, converter secondary hoods, tertiary ventilation system, and anode refining operations. The operations and maintenance plan must address the following requirements as applicable to each capture system and/or control device.
 - a. Monitoring devices. The plan shall provide for installation, operation, calibration, and maintenance of appropriate monitoring devices to measure and record operating limit values or settings at all times the required capture and control system is operating, except during periods of monitor calibration, repair and malfunction. The initial plan shall provide for volumetric flow monitoring on the vent gas baghouse (inlet or outlet), each converter primary hood, each converter secondary hood, the tertiary ventilation system and the anode furnace baghouse (inlet or outlet). All monitoring devices shall be accurate within +/- 10% and calibrated according to manufacturer's instructions. If direct measurement of the exhaust flow is infeasible due to physical limitations or exhaust characteristics, the owner or operator may propose a reliable equivalent method for approval. Initial monitoring may be adjusted as provided in subsection (D)(2)(e). Dampers that are manually set and remain in the same position while the capture system is operating are exempt from these monitoring requirements. Capture system damper position setting(s) shall be specified in the plan.
 - b. Operational limits. The owner or operator shall establish operating limits in the operations and maintenance plan for the capture systems and/or control devices that are representative and reliable indicators of the performance of the capture system and control device operations. The initial operating limits may be adjusted as provided in subsection (D)(2)(e). Initial operating limits shall include the following:
 - i. Identification of those modes of operation when the double dampers between the flash furnace vessel and the vent gas system will be closed and the interstitial space evacuated to the acid plant.
 - ii. A minimum air flow for the furnace ventilation system and associated damper positions for each matte tapping hood or slag skimming hood when operating to ensure that the operation(s) are within the confines or influence of the capture system.
 - iii. A minimum air flow for the secondary hood baghouse and associated damper positions for each slag return hood to ensure that the operation is within the confines or influence of the capture system's ventilation draft during times when the associated process is operating.
 - iv. A minimum air infiltration ratio for the converter primary hoods of 1:1 averaged over 24 converter Blowing hours, rolled hourly measured as volumetric flow in primary hood less the volumetric flow of tuyere Blowing compared to the volumetric flow of tuyere Blowing.
 - v. A minimum secondary hood exhaust rate of 35,000 SCFM during converter Blowing, averaged over 24 converter Blowing hours, rolled hourly.
 - vi. A minimum secondary hood exhaust rate of 133,000 SCFM during all non-Blowing operating hours, averaged over 24 non-Blowing hours, rolled hourly.
 - vii. A minimum negative pressure drop across the secondary hood when the doors are closed equivalent to 0.007 inches of water.
 - viii. A minimum exhaust rate on the tertiary hooding of 400,000 ACFM during all times material is processed in the converter aisle, averaged over 24 hours and rolled hourly.
 - ix. Fan amperes or minimum air flow for the anode furnace baghouse and associated damper positions for each anode furnace hood to ensure that the anode furnace off-gas port is within the confines or influence of the capture system's

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- ventilation draft during times when the associated furnace is operating.
- x. The anode furnace charge mouth shall be kept covered when the tuyeres are submerged in the metal bath except when copper is being charged to or transferred from the furnace.
 - xi. The temperatures of the acid plant catalyst bed, which shall at minimum, meet the manufacturer's recommendations.
 - xii. The acid plant catalyst replenishment criteria, which shall at minimum, meet the manufacturer's recommendations.
- c. Preventative maintenance. The owner or operator must perform preventative maintenance on each capture system and control device according to written procedures specified in the operation and maintenance plan. The procedures must include a preventative maintenance schedule that is consistent with the manufacturer's or engineer's instructions, or operator's experience working with equipment, and frequency for routine and long-term maintenance. This provision does not prohibit additional maintenance beyond that required by the plan.
 - d. Inspections. The owner or operator must perform inspections in accordance with written procedures in the operations and maintenance plan for each capture system and control device that are consistent with the manufacturer's, engineer's or operator's instructions for each system and device.
 - e. Plan development and revisions.
 - i. The owner or operator shall develop and keep current the plan required by this Section. Any plan or plan revision shall be consistent with this Section, shall be designed to ensure that the capture and control system performance conforms to the attainment demonstration in the Hayden 2010 Sulfur Dioxide National Ambient Air Quality Standards Nonattainment Area State Implementation Plan (SIP), and shall be submitted to the Department for review. Any plan or plan revision submitted shall include the associated manufacturer's recommendations and/or instructions used for capture system and control device operations and maintenance.
 - ii. The owner or operator shall submit the initial plan to the Department no later than May 1, 2018 and shall include the initial volumetric flow monitoring provisions in subsection (D)(2)(a), the initial operational limits in subsection (D)(2)(b), the preventative maintenance procedures in subsection (D)(2)(c), and the inspection procedures in subsection (D)(2)(d).
 - iii. The owner or operator shall submit to the Department for approval a plan revision with changes, if any, to the initial volumetric flow monitoring provisions in subsection (D)(2)(a) and initial operational limits in subsection (D)(2)(b) not later than six months after completing a fugitive emissions study conducted in accordance with Appendix 14. The Department shall submit the approved changes to the volumetric flow monitoring provisions and operational limits pursuant to this subsection to EPA Region IX as a SIP revision not later than 12 months after completion of a fugitive emissions study.
 - iv. Other plan revisions may be submitted at any time when necessary. All plans and plan revisions shall be designed to achieve operation of the capture system and/or control device consistent with the attainment demonstration in the Hayden 2010 Sulfur Dioxide National Ambient Air Quality Standards Nonattainment Area SIP. Except for changes to the volumetric flow monitoring provisions in subsection (D)(2)(a) and operational limits in subsection (D)(2)(b), which shall require prior approval, plans and plan revisions may be implemented upon submittal and shall remain in effect until superseded or until disapproved by the Department. Disapprovals are appealable Department actions.
3. Emissions from the anode furnace baghouse stack shall be routed to the Main Stack.
- E. Monitoring.**
1. To determine compliance with subsection (C)(1) the owner or operator of the Hayden Smelter shall install, calibrate, maintain, and operate a CEMS for continuously monitoring and recording SO₂ concentrations and stack gas volumetric flow rates at the following locations.
 - a. The exit of the acid plant;
 - b. The exit of the secondary hood particulate control device after the High Surface Area (HSA) lime injection system;
 - c. The exit of the flash furnace particulate control device after the HSA lime injection system;
 - d. The tertiary ventilation system prior to mixing with any other exhaust streams; and
 - e. The anode furnace baghouse stack prior to mixing with any other exhaust streams.
 2. Except during periods of systems breakdown, repairs, maintenance, out-of-control periods, calibration checks, and zero and span adjustments, the owner or operator shall continuously monitor SO₂ concentrations and stack gas volumetric flow rates at each location in subsection (E)(1).
 3. For purposes of this Section, continuous monitoring means the taking and recording of at least one measurement of SO₂ concentration and stack gas flow rate reading from the effluent of each affected stack, outlet, or other approved measurement location in each 15-minute period when the associated process units are operating. Fifteen-minute periods start at the beginning of each clock hour, and run consecutively. All CEMS required by subsection (E)(1) shall complete at least one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period.
 4. If the owner or operator can demonstrate to the Director that measurement of stack gas volumetric flow rate in the outlet of any particular piece of SO₂ control equipment would yield inaccurate results or would be technologically infeasible, then the Director may allow measurement of the flow rate at an alternative sampling point.
 5. The owner or operator shall demonstrate that the CEMS required by subsection (E)(1) meet all of the following requirements:

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- a. The SO₂ CEMS installed and operated under this Section meets the requirements of 40 CFR 60, Appendix B, Performance Specification 2 and Performance Specification 6. The CEMS on the anode furnace baghouse stack and tertiary ventilation system shall complete an initial Relative Accuracy Test Audit (RATA) in accordance with Performance Specification 2. The RATA runs shall be tied to when the anode furnace is in use and, for the tertiary system, when the converters are in operation and/or material is being transferred in the converter aisle. Asarco may petition the Department and EPA Region IX on the criteria for subsequent RATAs for the anode furnace baghouse stack or tertiary ventilation system CEMS. The petition shall include submittal of CEMS data during the year.
 - b. The SO₂ CEMS installed and operated under this Section meets the quality assurance requirements of 40 CFR 60, Appendix F.
 - c. The owner or operator shall notify the Director in writing at least 30 days in advance of the start of the relative accuracy test audit (RATA) performed on the CEMS.
 - d. The Director shall approve the location of all sampling points for monitoring SO₂ concentration and stack gas volumetric flow rates and the appropriate span values for the monitoring systems. This approval shall be in writing before installation and operation of the measurement instruments.
 - e. The measurement system installed and used under this subsection is subject to the manufacturer's recommended zero adjustment and calibration procedures at least once per operating day unless the manufacturer specifies or recommends calibration at shorter intervals, in which case the owner or operator shall follow those specifications or recommendations. The owner or operator shall make available a record of these procedures that clearly shows instrument readings before and after zero adjustment and calibration.
 - f. The owner or operator shall maintain on hand and ready for immediate installation sufficient spare parts or duplicate systems for the CEMS required by this Section to allow for the replacement within six hours of any monitoring equipment part that fails or malfunctions during operation.
6. The owner or operator of the Hayden Smelter may petition the Department to substitute annual stack testing for the tertiary ventilation or the anode furnace baghouse stack CEMS if the owner or operator demonstrates, for a period of two years, that either CEMS contribute(s) less than 5% individually of the total sulfur dioxide emissions. The Department must determine the demonstration adequate to approve the petition. Annual stack testing shall use EPA Methods 1, 4, and 6C in 40 CFR 60 Appendix A or an alternate method approved by the Department and EPA Region IX. Annual stack testing shall commence no later than the one year after the date the continuous emission monitoring system was removed. The owner or operator shall submit a test protocol to the Department at least 30 days in advance of testing. The protocol shall provide for three or more 24-hour runs unless the owner or operator justifies a different period and the Department approves such different period.
- Reports of testing shall be submitted to the Department no later than 60 days after testing or 30 days after receipt, whichever is later. The report shall provide an emissions rate, in the form of a pound per hour or pound per unit of production factor, that shall be used in the compliance demonstration in subsection (F)(1). Except as provided herein, the owner or operator shall otherwise comply with Section R18-2-312 in conducting such testing.
- F. Compliance Demonstration Requirements.
 1. For purposes of determining compliance with the emission limit in subsection (C)(1) the owner or operator shall calculate emissions for each operating day as follows:
 - a. Sum the hourly pounds of SO₂ vented to each uncontrolled shutdown ventilation flue and through each monitoring point listed in subsection (E)(1) for the current operating day and the preceding 13-operating days to calculate the total pounds of SO₂ emissions over the 14-operating day averaging period, as applicable.
 - b. Divide the total amount of SO₂ emissions calculated from subsection (F)(1)(a) by 336 to calculate the 14-operating day average SO₂ emissions.
 - c. If the calculation in subsection (F)(1)(b) exceeds 1069.1 pounds per hour, then the owner or operator shall sum the hourly pounds of SO₂ vented to each uncontrolled shutdown ventilation flue and through each monitoring point listed in subsection (E)(1) for each hour of the current operating day and each hour of the preceding 13-operating days to ascertain if any hour exceeded 1,518 pounds per hour.
 2. When no valid hour or hours of data have been recorded by a continuous monitoring system required by subsections (E)(1) and (E)(2) and the associated process unit is operating, the owner or operator shall calculate substitute data for each such period according to the following procedures:
 - a. For a missing data period less than or equal to 24 hours, substitute the average of the hourly SO₂ concentrations recorded by the system for the hour before and the hour after the missing data period.
 - b. For a missing data period greater than 24 hours, substitute the greater of:
 - i. The 90th percentile hourly SO₂ concentrations recorded by the system during the previous 720 quality-assured monitor operating hours.
 - ii. The average of the hourly SO₂ concentrations recorded by the system for the hour before and the four hours after the missing data period.
 - c. Notwithstanding subsections (F)(3)(a) and (F)(3)(b), the owner or operator may present any credible evidence as to the quantity or concentration of emissions during any period of missing data.
 3. The owner or operator shall determine compliance with the requirements in subsection (D)(2) as follows:
 - a. Maintaining and operating the emissions capture and control equipment in accordance with the capture system and control device operations and maintenance plan required in subsection (D)(2) and recording operating parameters for capture and control equipment as required in subsection (D)(2)(b); and
 - b. Conducting a fugitive study in accordance with Appendix 14 starting not later than six months after completion of the Converter Retrofit Project authorized by Significant Permit Revision No. 60647. The

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fugitive study shall demonstrate, as set forth in Appendix 14, that fugitive emissions from the smelter are consistent with estimates used in the attainment demonstration in the Hayden 2010 Sulfur Dioxide National Ambient Air Quality Standards Nonattainment Area SIP.

4. The owner or operator shall include periods of startup, shutdown, malfunction, or other upset conditions when determining compliance with the emission limits in subsection (C).
5. The owner and operator shall demonstrate compliance with the limit in subsection (C)(2) in accordance with 40 CFR §§ 60.165 and 60.166 (as in effect on July 1, 2016 and not later editions).

G. Recordkeeping.

1. The owner or operator shall maintain a record of each operation and maintenance plan required under subsection (D)(2).
2. The owner or operator shall maintain the following records for at least five years:
 - a. All measurements from the continuous monitoring system required by subsection (E)(1), including the date, place, and time of sampling or measurement; parameters sampled or measured; and results. All measurements will be calculated daily.
 - b. All records of quality assurance and quality control activities for emissions measuring systems required by subsection (E)(1).
 - c. All records of calibration checks, adjustments, maintenance, and repairs conducted on the continuous monitoring systems required by subsection (E); including records of all compliance calculations required by subsection (F).
 - d. All records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of concentrate drying, smelting, converting, anode refining and casting emission units; any malfunction of the associated air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device required by subsection (E)(1) is inoperative or not operating correctly.
 - e. All records of planned and unplanned shutdown ventilation flue utilization events and calculations used to determine emissions from shutdown ventilation flue utilization events if the owner or operator chooses to use the alternative compliance determination method.
 - f. All records of major maintenance activities and inspections conducted on emission units, capture system, air pollution control equipment, and CEMS, including those set forth in the operations and maintenance plan required by subsection (D)(2).
 - g. All records of operating days and production records required for calculations in subsection (F).
 - h. All records of fugitive emissions studies and study protocols conducted in accordance with Appendix 14.
 - i. All records of reports and notifications required by subsection (H).

H. Reporting.

1. The owner or operator shall notify the Director in writing at least 30 days in advance of the start of relative accuracy test audit (RATA) procedures performed on the con-

tinuous monitoring systems required by subsection (E)(1).

2. Within 30 days after the end of each calendar quarter, the owner or operator shall submit a data assessment report to the Director in accordance with 40 CFR Part 60, Appendix F for the continuous monitoring systems required by subsection (E).
3. The owner or operator shall submit an excess emissions and monitoring systems performance report or summary report form in accordance with 40 CFR § 60.7(c) to the Director quarterly for the continuous monitoring systems required by subsection (E)(1). Excess emissions means any 14-operating day average as calculated in subsection (F) in excess of the emission limit in subsection (C)(1), any period in which the capture and control system was operating outside of its parameters specified in the capture system and control device operation and maintenance plan in subsection (D)(2). For any 14-operating day period exceeding 1069.1 pounds per hour that the owner or operator claims does not exceed the limit in subsection (C)(1) because all hours in the operating period are below 1,518 pounds per hour, the owner or operator shall submit the CEMS data for each hour during that period. All reports shall be postmarked by the 30th day following the end of each calendar quarter time period.
4. The owner or operator shall provide the following to the Director:
 - a. The owner or operator shall notify the Director of commencement of construction of any equipment necessary to comply with the operational or emission limits.
 - b. The owner or operator shall submit semiannual progress reports on construction of any such equipment postmarked by July 30 for the preceding January-June period and January 30 for the preceding July-December period.
 - c. The owner or operator shall submit notification of initial startup of any such equipment within 15 business days of such startup.
- I. Preconstruction review. This Section is determined to be Reasonably Available Control Technology (RACT) for SO₂ emissions from the operations subject to subsection (C) for purposes of minor source NSR requirement addressed in R18-2-334.

Historical Note

New Section R18-2-B1302 made by final rulemaking at 23 A.A.R. 767, effective on the earlier of July 1, 2018, or 180 calendar days after completion of all Converter Retrofit Project improvements authorized by Significant Permit Revision No. 60647 (Supp. 17-1).

PART C. MIAMI, ARIZONA, PLANNING AREA**R18-2-C1301. Reserved****Historical Note**

New Section R18-2-C1301 reserved at 23 A.A.R. 767 (Supp. 17-1).

R18-2-C1302. Limits on SO₂ Emissions from the Miami Smelter**A. Applicability.**

1. This Section applies to the owner or operator of the Miami Smelter. It establishes limits on SO₂ emissions from the Miami Smelter and monitoring, recordkeeping and reporting requirements for those limits.

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2. Effective date. Except as otherwise provided, the provisions of this Section shall take effect on the later of the effective date of the Administrator's action approving it as part of the state implementation plan or January 1, 2018.
- B. Definitions.** In addition to general definitions contained in R18-2-101, the following definitions apply to this rule.
 1. "Capture system" means the collection of components used to capture gases and fumes released from one or more emission points, and to convey the captured gases and fumes to one or more control devices. A capture system may include, but is not limited to, the following components as applicable to a given capture system design: duct intake devices, hoods, enclosures, ductwork, dampers, manifolds, plenums, and fans.
 2. "Electric furnace" means a furnace in which copper matte and slag are heated by electrical resistance without the mechanical introduction of air or oxygen.
 3. "IsaSmelt® furnace" means a furnace in which air, oxygen, and fuel are injected through a top-submerged lance into a molten slag bath to produce slag and copper matte.
 4. "Miami Smelter" means the primary copper smelter located near Miami, Gila County, Arizona at latitude 33°24'50"N and longitude 110°51'25"W.
 5. "Out of control period" means the time that begins with the completion of the fifth, consecutive, daily calibration drift check with a calibration drift in excess of two times the allowable limit, or the time corresponding to the completion of the daily calibration drift check preceding the daily calibration drift check that results in a calibration drift in excess of four times the allowable limit, and the time that ends with the completion of the calibration check following corrective action that results in the calibration drifts at both the zero (or low-level) and high-level measurement points being within the corresponding allowable calibration drift limit.
 6. "Operating day" means any calendar day in which any of the following occurs:
 - a. Concentrate is smelted in the Electric furnace or IsaSmelt® furnace;
 - b. Copper or sulfur bearing materials are processed in the converters;
 - c. Blister or scrap copper is processed in the anode furnaces or mold vessel;
 - d. Molten metal, including slag, matte or blister copper, is transferred between vessels;
 - e. Molten metal is cast into molds, anodes, or other intermediate or final products;
 - f. Power is provided to the electric furnace to make or maintain a molten bath; or
 - g. The anode furnace is heated to make or maintain a molten bath.
- C. Sulfur Dioxide Emission Limitations.** Combined SO₂ emissions from the tail gas stack, vent fume stack, aisle scrubber stack, bypass stack, and smelter roofline fugitives not exceed 142.45 pounds per hour on a 30-day rolling average basis.
- D. Operational Standards.**
 1. Process Equipment and control device operations. At all times, including periods of startup, shutdown, and malfunction, the owner or operator shall, to the extent practicable, maintain and operate smelter processes and associated emission control devices in a manner consistent with good air pollution control practices for minimizing SO₂ emissions from the process gases associated with the IsaSmelt® furnace, electric furnace, and converters at least to the levels required by subsection (C). Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Director and EPA Region IX, which may include, but is not limited to, monitoring results, review of operating and maintenance procedures and records, and inspection of the relevant equipment.
 2. Capture system and control device operations and maintenance plan. The owner or operator shall develop and implement an operations and maintenance plan for each capture system and control device used to ventilate or control process gas or emissions associated with the IsaSmelt® furnace, electric furnace, and converters. The owner or operator shall submit the initial plan to the Department and EPA Region IX for review and approval by July 1, 2017.
 - a. The operations and maintenance plan must address the following requirements as applicable to each capture system and control device:
 - i. Monitoring devices. The plan shall provide for installation, operation, calibration, and maintenance of appropriate monitoring devices to measure and record operating limit or range values at all times the required system is operating. Dampers that are manually set and remain in the same position while the capture system is operating are exempt from these monitoring requirements.
 - ii. Operational limits and ranges. The owner or operator shall establish operating limits and ranges in the plan for each capture system and control device that are representative and reliable indicators of capture system performance and control device operation. If selected as an operational limit or range, capture system damper position settings shall be specified in the plan.
 - iii. Preventative maintenance. The owner or operator must perform preventative maintenance for each capture system and control device according to written procedures in the plan. The procedures must include a preventative maintenance schedule that is consistent with the manufacturer's or engineer's instructions and specified frequency for routine and long-term maintenance.
 - iv. Inspections. The owner or operator must perform inspections in accordance with written procedures in the plan for each capture system and control device, including position verification of any manual damper settings specified in the plan, that are consistent with the manufacturer's or engineer's instructions for each system and device.
 - b. The owner or operator shall operate and maintain each capture system and each control device in accordance with the plan required by subsection (D)(2) and as approved by the Department and EPA Region IX, except as provided herein. Until receiving initial approval of the plan, the owner or operator shall operate and maintain each capture system and each control device in accordance with the plan

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as initially submitted pursuant to subsection (D)(2). The owner or operator shall submit plan revisions for review by the Department and EPA Region IX. At any time, the Department and/or EPA Region IX may require the owner or operator to revise the plan if determined to be inconsistent with subsection (D)(2)(a). Within 60 days of receiving written notification from the Department or EPA Region IX specifying such inconsistency, the owner or operator shall submit a proposal to the Department and EPA Region IX that addresses the inconsistency. The owner or operator shall maintain a current copy of the plan onsite and available for review and inspection upon request.

E. Monitoring.

1. To determine compliance with subsection (C), the owner or operator shall install, calibrate, maintain, and operate continuous monitoring systems to monitor and record SO₂ concentrations and stack gas volumetric flow rates at the following locations.
 - a. The acid plant tail gas stack;
 - b. The vent fume stack;
 - c. The aisle scrubber stack; and
 - d. The bypass stack.
2. To determine compliance with the emission limit in subsection (C), the owner or operator shall install, calibrate, maintain, and operate a continuous monitoring system to monitor and record fugitive SO₂ concentrations at the Miami Smelter roofline.
3. Except during periods of continuous monitoring system breakdown, repairs, maintenance, out-of-control periods, calibration checks, and zero and span adjustments, the owner or operator shall continuously monitor SO₂ concentrations and stack gas volumetric flow rates at each location specified in subsection (E)(1) and use the monitored concentrations and volumetric flow rates when demonstrating compliance with the SO₂ emission limit in subsection (C) in accordance with subsection (F).
4. Except during periods of continuous monitoring system breakdown, repairs, maintenance, out-of-control periods, calibration checks and zero and span adjustments, the owner or operator shall continuously monitor fugitive SO₂ emissions at the Miami Smelter roofline and use the monitored concentrations and volumetric flow rates when demonstrating compliance with the SO₂ emission limit in subsection (C) in accordance with subsection (F).
5. For purposes of subsections (E)(3) and (E)(4), continuous monitoring means the taking and recording of at least one measurement of SO₂ concentration and stack gas flow rate reading from the effluent of each affected stack, outlet, or other approved measurement location in each 15-minute period when the associated process units are operating. Fifteen-minute periods start at the beginning of each clock hour, and run consecutively. All continuous monitoring systems required by subsection (E)(1) shall complete at least one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period.
6. If the owner or operator can demonstrate to the Director and EPA Region IX that measurement of stack gas volumetric flow rate in the outlet of any particular piece of SO₂ control equipment would yield inaccurate results or would be technologically infeasible, then the Director and EPA Region IX may allow measurement of the flow rate at an alternative sampling point.
7. The owner or operator shall demonstrate that the continuous monitoring systems required by subsection (E)(1) meet all of the following requirements:
 - a. Each SO₂ continuous monitoring system shall meet the specifications under 40 CFR 60, Appendix B, Performance Specification 6.
 - b. Each SO₂ continuous monitoring system installed and operated under this Section shall also meet the quality assurance requirements of 40 CFR 60, Appendix F, Procedure 1.
 - c. The owner or operator shall notify the Director in writing at least 30 days in advance of the start of the relative accuracy test audit (RATA) procedures performed on each continuous monitoring system.
 - d. The Director shall approve the location of all sampling points for monitoring SO₂ concentrations and stack gas volumetric flow rates in writing before installation and operation of measurement instruments.
 - e. The span of each continuous monitoring system for the acid plant tail stack, vent fume stack, and aisle scrubber stack shall be set at a SO₂ concentration of zero to 0.20% by volume.
 - f. The span of the continuous monitoring system for the bypass stack shall be set at a SO₂ concentration of zero to 20% by volume.
 - g. The zero (or low-level value between 0 and 20% of the span value) and span (50% to 100% of span value) calibration drifts shall be checked at least once each operating day in accordance with a written procedure. The zero and span must, at a minimum, be adjusted whenever either the 24-hour zero drift or the 24-hour span drift exceeds two times the limit in 40 CFR Part 60, Appendix B, Performance Specification 2. The system must allow the amount of the excess zero and span drift to be recorded and quantified.
 - h. The owner or operator shall maintain on hand and ready for immediate installation sufficient spare parts or duplicate systems for the continuous monitoring system equipment required by this Section to allow for the replacement within six hours of any monitoring system equipment part that fails or malfunctions during operation.
8. The owner or operator shall develop and implement a roofline fugitive emissions monitoring plan for the continuous monitoring system required by subsection (E)(2). The owner or operator shall submit the initial plan to the Department and EPA Region IX for review and approval by July 1, 2017.
 - a. The roofline fugitive emissions monitoring plan must address the following requirements:
 - i. The continuous monitoring system required by subsection (E)(2) must include measurement of fugitive emissions from, at a minimum, the Converter, Electric Furnace, Anode Furnace, and IsaSmelt[®] systems that is representative of total fugitive emissions.
 - ii. Each measurement system shall include at least one SO₂ analyzer and sufficient sampling locations that ensure collection of a representative sample along the roof monitor for each monitor

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- system. The number of sample probes and their locations for each monitoring system shall account for the physical configuration of the vent, the locations of emitting activities relative to the vent, and heat generated by the equipment served by the vent.
- iii. Each measurement system shall include validation of adequate velocity for flow measurements and sufficient flow and temperature sensors to ensure calculation of representative exhaust flows through each vent. The number of such sensors and their locations for each monitoring system shall account for the physical configuration of the vent, the locations of emitting activities relative to the vent, and heat generated by the equipment served by the vent.
 - iv. Each measurement system shall include an on-site data collection system that continuously logs and stores the measured SO₂ concentration, the measured flow velocity, and the measured temperature.
 - v. An appropriate range for zero-span drift shall be established for all SO₂ analyzers to ensure proper calibration and operation. Unless otherwise provided in the roofline fugitive emissions monitoring plan required by subsection (E)(8), the zero (or low-level) value determination shall be made using a gas containing between zero to 20% of the span value for SO₂ and the span (or high-level) value determination shall be made using a certified gas with a value between 50% and 100% of the span value for SO₂. For each SO₂ analyzer, a daily zero-span check shall be performed by introducing zero gas and a known concentration of span gas to the analyzer. If the zero or span drift for an analyzer is greater than 5% of the span gas concentration for five consecutive days or greater than 10% of the span gas concentration for one day, the analyzer shall be found to be operating improperly and appropriate measures shall be taken to return the analyzer to proper operation. The zero-span check shall be repeated after any such corrective action is taken.
 - vi. All SO₂ analyzers shall be inspected quarterly by the owner or operator and inspected annually by an independent auditor. The inspections shall be conducted in accordance with the data accuracy assessment requirements of 40 CFR 60, Appendix F, Procedure 1, Section 5 or as otherwise provided in the roofline fugitive emissions monitoring plan required by subsection (E)(8). The quarterly inspections consist of two certified concentrations of SO₂ to each sample probe system and comparing the known concentrations to the concentrations logged by the corresponding on-site data collection system to generate a relative error for each system.
 - vii. The flow and temperature data shall be checked daily for proper operation of flow and temperature sensors in accordance with the roofline fugitive emissions monitoring plan required by subsection (E)(8). If a flow or temperature sensor is found to be operating improperly, appropriate measures shall be taken to return the sensor to proper operation.
 - viii. All temperature sensors shall be inspected annually. The inspection shall be conducted according to the manufacturer's specification. A temperature sensor tolerance range representative of proper sensor operation shall be established in the roofline fugitive emissions monitoring plan required by subsection (E)(8). If a temperature sensor is found to measure outside of an established tolerance range, the sensor shall be found to be operating improperly and appropriate measures shall be taken to return the sensor to proper operation.
 - ix. All flow sensors shall be calibrated semi-annually with calibration tools according to the manufacturer's specifications. A calibration tool range representative of proper sensor operation shall be established in the roofline fugitive emissions monitoring plan required by subsection (E)(8). If a flow sensor is found to measure outside of an established range, the sensor shall be found to be operating improperly and appropriate measures shall be taken to return the sensor to proper operation.
- b. The owner or operator shall operate and maintain the continuous monitoring system required by subsection (E)(2) in accordance with the roofline fugitive emissions monitoring plan required by subsection (E)(2) and as approved by the Department and EPA Region IX, except as provided herein. Until receiving initial approval of the plan, the owner or operator shall operate and maintain the continuous monitoring system required by subsection (E)(2) in accordance with the plan as initially submitted pursuant to subsection (E)(2). The owner or operator shall keep the plan current and consistent with subsection (E)(8)(a). The owner or operator shall maintain a current copy of the plan onsite and available for review and inspection upon request. The Department and/or EPA Region IX may require the owner or operator to revise the plan if determined to be inconsistent with subsection (E)(8)(a). Within 60 days of receiving written notification from the Department or EPA Region IX specifying such inconsistency, the owner or operator shall submit a proposal to the Department and EPA Region IX that addresses the inconsistency.
- F. Compliance Demonstration Requirements.
- 1. Within 180 days of the effective date set forth in subsection (A)(2), the owner or operator shall demonstrate compliance with the emission limit in subsection (C) by calculating SO₂ emissions for each operating day as follows:
 - a. Sum the hourly pounds of SO₂ measured by the continuous monitoring systems required by subsection (E)(1) and (E)(2) for the current operating day and the preceding 29 operating days to calculate the total pounds of SO₂ emissions over the 30-operating day averaging period.
 - b. Multiply the operating days occurring during a 30-day averaging period by 24 to calculate the total operating hours over the most recent 30-operating day period.

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- c. Divide the total amount of SO₂ emissions calculated from subsection (F)(1)(a) by the total operating hours calculated from subsection (F)(1)(b) to calculate the 30-day rolling hourly average SO₂ emissions.
 2. For the continuous monitoring systems required by subsections (E)(1) and (E)(2), hourly emissions shall be computed as follows:
 - a. Except as provided under subsection (F)(2)(c), for a full operating hour (any clock hour with 60 minutes of unit operation), at least four valid data points are required to calculate the hourly average, i.e., one data point in each of the 15-minute quadrants of the hour.
 - b. Except as provided under subsection (F)(2)(c), for a partial operating hour (any clock hour with less than 60 minutes of unit operation), at least one valid data point in each 15-minute quadrant of the hour in which the unit operates is required to calculate the hourly average.
 - c. For any operating hour in which required maintenance or quality-assurance activities are performed:
 - i. If the unit operates in two or more quadrants of the hour, a minimum of two valid data points, separated by at least 15 minutes, is required to calculate the hourly average; or
 - ii. If the unit operates in only one quadrant of the hour, at least one valid data point is required to calculate the hourly average.
 - d. If a daily calibration error check is failed during any operating hour, all data for that hour shall be invalidated, unless a subsequent calibration error test is passed in the same hour and the requirements of subsection (F)(2)(c) are met, based solely on valid data recorded after the successful calibration.
 - e. For each full or partial operating hour, all valid data points shall be used to calculate the hourly average.
 - f. Data recorded during periods of continuous monitoring system breakdown, repair, maintenance, out of control periods, calibration checks, and zero and span adjustments shall not be included in the data averages computed under subsection (F)(3).
 - g. Either arithmetic or integrated averaging of all data may be used to calculate the hourly average. The data may be recorded in reduced or non-reduced form.
 3. When no valid hour or hours of data have been recorded by a continuous monitoring system required by subsections (E)(1) and (E)(2) and the associated process unit is operating, the owner or operator shall calculate substitute data for each such period according to the following procedures:
 - a. For a missing data period less than or equal to 24 hours, substitute the average of the hourly SO₂ concentrations recorded by the system for the hour before and the hour after the missing data period.
 - b. For a missing data period greater than 24 hours, substitute the greater of:
 - i. The 90th percentile hourly SO₂ concentrations recorded by the system during the previous 720 quality-assured monitor operating hours; or
 - ii. The average of the hourly SO₂ concentrations recorded by the system for the hour before and the hour after the missing data period.
 4. The owner or operator shall include periods of startup, shutdown, malfunction, or other upset conditions when determining compliance with the emission limit in subsection (C).
- G. Recordkeeping.
 1. The owner or operator shall maintain records as specified in the capture system and control device operations and maintenance plan required under subsection (D)(2) and the roofline fugitive emissions monitoring plan required under subsection (E)(8).
 2. The owner or operator shall maintain the following records for at least five years:
 - a. All measurements from the continuous monitoring systems required by subsection (E)(1) and (E)(2); including the date, place, and time of sampling or measurement, parameters sampled or measured, and results.
 - b. All records of all compliance calculations required by subsection (F).
 - c. All records of quality assurance and quality control activities conducted on the continuous monitoring systems required by subsection (E)(1) and (E)(2).
 - d. All records of continuous monitoring system breakdowns, repairs, maintenance, out of control periods, calibration checks, and zero and span adjustments for the continuous monitoring systems required by subsection (E)(1) and (E)(2).
 - e. All records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of Smelter processes; any malfunction of the associated air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device required by subsection (E)(1) and (E)(2) is inoperative.
 - f. All records of all major maintenance activities conducted on emission units, capture system, air pollution control equipment, and continuous monitoring systems; including those set forth in the operations and maintenance plan required by subsection (D)(2).
 - g. All records of reports and notifications required by subsection (H).
- H. Reporting
 1. Within 30 days after the end of each calendar quarter, the owner or operator shall submit a data assessment report to the Director in accordance with 40 CFR Part 60, Appendix F, Procedure 1 for the continuous monitoring systems required by subsection (E).
 2. The owner or operator shall submit an excess emissions and monitoring systems performance report and-or summary report form in accordance with 40 CFR § 60.7(c) to the Director semiannually for the continuous monitoring systems required by subsection (E)(1) and (E)(2). All reports shall be postmarked by the 30th day following the end of each six-month period.
 3. The owner or operator shall provide the following to the Director:
 - a. Notification of commencement of construction of the project improvements and equipment authorized by Significant Permit Revision No. 53592 to comply with the operational or emission limits in this Section no later than 30 days after such date.
 - b. Semiannual progress reports on construction of any such improvements and equipment on January 1 and

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July 1 of each calendar year until construction is complete.

- c. Notification of initial startup of any such improvements and equipment within 15 days after such date.

- I. Preconstruction review. This Section is determined to be Reasonably Available Control Technology (RACT) for SO₂ emissions from the operations subject to subsection (C) for purposes of minor source NSR requirements addressed in R18-2-334.

Historical Note

New Section R18-2-C1302 made by final rulemaking at 23 A.A.R. 767, on the later of the effective date of the Administrator's action approving it as part of the state implementation plan or January 1, 2018.

ARTICLE 14. CONFORMITY DETERMINATIONS**R18-2-1401. Definitions**

Terms used in this Article but not defined in this Article, Article 1 of this Chapter, or A.R.S. § 49-401.01 shall have the meaning given them by the CAA, Titles 23 and 40 U.S.C., other EPA regulations, or other USDOT regulations, in that order of priority. The following definitions and the definitions contained in Article 1 of this Chapter and in A.R.S. § 49-401.01 shall apply to this Article:

1. "ADEQ" means the Arizona Department of Environmental Quality.
2. "ADOT" means the Arizona Department of Transportation.
3. "Applicable implementation plan" is defined in § 302(q) of the CAA and means the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under § 110, or promulgated under § 110(c), or promulgated or approved pursuant to regulations promulgated under § 301(d) and which implements the relevant requirements of the CAA.
4. "CAA" means the Clean Air Act, as amended.
5. "Cause or contribute to a new violation" for a project means either of the following:
 - a. To cause or contribute to a new violation of a standard in the area substantially affected by the project or over a region which would otherwise not be in violation of the standard during the future period in question, if the project were not implemented.
 - b. To contribute to a new violation in a manner that would increase the frequency or severity of a new violation of a standard in such area.
6. "Consultation" means that one party confers with another identified party, provides access to all appropriate information to that party needed for meaningful input, and, prior to taking any action, considers the views of that party and responds in accordance with the procedures established in R18-2-1405.
7. "Control strategy implementation plan revision" is the applicable implementation plan which contains specific strategies for controlling the emissions of and reducing ambient levels of pollutants in order to satisfy CAA requirements for demonstrations of reasonable further progress and attainment (CAA §§ 182(b)(1), 182(c)(2)(A), 182(c)(2)(B), 187(a)(7), 189(a)(1)(B), and 189(b)(1)(A); and §§ 192(a) and 192(b), for nitrogen dioxide).
8. "Control strategy period" with respect to particulate matter less than 10 microns in diameter (PM₁₀), carbon monoxide (CO), nitrogen dioxide (NO₂), or ozone precursors (volatile organic compounds (VOC) and oxides of nitrogen (NO_x)), means that period of time after EPA approves control strategy implementation plan revisions containing strategies for controlling PM₁₀, NO₂, CO, or ozone, as appropriate. This period ends when the state submits and EPA approves a request under § 107(d) of the CAA for redesignation to an attainment area.
9. "Design concept" means the type of facility identified by the project, e.g., freeway, expressway, arterial highway, grade-separated highway, reserved right-of-way rail transit, mixed traffic rail transit, exclusive busway, etc.
10. "Design scope" means the design aspects of a facility which will affect the proposed facility's impact on regional emissions, usually as they relate to vehicle or person carrying capacity and control, e.g., number of lanes or tracks to be constructed or added, length of project, signalization, access control including approximate number and location of interchanges, preferential treatment for high-occupancy vehicles, etc.
11. "EPA" means the United States Environmental Protection Agency.
12. "FHWA" means the Federal Highway Administration of USDOT.
13. "FHWA or FTA project" means any highway or transit project which is proposed to receive funding assistance and approval through the Federal-Aid Highway program or the federal mass transit program, or requires Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) approval for some aspect of the project, such as connection to an interstate highway or deviation from applicable design standards on the interstate system.
14. "FTA" means the Federal Transit Administration of USDOT.
15. "Forecast period" with respect to a transportation plan means the period covered by the transportation plan pursuant to 23 CFR 450.
16. "Highway project" means an undertaking to implement or modify a highway facility or highway-related program. Such an undertaking consists of all required phases necessary for implementation. For analytical purposes, it shall be defined sufficiently to:
 - a. Connect logical termini and be of sufficient length to address environmental matters on a broad scope.
 - b. Have independent utility or significance, i.e., be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made.
 - c. Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.
17. "Horizon year" means a year for which the transportation plan describes the envisioned transportation system in accordance with R18-2-1406.
18. "Hot-spot analysis" means an estimation of likely future localized CO and PM₁₀ pollutant concentrations and a comparison of those concentrations to the national ambient air quality standards. Pollutant concentrations to be estimated should be based on the total emissions burden which may result from the implementation of a single, specific project, summed together with future background concentrations (which can be estimated using the ratio of future to current traffic multiplied by the ratio of future to current emission factors) expected in the area. The total concentration shall be estimated and analyzed at

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- appropriate receptor locations in the area substantially affected by the project. Hot-spot analysis assesses impacts on a scale smaller than the entire nonattainment or maintenance area, including, for example, congested roadway intersections and highways or transit terminals, and uses an air quality dispersion model to determine the effects of emissions on air quality.
19. "Incomplete data area" means any ozone nonattainment area which EPA has classified, in 40 CFR 81, as an incomplete data area.
 20. "Increase the frequency or severity of a violation" means to cause a location or region to exceed a standard more often or to cause a violation at a greater concentration than previously existed or would otherwise exist during the future period in question, if the project were not implemented.
 21. "ISTEA" means the Intermodal Surface Transportation Efficiency Act of 1991.
 22. "Local transportation agency" means a city, town, or county.
 23. "Maintenance area" means any geographic region of the United States previously designated nonattainment pursuant to the CAA Amendments of 1990 and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan under § 175A of the CAA.
 24. "Maintenance period" with respect to a pollutant or pollutant precursor means that period of time beginning when a state submits and EPA approves a request under § 107(d) of the CAA for redesignation to an attainment area, and lasting for 20 years, unless the applicable implementation plan specifies that the maintenance period shall last for more than 20 years.
 25. "Metropolitan planning organization (MPO)" means the organization designated as being responsible, together with the state, for conducting the continuing, cooperative, and comprehensive planning process under 23 U.S.C. 134 and 49 U.S.C. 1607.
 26. "Milestone" means an emissions level and the date on which it is required to be achieved as described in § 182(g)(1) and § 189(c) of the CAA.
 27. "Motor vehicle emissions budget" means that portion of the total allowable emissions defined in a revision to the applicable implementation plan (or in an implementation plan revision which was endorsed by the Governor or Director of ADEQ, subject to a public hearing, and submitted to EPA, but not yet approved by EPA) for a certain date for the purpose of meeting reasonable further progress milestones or attainment or maintenance demonstrations, for any criteria pollutant or its precursors, allocated by the applicable implementation plan to highway and transit vehicles. The applicable implementation plan for an ozone nonattainment area may also designate a motor vehicle emissions budget for oxides of nitrogen (NO_x) for a reasonable further progress milestone year if the applicable implementation plan demonstrates that this NO_x budget will be achieved with measures in the implementation plan (as an implementation plan must do for VOC milestone requirements). The applicable implementation plan for an ozone nonattainment area includes a NO_x budget if NO_x reductions are being substituted for reductions in volatile organic compounds in milestone years required for reasonable further progress.
 28. "National ambient air quality standards (NAAQS)" means those standards established pursuant to § 109 of the CAA.
 29. "NEPA" means the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.).
 30. "NEPA process completion" with respect to FHWA or FTA, means the point at which there is a specific action to do any of the following:
 - a. Make a formal final determination that a project is categorically excluded.
 - b. Make a Finding of No Significant Impact.
 - c. Issue a record of decision on a Final Environmental Impact Statement under NEPA.
 31. "Nonattainment area" means any geographic region of the United States which has been designated as nonattainment under § 107 of the CAA for any pollutant for which a national ambient air quality standard exists.
 32. "Not classified area" means any carbon monoxide nonattainment area which EPA has not classified as either moderate or serious.
 33. "Phase II of the interim period" with respect to a pollutant or pollutant precursor means that period of time after December 27, 1993, lasting until the earlier of the following:
 1. Submission to EPA of the relevant control strategy implementation plan revisions which have been endorsed by the Governor or the Director of ADEQ and have been subject to a public hearing.
 2. The date that the CAA requires relevant control strategy implementation plans to be submitted to EPA, provided EPA has made a finding of the state's failure to submit any such plans and the state, MPO, and USDOT have received notice of such finding of the state's failure to submit any such plans.
 34. "Project" means a highway project or transit project.
 35. "Recipient of funds designated under 23 U.S.C. or the Federal Transit Act" means any agency at any level of state, county, or city government, including any political subdivision or MPO, that routinely receives 23 U.S.C. or Federal Transit Act funds to construct FHWA or FTA projects, operate FHWA or FTA projects or equipment, purchase equipment, or undertake other services or operations via contracts or agreements. This definition does not include private landowners or developers, or contractors or entities that are only paid for services or products created by their own employees.
 36. "Regional transportation agency" means a regional transit authority established pursuant to A.R.S. Title 28, Chapter 20 or Chapter 24, or a formal association of political subdivisions involved in regional transportation issues.
 37. "Regionally significant transportation project" means a transportation project (other than an exempt project) that is on a facility which serves regional transportation needs (such as access to and from the area outside of the region, major activity centers in the region, major planned developments such as new retail malls, sports complexes, etc., or transportation terminals, as well as most terminals themselves) and would normally be included in the modeling of a metropolitan area's transportation network, including at a minimum all principal arterial highways and all fixed guideway transit facilities that offer an alternative to regional highway travel.
 38. "Rural transport ozone nonattainment area" means an ozone nonattainment area that does not include, and is not

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- adjacent to, any part of a Metropolitan Statistical Area or, where one exists, a Consolidated Metropolitan Statistical Area (as defined by the United States Bureau of the Census) and is classified under CAA § 182(h) as a rural transport area.
39. "Standard" means a national ambient air quality standard.
 40. "Statewide transportation improvement program (STIP)" means a staged, multi-year, intermodal program of transportation projects covering the state, which is consistent with the statewide transportation plan and metropolitan transportation plans, and developed pursuant to 23 CFR 450.
 41. "Statewide transportation plan" means the official intermodal statewide transportation plan that is developed through the statewide planning process for the state, developed pursuant to 23 CFR 450.
 42. "Submarginal area" means any ozone nonattainment area which EPA has classified as submarginal in 40 CFR 81.
 43. "Transit" is mass transportation by bus, rail, or other conveyance which provides general or special service to the public on a regular and continuing basis. It does not include school buses or charter or sightseeing services.
 44. "Transit project" means an undertaking to implement or modify a transit facility or transit-related program, purchase transit vehicles or equipment, or provide financial assistance for transit operations. It does not include actions that are solely within the jurisdiction of local transit agencies, such as changes in routes, schedules, or fares. It may consist of several phases. For analytical purposes, it shall be defined inclusively enough to:
 - a. Connect logical termini and be of sufficient length to address environmental matters on a broad scope.
 - b. Have independent utility or independent significance, i.e., be a reasonable expenditure even if no additional transportation improvements in the area are made.
 - c. Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.
 45. "Transitional area" means any ozone nonattainment area which EPA has classified as transitional in 40 CFR 81.
 46. "Transitional period" with respect to a pollutant or pollutant precursor means that period of time which begins after submission to EPA of the relevant control strategy implementation plan which has been endorsed by the Governor or Director of ADEQ and has been subject to a public hearing. The transitional period lasts until EPA takes final approval or disapproval action on the control strategy implementation plan submission or finds it to be incomplete. The precise beginning and end of the transitional period is defined in R18-2-1428.
 47. "Transportation control measure (TCM)" means any measure that is specifically identified and committed to in the applicable implementation plan that is either one of the types listed in § 108 of the CAA, or any other measure for the purpose of reducing emissions or concentrations of air pollutants from transportation sources by reducing vehicle use or changing traffic flow or congestion conditions. Notwithstanding the above, vehicle technology-based, fuel-based, and maintenance-based measures which control the emissions from vehicles under fixed traffic conditions are not TCMs for the purposes of this rule.
 48. "Transportation improvement program (TIP)" means a staged, multi-year, intermodal program of transportation projects covering a metropolitan planning area which is consistent with the metropolitan transportation plan and developed pursuant to 23 CFR 450.
 49. "Transportation plan" means the official intermodal metropolitan transportation plan that is developed through the metropolitan planning process for the metropolitan planning area, developed pursuant to 23 CFR 450.
 50. "Transportation project" means a highway project or a transit project.
 51. "USDOT" means the United States Department of Transportation.
 52. "VMT" means the number of vehicle miles traveled.
- Historical Note**
Adopted effective June 15, 1995 (Supp. 95-2).
- R18-2-1402. Applicability**
- A. Except as provided for in subsection (F) or R18-2-1434, conformity determinations are required for all of the following:
 1. The adoption, acceptance, approval, or support of transportation plans developed pursuant to 23 CFR 450 or 49 CFR 613 by an MPO or USDOT.
 2. The adoption, acceptance, approval, or support of TIPs developed pursuant to 23 CFR 450 or 49 CFR 613 by an MPO or USDOT.
 3. The approval, funding, or implementation of FHWA or FTA projects.
 - B. Conformity determinations are not required under this Article for individual projects which are not FHWA or FTA projects. However, R18-2-1429 applies to such projects if they are regionally significant.
 - C. The provisions of this Article shall apply in all nonattainment and maintenance areas for transportation-related criteria pollutants for which the area is designated nonattainment or has a maintenance plan.
 - D. The provisions of this Article apply with respect to emissions of the following criteria pollutants: ozone, carbon monoxide, nitrogen dioxide, and particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM₁₀).
 - E. The provisions of this Article apply with respect to emissions of the following precursor pollutants:
 1. Volatile organic compounds and nitrogen oxides in ozone areas (unless the Administrator determines under § 182(f) of the CAA that additional reductions of NO_x would not contribute to attainment).
 2. Nitrogen oxides in nitrogen dioxide areas.
 3. Volatile organic compounds, nitrogen oxides, and PM₁₀ in PM₁₀ areas if either of the following apply:
 - a. During the interim period, the EPA Regional Administrator or the Director of ADEQ has made a finding (including a finding in an applicable implementation plan or a submitted implementation plan revision) that transportation-related precursor emissions within the nonattainment area are a significant contributor to the PM₁₀ nonattainment problem and has so notified ADOT or the MPO where one exists and USDOT.
 - b. During the transitional, control strategy, and maintenance periods, the applicable implementation plan or implementation plan submission establishes a budget for such emissions as part of the reasonable further progress, attainment, or maintenance strategy.

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- F.** Projects subject to this Article for which the NEPA process and a conformity determination have been completed by FHWA or FTA may proceed toward implementation without further conformity determinations if one of the following major steps has occurred within the most recent three-year period: NEPA process completion; formal start of final design; acquisition of a significant portion of the right-of-way; or approval of the plans, specifications, and estimates. All phases of such projects which were considered in the conformity determination are also included, if those phases were for the purpose of funding, final design, right-of-way acquisition, construction, or any combination of these phases.
- G.** A new conformity determination for the project will be required if there is a significant change in project design concept and scope, if a supplemental environmental document for air quality purposes is initiated, or if no major steps to advance the project have occurred within the most recent three-year period.
- E.** In any case, conformity determinations shall be made no less frequently than every three years, or the existing conformity determination will lapse.
- F.** A new TIP shall be found to conform before the TIP is approved by the MPO or accepted by USDOT.
- G.** A TIP amendment requires a new conformity determination for the entire TIP before the amendment is approved by the MPO or accepted by USDOT, unless the amendment merely adds or deletes exempt projects listed in R18-2-1434 and has been made in accordance with the notification procedures under R18-2-1405.
- H.** After an MPO adopts a new or revised transportation plan, TIP conformity shall be redetermined by the MPO and USDOT within six months from the date of adoption of the plan, unless the new or revised plan merely adds or deletes exempt projects listed in R18-2-1434. Otherwise, the existing conformity determination for the TIP shall lapse.
- I.** In any case, TIP conformity determinations shall be made no less frequently than every three years or the existing TIP conformity determination shall lapse.
- J.** FHWA or FTA projects shall be found to conform before they are adopted, accepted, approved, or funded. Conformity shall be redetermined for any FHWA or FTA project if none of the following major steps has occurred within the most recent three-year period:
1. NEPA process completion,
 2. Start of final design,
 3. Acquisition of a significant portion of the right-of-way,
 4. Approval of the plans, specifications, and estimates.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1403. Priority

When assisting or approving any action with air quality-related consequences, FHWA and FTA shall give priority to the implementation of those transportation portions of an applicable implementation plan prepared to attain and maintain the NAAQS. This priority shall be consistent with statutory requirements for allocation of funds among states or other jurisdictions.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1404. Frequency of Conformity Determinations

- A.** Conformity determinations and conformity redeterminations for transportation plans, TIPs, and FHWA or FTA projects shall be made according to the requirements of this Section and the applicable implementation plan.
- B.** Each new transportation plan shall be found to conform before the transportation plan is approved by the MPO or accepted by USDOT.
- C.** All transportation plan revisions shall be found to conform before the transportation plan revisions are approved by the MPO or accepted by USDOT, unless the revision merely adds or deletes exempt projects listed in R18-2-1434 and has been made in accordance with the notification provisions contained in R18-2-1405. The conformity determination shall be based on the transportation plan and the revision taken as a whole.
- D.** An existing conformity determination shall lapse unless conformity of existing transportation plans is redetermined:
1. By May 25, 1995, unless previously redetermined consistent with 40 CFR 51, subpart T.
 2. Within 18 months after EPA approval of an implementation plan revision which either:
 - a. Establishes or revises a transportation-related emissions budget (as required by CAA §§ 175A(a), 182(b)(1), 182(c)(2)(A), 182(c)(2)(B), 187(a)(7), 189(a)(1)(B), and 189(b)(1)(A); and §§ 192(a) and 192(b), for nitrogen dioxide); or
 - b. Adds, deletes, or changes TCMs.
 3. Within 18 months after EPA promulgation of an implementation plan which establishes or revises a transportation-related emissions budget or adds, deletes, or changes TCMs.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1405. Consultation

- A.** Consultation procedures as described in this Section shall be undertaken by all of the following entities and shall include the public and affected local and regional transportation agencies in preparing for and making conformity determinations and in developing applicable implementation plans:
1. An MPO where one exists.
 2. The Arizona Department of Transportation (ADOT).
 3. The United States Department of Transportation (USDOT).
 4. The Arizona Department of Environmental Quality (ADEQ).
 5. The county air pollution control agency established pursuant to A.R.S. Title 49 where one exists.
 6. The United States Environmental Protection Agency (EPA).
- B.** The following elements shall be used to implement the consultation processes under subsection (M), with the exception of subsection (M)(8), and under subsection (N), with the exception of subsections (N)(2) and (N)(3), and shall include all affected agencies and interested members of the public, and may be conducted at separate times or in combination:
1. Providing to the affected agencies and interested members of the public information describing the upcoming decision process,
 2. Distributing or providing access to draft documents,
 3. Providing an opportunity for informal question and answer on the draft document or proposed decision,
 4. Providing an opportunity for formal written comment,
 5. Writing and distributing both a response to comments and the final document or decision.

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- C. An MPO where one exists, ADEQ, a county air pollution control agency where one exists, ADOT, a transit authority where one exists, and any local transportation agency shall undertake a consultation process in accordance with this Section with each other, with the local or regional offices of EPA, FHWA and FTA, with affected regional transportation agencies, and with the public on the development of the following as described in subsections (D) through (G):
1. The implementation plan, including the emission budget and list of TCMs in the applicable implementation plan;
 2. The unified planning work program under 23 CFR § 450.314;
 3. The transportation plan and TIP;
 4. The statewide transportation plan and STIP;
 5. Any revisions to the preceding documents;
 6. All transportation conformity determinations.
- D. ADEQ, or the MPO in a county having a population greater than 250,000 persons, shall be the lead agency responsible for preparing an implementation plan, the associated emission budgets, and the list of TCMs in the plan. The lead agency shall also be responsible for assuring the adequacy of the consultation process. The concurrence of ADEQ on each implementation plan is required before ADEQ adopts the plan and transmits it to EPA for inclusion in the state implementation plan pursuant to A.R.S. § 49-406.
- E. ADOT, or the MPO where one exists, shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the consultation process with respect to the development of the transportation plan and the TIP. The MPO shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the consultation process with respect to the development of the unified planning work program under 23 CFR 450.314.
- F. ADOT shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the consultation process with respect to the development of the statewide transportation plan and the STIP.
- G. ADOT, or the MPO where one exists, shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the consultation process with respect to determinations of transportation conformity, except that the entity authorized to adopt or approve a project shall be the lead agency responsible for project-level conformity determinations for projects outside of the transportation plan or TIP and shall assure the adequacy of the consultation process.
- H. Each lead agency described in subsections (D) through (G) shall:
1. Confer with all other agencies having an interest in the document or decision to be developed;
 2. Provide access to all information needed for meaningful input;
 3. Solicit early and continuing input from those agencies;
 4. Conduct the public consultation process described in subsection (P);
 5. Assure policy-level contact with agencies;
 6. With the exception of notifications pursuant to subsection (M)(8), prior to taking any action required pursuant to subsections (D) through (G), consider the views of each agency and the public and respond to significant comments in a timely, substantive written manner prior to taking any final action and assure that such views and written response are made part of the record of any action.
- I. FHWA and FTA shall be responsible for assuring timely action on final findings of conformity for transportation plans, TIPs, and federally funded projects, including the basis for those findings, after consulting with other agencies as provided in this Section. FHWA and FTA shall also be responsible for providing guidance on conformity and the transportation planning process to agencies in consultation. FHWA and FTA may rely on the consultation process initiated by ADOT or the MPO where one exists and shall not be required to duplicate that process.
- J. EPA shall be responsible for reviewing and approving updated motor vehicle emissions factors and providing guidance on conformity criteria and procedures to agencies in consultation.
- K. Each lead agency subject to a consultation process under this Section, including any federal agency, shall provide or notice the availability of each final document that is the product of the consultation process, together with all supporting information, to each other agency and members of the public that have participated in the consultation process within 15 days of adopting or approving the document or making the determination. An agency may supply a checklist of available supporting information, which other participating agencies or the public may use to request all or part of the supporting information, in lieu of generally distributing all supporting information.
- L. A meeting that is scheduled or required for another purpose may be used for the purposes of consultation if the conformity consultation purpose is identified in the public notice for the meeting.
- M. A consultation process involving an MPO where one exists, ADEQ, a county air pollution control agency where one exists, ADOT, a transit authority where one exists, local and regional transportation agencies, EPA, USDOT, and the public shall be undertaken for the following:
1. Evaluating and choosing each model and associated methods and assumptions to be used in hot-spot analyses and regional emissions analyses including vehicle miles traveled (VMT) forecasting. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.
 2. Determining whether the responsible agency identified in R18-2-1433 has demonstrated that the requirements of R18-2-1416, R18-2-1418 and R18-2-1419 are satisfied without a particular mitigation or control measure. The consultation process pursuant to this subsection shall be initiated by the responsible agency.
 3. Making a determination, as required by R18-2-1429(C)(2), whether the project is included in the regional emissions analysis supporting the currently conforming TIP's conformity determination, even if the project is not included in the TIP for the purposes of MPO project selection or endorsement, and whether the project's design concept and scope have changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility. The consultation process pursuant to this subsection shall be initiated by the MPO. In nonattainment areas where no MPO exists, ADOT shall initiate the consultation process for making a determination, as required by R18-2-1429(C)(2), whether a project that is outside of a TIP is included in the regional emissions analysis, and whether the project's design concept and scope have changed significantly from those which were included in the regional emissions analysis,

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or in a manner which would significantly impact use of the facility.

4. Determining pursuant to subsection (R) which minor arterials and other transportation projects should be considered "regionally significant" for the purposes of regional emissions analysis and which projects should be considered to have a significant change in design concept and scope from the transportation plan or TIP. The consultation process pursuant to this subsection shall be initiated by the MPO. In nonattainment areas where no MPO exists, ADOT shall initiate the consultation process for determining pursuant to subsection (R) which minor arterials and other transportation projects should be considered "regionally significant" for the purposes of regional emissions analysis.
 5. Evaluating whether exempt projects as described in R18-2-1434 and R18-2-1435 should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.
 6. Making a determination, as required by R18-2-1413, whether past obstacles to implementation of TCMs which are behind the schedule established in the applicable implementation plan have been identified and are being overcome, and whether state and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs. This consultation process shall also consider whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or to substitute TCMs or other emission reduction measures. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.
 7. Identifying, as required by R18-2-1431, projects located at sites in PM₁₀ nonattainment areas which have vehicle and roadway emission and dispersion characteristics which are essentially identical to those at sites which have violations verified by monitoring, and therefore require quantitative PM₁₀ hot-spot analysis. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.
 8. Notification of transportation plan or TIP revisions or amendments which merely add or delete exempt projects listed in R18-2-1434. Notice shall be provided by the MPO and need not be provided prior to final action. Notice shall be provided by ADOT for revisions and amendments affecting the state transportation plan and the state TIP. The public involvement process described in subsection (P) is not required for the purposes of this subsection.
 9. Project-level conformity determinations pursuant to R18-2-1416. The consultation process pursuant to this subsection shall be initiated by the recipient of the funds designated under 23 U.S.C. or the Federal Transit Act.
- N. A consultation process involving the MPO, ADEQ, a county air pollution control agency where one exists, ADOT, appropriate political subdivisions, regional transportation agencies, if any, and the public shall be undertaken for the following:
1. Evaluating events which will trigger new conformity determinations in addition to those triggering events established in R18-2-1404 and including any changes in planning assumptions that may trigger a new conformity determination. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.
 2. Consulting on emissions analysis for transportation activities which cross the borders of MPOs or nonattainment areas or air basins. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists. The public involvement process described in subsection (P) is not required for the purposes of this subsection.
 3. Where the metropolitan planning area does not include the entire nonattainment or maintenance area, a consultation process involving the MPO and ADOT for cooperative planning and analysis for purposes of determining conformity of all projects outside the metropolitan area and within the nonattainment or maintenance area. The consultation process pursuant to this subsection shall be initiated by ADOT. The public involvement process described in subsection (P) is not required for the purposes of this subsection.
 4. The design, schedule, and funding of research and data collection efforts and regional transportation model development. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.
 5. Determining that a conforming project approved with mitigation no longer requires mitigation. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.
- O. The following consultation processes involve recipients of funds designated under 23 U.S.C. or the Federal Transit Act:
1. A consultation process involving the MPO, ADEQ, a county air pollution control agency where one exists, ADOT, recipients of funds designated under 23 U.S.C. or the Federal Transit Act and any agency created under state law that sponsors or approves transportation projects shall be undertaken to assure that plans for construction of regionally significant projects which are not FHWA or FTA projects, including projects for which alternative locations, design concept or scope, or the no-build option are still being considered, are disclosed as soon as practicable to ADOT or the MPO where one exists, so as to assure that any significant changes to the design concept or scope of those plans are disclosed as soon as practicable. The political subdivision having authority to adopt or approve a regionally significant transportation project, and any agency that becomes aware of any such project through applications for approval, permitting, funding, or otherwise shall disclose such project to ADOT or the MPO if one exists as soon as practicable. To help assure timely disclosure, the political subdivision having authority to adopt or approve any potential regionally significant transportation project shall disclose to ADOT or the MPO on a schedule prescribed by ADOT or the MPO, whichever is appropriate, each project for which alternatives have been identified through the NEPA process and, in particular, any preferred alternative that may be a regionally significant project. The consultation process shall include assuming the location, design concept, and scope of the project, where the sponsor has not yet decided these features, in sufficient detail to allow ADOT or the MPO to perform a regional emissions analysis. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.

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2. A consultation process involving the MPO, ADEQ, a county air pollution control agency where one exists, ADOT, recipients of funds designated under 23 U.S.C. or the Federal Transit Act, any agency created under state law that sponsors or approves transportation projects, and the public shall be undertaken for the development of procedures as described in R18-2-1429. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.
- P. Public involvement processes shall be conducted according to the requirements of this subsection.
1. ADOT or the MPO, where one exists, when making conformity determinations on transportation plans, programs, and projects shall establish and continuously implement a proactive public involvement process which provides opportunity for public review and comment prior to taking formal action on a conformity determination for all transportation plans and TIPs, that meets the following minimum requirements:
 - a. Includes a process that provides complete information, timely public notice, full public access to key decisions and supports early and continuing involvement of the public in developing plans and TIPs.
 - b. Requires a minimum public comment period of 45 days before the public involvement process is initially adopted or revised.
 - c. Provides timely information about transportation issues and processes to citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, other interested parties and segments of the community affected by transportation plans, programs, and projects, including but not limited to central city and other local jurisdiction concerns.
 - d. Provides reasonable public access to technical and policy information used in the development of plans and TIPs and open public meetings where matters related to the federal-aid highway and transit programs are being considered.
 - e. Requires adequate public notice of public involvement activities and time for public review and comment at key decision points, including, but not limited to, approval of plans and TIPs and approval of changes in plans and TIPs. In nonattainment areas classified as serious and above, the comment period shall be at least 30 days for the plan, TIP, and major amendments. Public notice shall include mailing of notice to a list of all persons who have requested notice of actions covered by this Article.
 - f. Demonstrates explicit consideration and response to public input received during the planning and program development processes.
 - g. Seeks out and considers the needs of those traditionally underserved by existing transportation systems, including but not limited to low-income and minority households.
 - h. When significant written and oral comments are received on a draft transportation plan or TIP, including the financial plan, as a result of the public involvement process or the consultation process required by this Section, a summary, analysis, and report on the disposition of comments shall be made part of the final plan and TIP.
 - i. If the final transportation plan or TIP differs significantly from the one which was made available for public comment by the MPO and it raises new material issues which interested parties could not reasonably have foreseen from the public involvement efforts, an additional opportunity for public comment on the revised plan or TIP shall be made available.
 - j. ADOT or the MPO where one exists shall specifically address in writing all public comments that known plans for a regionally significant transportation project which is not receiving FHWA or FTA funding or approval have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP.
 - k. Public involvement processes shall be periodically reviewed by ADOT or the MPO in terms of their effectiveness in assuring that the process provides full and open access to all.
 - l. These procedures will be reviewed by the FHWA and the FTA during certification reviews for TMAs, and as otherwise necessary for all MPOs, to assure that full and open access is provided to MPO decisionmaking processes.
 - m. Metropolitan public involvement processes shall be coordinated with statewide public involvement processes wherever possible to enhance public consideration of the issues, plans, and programs and to reduce redundancies and costs.
2. Local and regional transportation agencies when making conformity determinations on regionally significant transportation projects shall establish and implement a public involvement process which meets, at a minimum, the following requirements:
 - a. Provides to the affected agencies and interested members of the public information describing the upcoming decision process.
 - b. Distributes or provides access to draft documents and all information needed for meaningful input.
 - c. Solicits early and continuing input from interested agencies and the public.
 - d. Provides an opportunity for informal question and answer on the draft document or proposed decision.
 - e. Provides an opportunity for formal written comment.
 - f. Provides for writing and distributing both a response to comments and the final document or decision. The response to comments shall consider the views of each agency and the public. The response to comments shall be made in a timely, substantive written manner prior to taking any final action and shall be made part of the record of any action.
- Q. Any conflict among state agencies or between state agencies and an MPO shall be escalated to the Governor if the conflict cannot be resolved by the directors of the involved agencies. In the first instance, such entities shall make every effort to resolve any differences, including personal meetings between the directors of such entities or their policy-level representatives, to the extent possible. Within 14 calendar days after ADOT or the MPO has notified ADEQ of its decision, ADEQ may appeal a proposed determination of conformity, or other policy decision under this Article, to the Governor. ADEQ must provide notice of any appeal under this subsection to ADOT or the MPO. If ADEQ does not appeal to the Governor

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within 14 days, ADOT or the MPO may proceed with the final determination or decision. If ADEQ appeals to the Governor, the final conformity determination or policy decision shall have the concurrence of the Governor. The Governor may delegate to another official or agency within the state the role of hearing any appeal under this subsection and of deciding whether to concur in the determination or decision but may not delegate these functions to the director or staff of ADEQ, to any local air quality agency, to ADOT, to any state transportation commission or board, to an MPO, or to any agency that has responsibility for any of these functions.

R. The following procedures shall govern the consultation process regarding regionally significant transportation projects as defined in R18-2-1401(37):

1. By September 1, 1995, ADOT or the MPO where one exists shall develop and make available, for each nonattainment or maintenance area, consistent with A.R.S. § 49-408(A), the following:
 - a. A map of the highway or transit facilities in the nonattainment or maintenance area that serve regional transportation needs.
 - b. Guidance on which undertakings to implement or modify a highway facility are not transportation projects as defined in this Article, because they are not of sufficient length to address environmental matters on a broad scope.
 - c. Guidance on which types of transportation projects are normally included in the regional transportation model.
2. The map and guidance described in subsection (R)(1) shall be produced only after consultation with ADEQ, a county air pollution control agency where one exists, ADOT, a transit authority where one exists, local and regional transportation agencies, and the public. The map developed pursuant to subsection (R)(1) shall be updated prior to the commencement of the next TIP or STIP development cycle, unless no changes have occurred. The guidance developed pursuant to subsection (R)(3) shall be revised as necessary to reflect changes in the regional transportation model.
3. ADOT or the MPO where one exists shall develop and initiate the consultation process described in subsection (H) for a proposed list of transportation projects to be considered regionally significant. The consultation process shall include the MPO where one exists, ADEQ, a county air pollution control agency where one exists, ADOT, a transit authority where one exists, local and regional transportation agencies, EPA, USDOT, and the public. The list shall include information supporting the proposed classification.
4. In determining whether a facility serves regional transportation needs, ADOT or the MPO where one exists shall consider at a minimum whether the facility:
 - a. Would be classified as a principal arterial based on average daily traffic or other factors, if not for limitations that the USDOT places on the percentage of streets that can be so classified.
 - b. For all other roadways, whether the facility:
 - i. Serves regional mobility needs, as opposed to local access.
 - ii. Carries regional traffic from one principal arterial to another.

iii. Is a modification that expands a facility such that it would serve regional transportation needs.

5. For the purposes of this Article, a street with a lower classification than a collector street, as specified in the most recent federal classification map for the region, does not serve regional transportation needs.
6. None of the following attributes, by itself, shall require a transportation project to be included in the modeling of a metropolitan area's transportation network:
 - a. The connection of a facility that does not serve regional transportation needs to a facility that does serve regional transportation needs.
 - b. The addition or modification of a lane other than a through lane.
- S.** An agency having a role or responsibility under this Section may delegate that role or responsibility to another entity pursuant to the applicable state law but shall notify all other parties to the consultation process of this fact when the delegation occurs and shall also provide to the other parties the name, address, and telephone number of one or more contact persons representing the entity that is accepting the delegated role or responsibility.
- T.** The provisions of this Section apply only to TIP and STIP planning cycles beginning with the cycles next following the effective date of this Section. The provisions of 40 CFR 51, Subpart T, continue to apply to all TIP and STIP planning cycles in progress at the time of the effective date of this Section. The provisions of this Section apply to consultation on projects and TIP amendments as of the effective date of this Section.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1406. Content of Transportation Plans

- A.** For transportation plans adopted after January 1, 1995, in serious, severe, or extreme ozone nonattainment areas and in serious carbon monoxide nonattainment areas, the following shall apply:
1. The transportation plan shall specifically describe the transportation system envisioned for certain future years which shall be called horizon years.
 2. The agency or organization developing the transportation plan, after consultation pursuant to R18-2-1405, may choose any years to be horizon years, subject to the following restrictions:
 - a. Horizon years may be no more than 10 years apart.
 - b. The first horizon year may be no more than 10 years from the base year used to validate the transportation demand planning model.
 - c. If the attainment year is in the time span of the transportation plan, the attainment year shall be a horizon year.
 - d. The last horizon year shall be the last year of the transportation plan's forecast period.
 3. For these horizon years all of the following apply:
 - a. The transportation plan shall quantify and document the demographic and employment factors influencing expected transportation demand, including land-use forecasts, in accordance with implementation plan provisions and R18-2-1405.
 - b. The highway and transit system shall be described in terms of the regionally significant additions or modifications to the existing transportation network

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which the transportation plan envisions to be operational in the horizon years. Additions and modifications to the highway network shall be sufficiently identified to indicate intersections with existing regionally significant facilities and to determine their effect on route options between transportation analysis zones. Each added or modified highway segment shall also be sufficiently identified in terms of its design concept and design scope to allow modeling of travel times under various traffic volumes, consistent with the modeling methods for area-wide transportation analysis in use by the MPO. Transit facilities, equipment, and services envisioned for the future shall be identified in terms of design concept, design scope, and operating policies sufficiently to allow modeling of their transit ridership. The description of additions and modifications to the transportation network shall also be sufficiently specific to show that there is a reasonable relationship between expected land use and the envisioned transportation system.

- c. Other future transportation policies, requirements, services, and activities, including intermodal activities, shall be described.
- B. Ozone or CO nonattainment areas which are reclassified from moderate to serious shall meet the requirements of subsection (A) within two years from the date of reclassification.
- C. Transportation plans for other areas shall meet the requirements of subsection (A) at least to the extent it has been the previous practice of the MPO to prepare plans which meet those requirements. Otherwise, transportation plans shall describe the transportation system envisioned for the future specifically enough to allow determination of conformity according to the criteria and procedures of R18-2-1409 through R18-2-1427.
- D. The requirements of this Section supplement other requirements of applicable law or regulation governing the format or content of transportation plans.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1407. Relationship of Transportation Plan and TIP Conformity with the NEPA Process

The degree of specificity required in the transportation plan and the specific travel network assumed for air quality modeling do not preclude the consideration of alternatives in the NEPA process or other project development studies. Should the NEPA process result in a project with design concept and scope significantly different from that in the transportation plan or TIP, the project shall meet the criteria in R18-2-1409 through R18-2-1427 for projects not from a TIP before NEPA process completion.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1408. Fiscal Constraints for Transportation Plans and TIPs

Transportation plans and TIPs shall demonstrate that they are fiscally constrained consistent with USDOT's metropolitan planning regulations at 23 CFR 450 in order to be found in conformity.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1409. Criteria and Procedures for Determining Conformity of Transportation Plans, Programs, and Projects: General**eral**

- A. In order to be found to conform, each transportation plan, program, and FHWA or FTA project shall satisfy the applicable criteria and procedures in R18-2-1410 through R18-2-1427 as listed in Table 1 of this Section and shall comply with all applicable conformity requirements of implementation plans and of court orders for the area which pertain specifically to conformity determination requirements. The criteria for making conformity determinations differ based on the action under review (transportation plans, TIPs, and FHWA or FTA projects), the time period in which the conformity determination is made, and the relevant pollutant.
- B. The following table indicates the criteria and procedures in R18-2-1410 through R18-2-1427 which apply for each action in each time period:

**Table 1. Conformity Criteria
DURING ALL PERIODS**

Action	Criteria
Transportation Plan	R18-2-1410, R18-2-1411, R18-2-1412, R18-2-1413(B)
TIP	R18-2-1410, R18-2-1411, R18-2-1412, R18-2-1413(C)
Project (from a conforming plan and TIP)	R18-2-1410, R18-2-1411, R18-2-1412, R18-2-1414, R18-2-1415, R18-2-1416, R18-2-1417
Project (not from a conforming plan and TIP)	R18-2-1410, R18-2-1411, R18-2-1412, R18-2-1413(D), R18-2-1414, R18-2-1416, R18-2-1417

PHASE II OF THE INTERIM PERIOD

Action	Criteria
Transportation Plan	R18-2-1422, R18-2-1425
TIP	R18-2-1423, R18-2-1426
Project (from a conforming plan and TIP)	R18-2-1421
Project (not from a conforming plan and TIP)	R18-2-1421, R18-2-1424, R18-2-1427

TRANSITIONAL PERIOD

Action	Criteria
Transportation Plan	R18-2-1418, R18-2-1422, R18-2-1425
TIP	R18-2-1419, R18-2-1423, R18-2-1426
Project (from a conforming plan and TIP)	R18-2-1421
Project (not from a conforming plan and TIP)	R18-2-1420, R18-2-1421, R18-2-1424, R18-2-1427

CONTROL STRATEGY AND MAINTENANCE PERIODS

Action	Criteria
Transportation Plan	R18-2-1418
TIP	R18-2-1419
Project (from a conforming plan and TIP)	No additional criteria
Project (not from a conforming plan and TIP)	R18-2-1420

R18-2-1410. The conformity determination must be based on the latest planning assumptions.

R18-2-1411. The conformity determination must be based on the latest emission estimation model available.

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- R18-2-1412. The MPO must make the conformity determination according to the consultation procedures of this rule and the implementation plan revision required by 40 CFR 51.396.
- R18-2-1413. The transportation plan, TIP, or FHWA or FTA project which is not from a conforming plan and TIP must provide for the timely implementation of TCMs from the applicable implementation plan.
- R18-2-1414. There must be a currently conforming transportation plan and currently conforming TIP at the time of project approval.
- R18-2-1415. The project must come from a conforming transportation plan and program.
- R18-2-1416. The FHWA or FTA project must not cause or contribute to any new localized CO or PM₁₀ violations or increase the frequency or severity of any existing CO or PM₁₀ violations in CO and PM₁₀ nonattainment and maintenance areas.
- R18-2-1417. The FHWA or FTA project must comply with PM₁₀ control measures in the applicable implementation plan.
- R18-2-1418. The transportation plan must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan or implementation plan submission.
- R18-2-1419. The TIP must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan or implementation plan submission.
- R18-2-1420. The project which is not from a conforming transportation plan and conforming TIP must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan or implementation plan submission.
- R18-2-1421. The FHWA or FTA project must eliminate or reduce the severity and number of localized CO violations in the area substantially affected by the project (in CO nonattainment areas).
- R18-2-1422. The transportation plan must contribute to emissions reductions in ozone and CO nonattainment areas.
- R18-2-1423. The TIP must contribute to emissions reductions in ozone and CO nonattainment areas.
- R18-2-1424. The project which is not from a conforming transportation plan and TIP must contribute to emissions reductions in ozone and CO nonattainment areas.
- R18-2-1425. The transportation plan must contribute to emission reductions or must not increase emissions in PM₁₀ and NO₂ nonattainment areas.
- R18-2-1426. The TIP must contribute to emission reductions or must not increase emissions in PM₁₀ and NO₂ nonattainment areas.
- R18-2-1427. The project which is not from a conforming transportation plan and TIP must contribute to emission reductions or must not increase emissions in PM₁₀ and NO₂ nonattainment areas.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1410. Criteria and Procedures: Latest Planning Assumptions

- A. During all periods the conformity determination, with respect to all other applicable criteria in R18-2-1411 through R18-2-1427, shall be based upon the most recent complete planning assumptions in force at the time of the conformity determination. The conformity determination shall satisfy the requirements of subsections (B) through (F).
- B. Assumptions, including vehicle miles traveled per capita or per household, trip generation per household, vehicle occupancy, household size, vehicle fleet mix, vehicle ownership, and the geographic distribution of population growth shall be

derived from the estimates of current and future population, employment, travel, and congestion most recently used by ADOT or the MPO where one exists. Population estimates shall be consistent with the estimates developed by the Arizona Department of Economic Security pursuant to A.R.S. § 41-1954(A). The conformity determination shall also be based on the latest assumptions about current and future background concentrations.

- C. The conformity determination for each transportation plan and TIP shall discuss how transit operating policies (including fares and service levels) and assumed transit ridership have changed since the previous conformity determination.
- D. The conformity determination shall include reasonable assumptions about transit service and increases in transit fares and road and bridge tolls over time.
- E. The conformity determination shall use the latest existing information regarding the effectiveness of the TCMs which have already been implemented.
- F. Key assumptions shall be specified and included in the draft documents and supporting materials used for the interagency and public consultation required by R18-2-1405.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1411. Criteria and Procedures: Latest Emissions Model

- A. During all periods the conformity determination shall be based on the latest emission estimation model available. This criterion is satisfied if the most current version of the motor vehicle emissions model specified by EPA for use in the preparation or revision of implementation plans in that state or area is used for the conformity analysis. Where EMFAC is the motor vehicle emissions model used in preparing or revising the applicable implementation plan, new versions shall be approved by EPA before they are used in the conformity analysis.
- B. Conformity analyses for which the emissions analysis was begun during the grace period or before the Federal Register notice of availability of the latest emission model, or during any grace period announced in such notice, may continue to use the previous version of the model for transportation plans and TIPs. The previous model may also be used for projects if the analysis was begun during the grace period or before the Federal Register notice of availability, provided no more than three years have passed since the draft environmental document was issued.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1412. Criteria and Procedures: Consultation

All conformity determinations shall be made according to the consultation procedures in R18-2-1405. This criterion applies during all periods. Until the implementation plan revision required by 40 CFR 51.396 is approved by EPA, the conformity determination shall be made according to the procedures in R18-2-1405. Once the implementation plan revision has been approved by EPA, this criterion is satisfied if the conformity determination is made consistent with the implementation plan's consultation requirements.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1413. Criteria and Procedures: Timely Implementation of TCMs

- A. During all periods the transportation plan, TIP, or FHWA, or FTA project which is not from a conforming plan and TIP

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shall provide for the timely implementation of TCMs from the applicable implementation plan.

- B.** For transportation plans, this criterion is satisfied if the following two conditions are met:
1. The transportation plan, in describing the envisioned future transportation system, provides for the timely completion or implementation of all TCMs in the applicable implementation plan which are eligible for funding under 23 U.S.C. or the Federal Transit Act, consistent with schedules included in the applicable implementation plan.
 2. Nothing in the transportation plan interferes with the implementation of any TCM in the applicable implementation plan.
- C.** For TIPs, this criterion is satisfied if all of the following conditions are met:
1. An examination of the specific steps and funding source needed to fully implement each TCM indicates that TCMs which are eligible for funding under 23 U.S.C. or the Federal Transit Act are on or ahead of the schedule established in the applicable implementation plan, or, if such TCMs are behind the schedule established in the applicable implementation plan, the MPO and USDOT have determined that past obstacles to implementation of the TCMs have been identified and have been or are being overcome, and that all state and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding of TCMs over other projects within their control, including projects in locations outside the nonattainment or maintenance area. Maximum priority to approval or funding of TCMs includes demonstrations with respect to funding acceleration, commitment of staff or other agency resources, diligent efforts to seek approvals, and similar actions.
 2. If federal funding intended for TCMs in the applicable implementation plan has previously been programmed but is reallocated to projects in the TIP other than TCMs, (or if there are no other TCMs in the TIP, to projects in the TIP other than projects which are eligible for federal funding under ISTEA's Congestion Mitigation and Air Quality Improvement Program), and the TCMs are behind the schedule in the implementation plan, the TIP cannot be found to conform.
 3. Nothing in the TIP may interfere with the implementation of any TCM in the applicable implementation plan.
- D.** For FHWA or FTA projects which are not from a conforming transportation plan and TIP, this criterion is satisfied if the project does not interfere with the implementation of any TCM in the applicable implementation plan.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1414. Criteria and Procedures: Currently Conforming Transportation Plan and TIP

During all periods there shall be a currently conforming transportation plan and currently conforming TIP at the time of project approval. This criterion is satisfied if the current transportation plan and TIP have been found to conform to the applicable implementation plan by the MPO and USDOT according to the procedures of this subpart. Only one conforming transportation plan or TIP may exist in an area at any time; conformity determinations of a previous transportation plan or TIP expire once the current plan or TIP is found to conform by USDOT. The conformity determination on a

transportation plan or TIP will also lapse if conformity is not determined according to the frequency requirements of R18-2-1404.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1415. Criteria and Procedures: Projects from a Plan and TIP

- A.** During all periods the project shall come from a conforming transportation plan and program. Otherwise, the project shall satisfy all criteria in Table 1 of R18-2-1409 for a project not from a conforming transportation plan and TIP. A project is considered to be from a conforming transportation plan if it meets the requirements of subsection (B) and from a conforming program if it meets the requirements of subsection (C).
- B.** A project is considered to be from a conforming transportation plan if one of the following conditions applies:
1. For projects which are required to be identified in the transportation plan in order to satisfy R18-2-1406, the project is specifically included in the conforming transportation plan and the project's design concept and scope have not changed significantly from those which were described in the transportation plan, or in a manner which would significantly impact use of the facility.
 2. For projects which are not required to be specifically identified in the transportation plan, the project is identified in the conforming transportation plan, or is consistent with the policies and purpose of the transportation plan and will not interfere with other projects specifically included in the transportation plan.
- C.** A project is considered to be from a conforming program if all of the following conditions are met:
1. The project is included in the conforming TIP and the design concept and scope of the project were adequate at the time of the TIP conformity determination to determine its contribution to the TIP's regional emissions and have not changed significantly from those which were described in the TIP, or in a manner which would significantly impact use of the facility.
 2. If the TIP describes a project design concept and scope which includes project-level emissions mitigation or control measures, enforceable written commitments to implement such measures shall be obtained from the project sponsor or operator as required by R18-2-1433 in order for the project to be considered from a conforming program. Any change in these mitigation or control measures that would significantly reduce their effectiveness constitutes a change in the design concept and scope of the project.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1416. Criteria and Procedures: Localized CO and PM₁₀ Violations (Hot Spots)

- A.** During all periods any FHWA or FTA project shall not cause or contribute to any new localized CO or PM₁₀ violations or increase the frequency or severity of any existing CO or PM₁₀ violations in CO and PM₁₀ nonattainment and maintenance areas. This criterion is satisfied if it is demonstrated that no new local violations will be created and the severity or number of existing violations will not be increased as a result of the project.
- B.** The demonstration shall be performed according to the requirements of R18-2-1405 and R18-2-1431.

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- C. For projects which are not of the type identified by R18-2-1431(A) or R18-2-1431(D), this criterion may be satisfied if consideration of local factors clearly demonstrates that no local violations presently exist and no new local violations will be created as a result of the project. Otherwise, in CO nonattainment and maintenance areas, a quantitative demonstration shall be performed according to the requirements of R18-2-1431(B).

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1417. Criteria and Procedures: Compliance with PM₁₀ Control Measures

During all periods any FHWA or FTA project shall comply with PM₁₀ control measures in the applicable implementation plan. This condition is satisfied if control measures (for the purpose of limiting PM₁₀ emissions from the construction activities or normal use and operation associated with the project) contained in the applicable implementation plan are included in the final plans, specifications, and estimates for the project.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1418. Criteria and Procedures: Motor Vehicle Emissions Budget (Transportation Plan)

- A. The transportation plan shall be consistent with the motor vehicle emissions budget in the applicable implementation plan or implementation plan submission. This criterion applies during the transitional period and the control strategy and maintenance periods, except as provided in R18-2-1436. This criterion may be satisfied if the requirements in subsections (B) and (C) are met:
- B. A regional emissions analysis shall be performed as follows:
1. The regional analysis shall estimate emissions of any of the following pollutants and pollutant precursors for which the area is in nonattainment or maintenance and for which the applicable implementation plan or implementation plan submission establishes an emissions budget:
 - a. VOC as an ozone precursor.
 - b. NO_x as an ozone precursor, unless the Administrator determines that additional reductions of NO_x would not contribute to attainment.
 - c. CO.
 - d. PM₁₀ (and its precursors VOC or NO_x if the applicable implementation plan or implementation plan submission identifies transportation-related precursor emissions within the nonattainment area as a significant contributor to the PM₁₀ nonattainment problem or establishes a budget for such emissions).
 - e. NO_x (in NO₂ nonattainment or maintenance areas).
 2. The regional emissions analysis shall estimate emissions from the entire transportation system, including all regionally significant transportation projects contained in the transportation plan and all other regionally significant highway and transit projects expected in the nonattainment or maintenance area in the time-frame of the transportation plan.
 3. The emissions analysis methodology shall meet the requirements of R18-2-1430.
 4. For areas with a transportation plan that meets the content requirements of R18-2-1406(A), the emissions analysis shall be performed for each horizon year. Emissions in milestone years which are between the horizon years may be determined by interpolation.

- a. The last year of the plan's forecast period.
- b. The attainment year, if the attainment year is in the time span of the transportation plan.
- c. Any other years in the time span of the transportation plan such that there is not a gap of more than 10 years between analysis years. Emissions in milestone years which are between these analysis years may be determined by interpolation.

- C. The regional emissions analysis shall demonstrate that for each of the applicable pollutants or pollutant precursors in subsection (B)(1) the emissions are less than or equal to the motor vehicle emissions budget as established in the applicable implementation plan or implementation plan submission as follows:

1. If the applicable implementation plan or implementation plan submission establishes emissions budgets for milestone years, emissions in each milestone year are less than or equal to the motor vehicle emissions budget established for that year.
2. For nonattainment areas, emissions in the attainment year are less than or equal to the motor vehicle emissions budget established in the applicable implementation plan or implementation plan submission for that year.
3. For nonattainment areas, emissions in each analysis or horizon year after the attainment year are less than or equal to the motor vehicle emissions budget established by the applicable implementation plan or implementation plan submission for the attainment year. If emissions budgets are established for years after the attainment year, emissions in each analysis year or horizon year shall be less than or equal to the motor vehicle emissions budget for that year, if any, or the motor vehicle emissions budget for the most recent budget year prior to the analysis year or horizon year.
4. For maintenance areas, emissions in each analysis or horizon year are less than or equal to the motor vehicle emissions budget established by the maintenance plan for that year, if any, or the emissions budget for the most recent budget year prior to the analysis or horizon year.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1419. Criteria and Procedures: Motor Vehicle Emissions Budget (TIP)

- A. The TIP shall be consistent with the motor vehicle emissions budgets in the applicable implementation plan or implementation plan submission. This criterion applies during the transitional period and the control strategy and maintenance periods, except as provided in R18-2-1436. This criterion may be satisfied if the requirements in subsections (B) and (C) are met.
- B. For areas with a conforming transportation plan that fully meets the content requirements of R18-2-1406(A), this criterion may be satisfied without additional regional emissions analysis if:
1. Each program year of the TIP is consistent with the federal funding which may be reasonably expected for that year, and required state or local matching funds and funds for state or local funding-only projects are consistent with the revenue sources expected over the same period; and
 2. The TIP is consistent with the conforming transportation plan such that the regional emissions analysis already

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performed for the plan applies to the TIP also. This requires a demonstration that:

- a. The TIP contains all projects which shall be started in the TIP's time-frame in order to achieve the highway and transit system envisioned by the transportation plan in each of its horizon years;
 - b. All TIP projects which are regionally significant are part of the specific highway or transit system envisioned in the transportation plan's horizon years; and
 - c. The design concept and scope of each regionally significant transportation project in the TIP is not significantly different from that described in the transportation plan.
3. If the requirements in subsections (B)(1) and (B)(2) are not met, then either:
 - a. The TIP may be modified to meet those requirements; or
 - b. The transportation plan shall be revised so that the requirements in subsections (B)(1) and (B)(2) are met. Once the revised plan has been found to conform, this criterion is met for the TIP with no additional analysis except a demonstration that the TIP meets the requirements of subsections (B)(1) and (B)(2).
- C. For areas with a transportation plan that does not meet the content requirements of R18-2-1406(A), a regional emissions analysis shall meet all of the following requirements:
1. The regional emissions analysis shall estimate emissions from the entire transportation system, including all projects contained in the proposed TIP, the transportation plan, and all other regionally significant highway and transit projects expected in the nonattainment or maintenance area in the time-frame of the transportation plan.
 2. The analysis methodology shall meet the requirements of R18-2-1430(C).
 3. The regional emissions analysis shall satisfy the requirements of R18-2-1418(B)(1), R18-2-1418(B)(5), and R18-2-1418(C).

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1420. Criteria and Procedures: Motor Vehicle Emissions Budget (Project Not from a Plan and TIP)

- A. The project which is not from a conforming transportation plan and a conforming TIP shall be consistent with the motor vehicle emissions budget in the applicable implementation plan or implementation plan submission. This criterion applies during the transitional period and the control strategy and maintenance periods, except as provided in R18-2-1436. It is satisfied if emissions from the implementation of the project, when considered with the emissions from the projects in the conforming transportation plan and TIP and all other regionally significant transportation projects expected in the area, do not exceed the motor vehicle emissions budget in the applicable implementation plan or implementation plan submission.
- B. For areas with a conforming transportation plan that meets the content requirements of R18-2-1406(A):
 1. This criterion may be satisfied without additional regional analysis if the project is included in the conforming transportation plan, even if it is not specifically included in the latest conforming TIP. This requires a demonstration that all of the following apply:
 - a. Allocating funds to the project will not delay the implementation of projects in the transportation plan

or TIP which are necessary to achieve the highway and transit system envisioned by the transportation plan in each of its horizon years.

- b. The project is not regionally significant or is part of the specific highway or transit system envisioned in the transportation plan's horizon years.
 - c. The design concept and scope of the project is not significantly different from that described in the transportation plan.
2. If the requirements in subsection (B)(1) are not met, a regional emissions analysis shall be performed as follows:
 - a. The analysis methodology shall meet the requirements of R18-2-1430.
 - b. The analysis shall estimate emissions from the transportation system, including the proposed project and all other regionally significant transportation projects expected in the nonattainment or maintenance area in the time-frame of the transportation plan. The analysis shall include emissions from all previously approved projects which were not from a transportation plan and TIP.
 - c. The regional emissions analysis shall meet the requirements of R18-2-1418(B)(1), R18-2-1418(B)(4) and R18-2-1418(C).
- C. For areas with a transportation plan that does not meet the content requirements of R18-2-1406(A), a regional emissions analysis shall be performed for the project together with the conforming TIP and all other regionally significant transportation projects expected in the nonattainment or maintenance area. This criterion may be satisfied if all of the following apply:
1. The analysis methodology meets the requirements of R18-2-1430(C).
 2. The analysis estimates emissions from the transportation system, including the proposed project, and all other regionally significant transportation projects expected in the nonattainment or maintenance area in the time-frame of the transportation plan.
 3. The regional emissions analysis satisfies the requirements of R18-2-1418(B)(1), R18-2-1418(B)(5), and R18-2-1418(C).

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1421. Criteria and Procedures: Localized CO Violations (Hot Spots) in the Interim and Transitional Periods

- A. Each FHWA or FTA project shall eliminate or reduce the severity and number of localized CO violations in the area substantially affected by the project (in CO nonattainment areas). This criterion applies during the interim and transitional periods only. This criterion is satisfied with respect to existing localized CO violations if it is demonstrated that existing localized CO violations will be eliminated or reduced in severity and number as a result of the project.
- B. The demonstration shall be performed according to the requirements of R18-2-1405 and R18-2-1431.
- C. For projects which are not of the type identified by R18-2-1431(A), this criterion may be satisfied if consideration of local factors clearly demonstrates that existing CO violations will be eliminated or reduced in severity and number. Otherwise, a quantitative demonstration shall be performed according to the requirements of R18-2-1431(B).

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Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1422. Criteria and Procedures: Interim and Transitional Period Reductions in Ozone and CO Areas (Transportation Plan)

- A. A transportation plan shall contribute to emissions reductions in ozone and CO nonattainment areas. This criterion applies during the interim and transitional periods only, except as otherwise provided in R18-2-1436. It applies to the net effect on emissions of all projects contained in a new or revised transportation plan. This criterion may be satisfied if a regional emissions analysis is performed as described in subsections (B) through (F).
- B. Determine the analysis years for which emissions are to be estimated. Analysis years shall be no more than 10 years apart. The first analysis year shall be no later than the first milestone year (1995 in CO nonattainment areas and 1996 in ozone nonattainment areas). The second analysis year shall be either the attainment year for the area or, if the attainment year is the same as the first analysis year or earlier, the second analysis year shall be at least five years beyond the first analysis year. The last year of the transportation plan's forecast period shall also be an analysis year.
- C. Define the Baseline scenario for each of the analysis years to be the future transportation system that would result from current programs, composed of all of the following, except that projects listed in R18-2-1434 and R18-2-1435 need not be explicitly considered:
 1. All in-place regionally significant highway and transit facilities, services and activities.
 2. All ongoing travel demand management or transportation system management activities.
 3. Completion of all regionally significant transportation projects, regardless of funding source, which are currently under construction or are undergoing right-of-way acquisition (except for hardship acquisition and protective buying); come from the first three years of the previously conforming transportation plan or TIP; or have completed the NEPA process. For the first conformity determination on the transportation plan after November 24, 1993, a project may not be included in the Baseline scenario and shall be included in the Action scenario as described in subsection (D), if one of the following major steps has not occurred within the most recent three-year period:
 - a. NEPA process completion;
 - b. Start of final design;
 - c. Acquisition of a significant portion of the right-of-way;
 - d. Approval of the plans, specifications and estimates.
- D. Define the Action scenario for each of the analysis years as the transportation system that will result in that year from the implementation of the proposed transportation plan, TIPs adopted under it, and other expected regionally significant transportation projects in the nonattainment area. The Action scenario will include all of the following except that projects listed in R18-2-1434 and R18-2-1435 need not be explicitly considered:
 1. All facilities, services, and activities in the Baseline scenario;
 2. Completion of all TCMs and regionally significant transportation projects, including facilities, services, and activities, specifically identified in the proposed transportation plan which will be operational or in effect in the analysis year, except that regulatory TCMs may not be

assumed to begin at a future time unless the regulation is already adopted by the enforcing jurisdiction or the TCM is identified in the applicable implementation plan;

3. All travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any federal funding or approval, which have been fully adopted or funded by the enforcing jurisdiction or sponsoring agency since the last conformity determination on the transportation plan;
4. The incremental effects of any travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any federal funding or approval, which were adopted or funded prior to the date of the last conformity determination on the transportation plan, but which have been modified since then to be more stringent or effective;
5. Completion of all expected regionally significant highway and transit projects which are not from a conforming transportation plan and TIP;
6. Completion of all expected regionally significant non-FHWA/FTA highway and transit projects that have clear funding sources and commitments leading toward their implementation and completion by the analysis year.
- E. Estimate the emissions predicted to result in each analysis year from travel on the transportation systems defined by the Baseline and Action scenarios and determine the difference in regional VOC and NO_x emissions (unless the Administrator determines that additional reductions of NO_x would not contribute to attainment) between the two scenarios for ozone nonattainment areas and the difference in CO emissions between the two scenarios for CO nonattainment areas. The analysis shall be performed for each of the analysis years according to the requirements of R18-2-1430. Emissions in milestone years which are between the analysis years may be determined by interpolation.
- F. This criterion is met if the regional VOC and NO_x emissions (for ozone nonattainment areas) and CO emissions (for CO nonattainment areas) predicted in the Action scenario are less than the emissions predicted from the Baseline scenario in each analysis year, and if this can reasonably be expected to be true in the periods between the first milestone year and the analysis years. The regional analysis shall show that the Action scenario contributes to a reduction in emissions from the 1990 emissions by any nonzero amount.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1423. Criteria and Procedures: Interim Period Reductions in Ozone and CO Areas (TIP)

- A. A TIP shall contribute to emissions reductions in ozone and CO nonattainment areas. This criterion applies during the interim and transitional periods only, except as otherwise provided in R18-2-1436. It applies to the net effect on emissions of all projects contained in a new or revised TIP. This criterion may be satisfied if a regional emissions analysis is performed as described in subsections (B) through (F).
- B. Determine the analysis years for which emissions are to be estimated. The first analysis year shall be no later than the first milestone year (1995 in CO nonattainment areas and 1996 in ozone nonattainment areas). The analysis years shall be no more than 10 years apart. The second analysis year shall be either the attainment year for the area or, if the attainment year

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is the same as the first analysis year or earlier, the second analysis year shall be at least five years beyond the first analysis year. The last year of the transportation plan's forecast period shall also be an analysis year.

- C. Define the Baseline scenario as the future transportation system that would result from current programs, composed of all of the following, except that projects listed in R18-2-1434 and R18-2-1435 need not be explicitly considered:
1. All in-place regionally significant highway and transit facilities, services, and activities.
 2. All ongoing travel demand management or transportation system management activities.
 3. Completion of all regionally significant transportation projects, regardless of funding source, which are currently under construction or are undergoing right-of-way acquisition, except for hardship acquisition and protective buying; come from the first three years of the previously conforming TIP; or have completed the NEPA process. For the first conformity determination on the TIP after November 24, 1993, a project may not be included in the Baseline scenario if one of the following major steps has not occurred within the most recent three-year period:
 - a. NEPA process completion.
 - b. Start of final design.
 - c. Acquisition of a significant portion of the right-of-way.
 - d. Approval of the plans, specifications, and estimates. Such a project shall be included in the Action scenario, as described in subsection (D).
- D. Define the Action scenario as the future transportation system that will result from the implementation of the proposed TIP and other expected regionally significant transportation projects in the nonattainment area in the time-frame of the transportation plan. It will include all of the following, except that projects listed in R18-2-1434 and R18-2-1435 need not be explicitly considered:
1. All facilities, services, and activities in the Baseline scenario;
 2. Completion of all TCMs and regionally significant transportation projects, including facilities, services, and activities, included in the proposed TIP, except that regulatory TCMs may not be assumed to begin at a future time unless the regulation is already adopted by the enforcing jurisdiction or the TCM is contained in the applicable implementation plan;
 3. All travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any federal funding or approval, which have been fully adopted or funded by the enforcing jurisdiction or sponsoring agency since the last conformity determination on the TIP;
 4. The incremental effects of any travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any federal funding or approval, which were adopted or funded prior to the date of the last conformity determination on the TIP, but which have been modified since then to be more stringent or effective;
 5. Completion of all expected regionally significant highway and transit projects which are not from a conforming transportation plan and TIP;

6. Completion of all expected regionally significant non-FHWA/FTA highway and transit projects that have clear funding sources and commitments leading toward their implementation and completion by the analysis year.

- E. Estimate the emissions predicted to result in each analysis year from travel on the transportation systems defined by the Baseline and Action scenarios, and determine the difference in regional VOC and NO_x emissions (unless the Administrator determines that additional reductions of NO_x would not contribute to attainment) between the two scenarios for ozone nonattainment areas and the difference in CO emissions between the two scenarios for CO nonattainment areas. The analysis shall be performed for each of the analysis years according to the requirements of R18-2-1430. Emissions in milestone years which are between analysis years may be determined by interpolation.
- F. This criterion is met if the regional VOC and NO_x emissions in ozone nonattainment areas and CO emissions in CO nonattainment areas predicted in the Action scenario are less than the emissions predicted from the Baseline scenario in each analysis year, and if this can reasonably be expected to be true in the period between the analysis years. The regional analysis shall show that the Action scenario contributes to a reduction in emissions from the 1990 emissions by any nonzero amount.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1424. Criteria and Procedures: Interim Period Reductions for Ozone and CO Areas (Project Not from a Plan and TIP)

A transportation project shall contribute to emissions reductions in ozone and CO nonattainment areas. This criterion applies during the interim and transitional periods only, except as otherwise provided in R18-2-1436. This criterion is satisfied if a regional emissions analysis is performed which meets the requirements of R18-2-1422 and which includes the transportation plan and project in the Action scenario. If the project which is not from a conforming transportation plan and TIP is a modification of a project currently in the plan or TIP, the Baseline scenario shall include the project with its original design concept and scope, and the Action scenario shall include the project with its new design concept and scope.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1425. Criteria and Procedures: Interim Period Reductions for PM₁₀ and NO₂ Areas (Transportation Plan)

- A. A transportation plan shall contribute to emission reductions or shall not increase emissions in PM₁₀ and NO₂ nonattainment areas. This criterion applies only during the interim and transitional periods. It applies to the net effect on emissions of all projects contained in a new or revised transportation plan. This criterion may be satisfied if the requirements of either subsections (B) or (C) are met.
- B. Demonstrate that implementation of the plan and all other regionally significant transportation projects expected in the nonattainment area will contribute to reductions in emissions of PM₁₀ in a PM₁₀ nonattainment area, and of each transportation-related precursor of PM₁₀ in PM₁₀ nonattainment areas if the EPA Regional Administrator or the Director of ADEQ has made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM₁₀ nonattainment problem and has so notified the MPO and USDOT, and of NO_x in an NO₂ nonattainment area, by performing a regional emissions analysis as follows:

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1. Determine the analysis years for which emissions are to be estimated. Analysis years shall be no more than 10 years apart. The first analysis year shall be no later than 1996 (for NO₂ areas) or four years and six months following the date of designation (for PM₁₀ areas). The second analysis year shall be either the attainment year for the area or, if the attainment year is the same as the first analysis year or earlier, the second analysis year shall be at least five years beyond the first analysis year. The last year of the transportation plan's forecast period shall also be an analysis year.
 2. Define for each of the analysis years the Baseline scenario, as defined in R18-2-1422(C), and the Action scenario, as defined in R18-2-1422(D).
 3. Estimate the emissions predicted to result in each analysis year from travel on the transportation systems defined by the Baseline and Action scenarios and determine the difference between the two scenarios in regional PM₁₀ emissions in a PM₁₀ nonattainment area (and transportation-related precursors of PM₁₀ in PM₁₀ nonattainment areas if the EPA Regional Administrator or the Director of ADEQ has made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM₁₀ nonattainment problem and has so notified ADOT, the MPO where one exists and USDOT) and in NO_x emissions in an NO₂ nonattainment area. The analysis shall be performed for each of the analysis years according to the requirements of R18-2-1430. The analysis shall address the periods between the analysis years and the periods between 1990, the first milestone year if any, and the first of the analysis years. Emissions in milestone years which are between the analysis years may be determined by interpolation.
 4. Demonstrate that the regional PM₁₀ emissions and PM₁₀ precursor emissions, where applicable, (for PM₁₀ nonattainment areas) and NO_x emissions (for NO₂ nonattainment areas) predicted in the Action scenario are less than the emissions predicted from the Baseline scenario in each analysis year, and that this can reasonably be expected to be true in the periods between the first milestone year (if any) and the analysis years.
- C. Demonstrate that when the projects in the transportation plan and all other regionally significant transportation projects expected in the nonattainment area are implemented, the transportation system's total highway and transit emissions of PM₁₀ in a PM₁₀ nonattainment area (and transportation-related precursors of PM₁₀ in PM₁₀ nonattainment areas if the EPA Regional Administrator or the Director of ADEQ has made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM₁₀ nonattainment problem and has so notified the MPO and USDOT) and of NO_x in an NO₂ nonattainment area will not be greater than baseline levels, by performing a regional emissions analysis as follows:
1. Determine the baseline regional emissions of PM₁₀ and PM₁₀ precursors, where applicable (for PM₁₀ nonattainment areas) and NO_x (for NO₂ nonattainment areas) from highway and transit sources. Baseline emissions are those estimated to have occurred during calendar year 1990, unless the control strategy implementation plan for that area includes a baseline emissions inventory for a different year.
 2. Estimate the emissions of the applicable pollutant or pollutants from the entire transportation system, including projects in the transportation plan and TIP and all other regionally significant transportation projects in the nonattainment area, according to the requirements of R18-2-1430. Emissions shall be estimated for analysis years which are no more than 10 years apart. The first analysis year shall be no later than 1996 (for NO₂ areas) or four years and six months following the date of designation (for PM₁₀ areas). The second analysis year shall be either the attainment year for the area or, if the attainment year is the same as the first analysis year or earlier, the second analysis year shall be at least five years beyond the first analysis year. The last year of the transportation plan's forecast period shall also be an analysis year.
 3. Demonstrate that for each analysis year the emissions estimated in subsection (C)(2) are no greater than baseline emissions of PM₁₀ and PM₁₀ precursors, where applicable (for PM₁₀ nonattainment areas) or NO_x (for NO₂ nonattainment areas) from highway and transit sources.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1426. Criteria and Procedures: Interim Period Reductions for PM₁₀ and NO₂ Areas (TIP)

- A. A TIP shall contribute to emission reductions or shall not increase emissions in PM₁₀ and NO₂ nonattainment areas. This criterion applies only during the interim and transitional periods. It applies to the net effect on emissions of all projects contained in a new or revised TIP. This criterion may be satisfied if the requirements of either subsection (B) or subsection (C) are met.
- B. Demonstrate that implementation of the plan and TIP and all other regionally significant transportation projects expected in the nonattainment area will contribute to reductions in emissions of PM₁₀ in a PM₁₀ nonattainment area (and transportation-related precursors of PM₁₀ in PM₁₀ nonattainment areas if the EPA Regional Administrator or the Director of ADEQ has made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM₁₀ nonattainment problem and has so notified the MPO and USDOT) and of NO_x in an NO₂ nonattainment area, by performing a regional emissions analysis as follows:
 1. Determine the analysis years for which emissions are to be estimated, according to the requirements of R18-2-1425(B)(1).
 2. Define for each of the analysis years the Baseline scenario, as defined in R18-2-1423(C), and the Action scenario, as defined in R18-2-1423(D).
 3. Estimate the emissions predicted to result in each analysis year from travel on the transportation systems defined by the Baseline and Action scenarios as required by R18-2-1425(B)(3), and make the demonstration required by R18-2-1425(B)(4).
- C. Demonstrate that when the projects in the transportation plan and TIP and all other regionally significant transportation projects expected in the area are implemented, the transportation system's total highway and transit emissions of PM₁₀ in a PM₁₀ nonattainment area (and transportation-related precursors of PM₁₀ in PM₁₀ nonattainment areas if the EPA Regional Administrator or the Director of ADEQ has made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM₁₀ nonattainment problem and has so notified the MPO and USDOT) and of NO_x in an NO₂ nonattainment area will not be greater than

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baseline levels, by performing a regional emissions analysis as required by R18-2-1425(C).

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1427. Criteria and Procedures: Interim Period Reductions for PM₁₀ and NO₂ Areas (Project Not from a Plan and TIP)

A transportation project which is not from a conforming transportation plan and TIP shall contribute to emission reductions or shall not increase emissions in PM₁₀ and NO₂ nonattainment areas. This criterion applies during the interim and transitional periods only. This criterion is met if a regional emissions analysis is performed which meets the requirements of R18-2-1425 and which includes the transportation plan and project in the Action scenario. If the project which is not from a conforming transportation plan and TIP is a modification of a project currently in the transportation plan or TIP, and R18-2-1425(B) is used to demonstrate satisfaction of this criterion, the Baseline scenario shall include the project with its original design concept and scope, and the Action scenario shall include the project with its new design concept and scope.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1428. Transition from the Interim Period to the Control Strategy Period

A. For areas which submit a control strategy implementation plan revision after November 24, 1993:

1. The transportation plan and TIP shall be demonstrated to conform according to transitional period criteria and procedures by one year from the date the CAA requires submission of such control strategy implementation plan revision. Otherwise, the conformity status of the transportation plan and TIP will lapse, and no new project-level conformity determinations may be made.
 - a. The conformity of new transportation plans and TIPs may be demonstrated according to Phase II interim period criteria and procedures for 90 days following submission of the control strategy implementation plan revision, provided the conformity of such transportation plans and TIPs is redetermined according to transitional period criteria and procedures as required in subsection (A)(1) and such transportation plans and TIPs are consistent with the motor vehicle emissions budget in the applicable implementation plan or any previously submitted control strategy implementation plan revision.
 - b. Beginning 90 days after submission of the control strategy implementation plan revision, new transportation plans and TIPs shall demonstrate conformity according to transitional period criteria and procedures.
2. If EPA disapproves the submitted control strategy implementation plan revision and so notifies the state, the MPO where one exists, and USDOT, which initiates the sanction process under CAA §§ 179 or 110(m), the conformity status of the transportation plan and TIP shall lapse 120 days after EPA's disapproval, and no new project-level conformity determinations may be made. No new transportation plan, TIP, or project may be found to conform until another control strategy implementation plan revision is submitted and conformity is demonstrated according to transitional period criteria and procedures.

3. Notwithstanding subsection (A)(2), if EPA disapproves the submitted control strategy implementation plan revision but determines that the control strategy contained in the revision would have been considered approvable with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by CAA § 110(a)(2)(A), the provisions of subsection (A)(1) shall apply for 12 months following the date of disapproval. The conformity status of the transportation plan and TIP shall lapse 12 months following the date of disapproval unless another control strategy implementation plan revision is submitted to EPA and found to be complete.

B. For areas which have not submitted a control strategy implementation plan revision:

1. For areas whose CAA deadline for submission of the control strategy implementation plan revision is after November 24, 1993, and EPA has notified the state, the MPO where one exists, and USDOT of the state's failure to submit a control strategy implementation plan revision, which initiates the sanction process under CAA §§ 179 or 110(m) all of the following shall apply:
 - a. No new transportation plans or TIPs may be found to conform beginning 120 days after the CAA deadline.
 - b. The conformity status of the transportation plan and TIP shall lapse one year after the CAA deadline, and no new project-level conformity determinations may be made.
2. For areas whose CAA deadline for submission of the control strategy implementation plan was before November 24, 1993, and EPA has made a finding of failure to submit a control strategy implementation plan revision, which initiates the sanction process under CAA §§ 179 or 110(m), all of the following apply unless the failure has been remedied and acknowledged by a letter from the EPA Regional Administrator:
 - a. No new transportation plans or TIPs may be found to conform beginning March 24, 1994.
 - b. The conformity status of the transportation plan and TIP shall lapse November 25, 1994, and no new project-level conformity determinations may be made.

C. For areas which have not submitted a complete control strategy implementation plan revision:

1. For areas where EPA notifies the state, the MPO where one exists, and USDOT after November 24, 1993, that the control strategy implementation plan revision submitted by the state is incomplete, which initiates the sanction process under CAA §§ 179 or 110(m), all of the following apply unless the failure has been remedied and acknowledged by a letter from the EPA Regional Administrator:
 - a. No new transportation plans or TIPs may be found to conform beginning 120 days after EPA's incompleteness finding.
 - b. The conformity status of the transportation plan and TIP shall lapse one year after the CAA deadline, and no new project-level conformity determinations may be made.
 - c. Notwithstanding subsections (C)(1)(a) and (b), if EPA notes in its incompleteness finding that the submittal would have been considered complete with respect to requirements for emission reductions if all

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committed measures had been submitted in enforceable form as required by CAA § 110(a)(2)(A), the provisions of subsection (A)(1) shall apply for a period of 12 months following the date of the incompleteness determination. The conformity status of the transportation plan and TIP shall lapse 12 months following the date of the incompleteness determination unless another control strategy implementation plan revision is submitted to EPA and found to be complete.

2. For areas where EPA has determined before November 24, 1993, that the control strategy implementation plan revision is incomplete, which initiates the sanction process under CAA §§ 179 or 110(m), all of the following apply unless the failure has been remedied and acknowledged by a letter from the EPA Regional Administrator:
 - a. No new transportation plans or TIPs may be found to conform beginning March 24, 1994.
 - b. The conformity status of the transportation plan and TIP shall lapse November 25, 1994, and no new project-level conformity determinations may be made.
 - c. Notwithstanding subsections (C)(2)(a) and (b), if EPA notes in its incompleteness finding that the submittal would have been considered complete with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by CAA § 110(a)(2)(A), the provisions of subsection (D)(1) shall apply for a period of 12 months following the date of the incompleteness determination. The conformity status of the transportation plan and TIP shall lapse 12 months following the date of the incompleteness determination unless another control strategy implementation plan revision is submitted to EPA and found to be complete.
- D. For areas which submitted a control strategy implementation plan before November 24, 1993:
 1. The transportation plan and TIP shall have been demonstrated to conform according to transitional period criteria and procedures by November 25, 1994. Otherwise, their conformity status will lapse, and no new project-level conformity determinations may be made. From and after February 22, 1994, new transportation plans and TIPs shall demonstrate conformity according to transitional period criteria and procedures.
 2. If EPA has disapproved the most recent control strategy implementation plan submission, the conformity status of the transportation plan and TIP shall lapse March 24, 1994, and no new project-level conformity determinations may be made. No new transportation plans, TIPs, or projects may be found to conform until another control strategy implementation plan revision is submitted and conformity is demonstrated according to transitional period criteria and procedures.
 3. Notwithstanding subsection (D)(2), if EPA has disapproved the submitted control strategy implementation plan revision but determines that the control strategy contained in the revision would have been considered approvable with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by CAA § 110(a)(2)(A), the provisions of subsection (D)(1) shall apply until November 25, 1994. The conformity status of the transportation plan and TIP shall lapse November 25, 1994, unless another control strategy implementation plan revision is submitted to EPA and found to be complete.
- E. If the currently conforming transportation plan and TIP have not been demonstrated to conform according to transitional period criteria and procedures, the requirements of subsections (E)(1) and (2) shall be met.
 1. Before a FHWA or FTA project which is regionally significant and increases single-occupant vehicle capacity (a new general purpose highway on a new location or adding general purpose lanes) may be found to conform, ADEQ shall be consulted on how the emissions which the existing transportation plan and TIP's conformity determination estimates for the Action scenario, as required by R18-2-1422 through R18-2-1427, compare to the motor vehicle emissions budget in the implementation plan submission or the projected motor vehicle emissions budget in the implementation plan under development.
 2. In the event of unresolved disputes on such project-level conformity determinations, ADEQ may escalate the issue to the governor consistent with the procedure in R18-2-1405, which applies for ADEQ comments on a conformity determination.
- F. Redetermination of conformity of the existing transportation plan and TIP according to the transitional period criteria and procedures:
 1. The redetermination of the conformity of the existing transportation plan and TIP according to transitional period criteria and procedures (as required by subsections (A)(1) and (D)(1)) does not require new emissions analysis and does not have to satisfy the requirements of R18-2-1410 and R18-2-1411 if all of the following are met:
 - a. The control strategy implementation plan revision submitted to EPA uses the MPO's modeling of the existing transportation plan and TIP for its projections of motor vehicle emissions.
 - b. The control strategy implementation plan does not include any transportation projects which are not included in the transportation plan and TIP.
 2. A redetermination of conformity as described in subsection (F)(1) is not considered a conformity determination for the purposes of R18-2-1404(E) or R18-2-1404(I) regarding the maximum intervals between conformity determinations. Conformity shall be determined according to all the applicable criteria and procedures of R18-2-1409 within three years of the last determination which did not rely on subsection (F)(1).
- G. Ozone nonattainment areas:
 1. The requirements of subsection (B)(1) apply if a serious or above ozone nonattainment area has not submitted the implementation plan revisions which CAA §§ 182(c)(2)(A) and 182(c)(2)(B) require to be submitted to EPA November 15, 1994, even if the area has submitted the implementation plan revision which CAA § 182(b)(1) requires to be submitted to EPA November 15, 1993.
 2. The requirements of subsection (B)(1) apply if a moderate ozone nonattainment area which is using photochemical dispersion modeling to demonstrate the "specific annual reductions as necessary to attain" required by CAA § 182(b)(1), and which has permission from EPA to delay submission of such demonstration until November 15, 1994, does not submit such demonstration by that date. The requirements of subsection (B)(1) apply in this

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case even if the area has submitted the 15% emission reduction demonstration required by CAA § 182(b)(1).

3. The requirements of subsection (A) apply when the implementation plan revisions required by CAA §§ 182(c)(2)(A) and 182(c)(2)(B) are submitted.
- H. Nonattainment areas which are not required to demonstrate reasonable further progress and attainment. If an area listed in R18-2-1436 submits a control strategy implementation plan revision, the requirements of subsections (A) and (E) apply. Because the areas listed in R18-2-1436 are not required to demonstrate reasonable further progress and attainment and therefore have no CAA deadline, the provisions of subsection (B) do not apply to these areas at any time.
- I. If a control strategy implementation plan revision is not submitted to EPA but a maintenance plan required by CAA § 175A is submitted to EPA, the requirements of subsection (A) or (D) apply, with the maintenance plan submission treated as a "control strategy implementation plan revision" for the purposes of those requirements.
- J. This Section does not become effective until June 1, 1996.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1429. Requirements for Adoption or Approval of Projects by Recipients of Funds Designated under 23 U.S.C. or the Federal Transit Act

- A. This Section shall not apply to any of the following:
 1. A transportation project that is a street with a lower classification than a collector street, as specified in the most recent federal classification map for the region.
 2. An exempt project listed in R18-2-1434.
- B. No recipient of federal funds designated under 23 U.S.C. or the Federal Transit Act shall adopt or approve a transportation project, regardless of funding source, without first determining whether the transportation project is regionally significant. In making this determination, the recipient shall not take any action that is inconsistent with the procedures developed by ADOT or the MPO pursuant to R18-2-1405(R).
- C. No recipient of federal funds designated under 23 U.S.C. or the Federal Transit Act shall adopt or approve a regionally significant highway or transit project, regardless of funding source, unless both of the following apply:
 1. There is a currently conforming transportation plan and TIP consistent with the requirements of R18-2-1414.
 2. The requirements of one of the following are met:
 - a. The project comes from a conforming plan and program consistent with the requirements of R18-2-1415.
 - b. The project is included in the regional emissions analysis supporting the currently conforming TIP's conformity determination, even if the project is not strictly "included" in the TIP for the purposes of MPO project selection or endorsement, and the project's design concept and scope have not changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility.
 - c. During the control strategy or maintenance period, the project is consistent with the motor vehicle emissions budget in the applicable implementation plan consistent with the requirements of R18-2-1420.
 - d. During Phase II of the interim period, the project contributes to emissions reductions or does not increase emissions consistent with the requirements

of R18-2-1424 (in ozone and CO nonattainment areas) or R18-2-1427 (in PM₁₀ and NO₂ nonattainment areas).

- e. During the transitional period, the project satisfies the requirements of both subsections (1)(2)(c) and (d).
- D. Pursuant to the consultation process established in R18-2-1405(O), ADOT or the MPO where one exists shall, not later than September 1, 1995, develop and make available the procedures to be used by any recipient of federal funds designated under 23 U.S.C. or the Federal Transit Act to comply with subsections (B) and (C). These procedures may be revised periodically, as needed, using the same consultation process. At a minimum, such procedures shall provide for the following:
 1. The minimum information required by the recipient to make determinations in compliance with subsections (B) and (C);
 2. The time-frames for action to be taken by the recipient;
 3. For transportation projects determined to be regionally significant, the documentation necessary to demonstrate that the requirements of 23 CFR 450.324(e), (g), and (h) have been met.
- E. After a transportation project is adopted or approved, no subsequent act defined as adoption or approval under this Section or under procedures developed to implement this Section shall be subject to subsection (B) or (C), unless project's design concept or scope have changed significantly since the project was first adopted or approved.
- F. A regionally significant transportation project found to be in conformity, either as a result of a TIP or a separate project analysis, shall retain such conformity finding, irrespective of subsequent analysis, unless the project fails to meet the conditions of its approval or undergoes a significant change in scope. In any event, a conformity determination shall lapse after three years in the absence of a redetermination; except that a project undergoing NEPA approval shall retain its conformity determination, unless none of the following major steps has occurred within the most recent three-year period:
 1. NEPA process completion;
 2. Start of final design;
 3. Acquisition of a significant portion of the right-of-way;
 4. Approval of the plans, specifications, and estimates.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1430. Procedures for Determining Regional Transportation-related Emissions

- A. The following are general requirements for determining regional transportation-related emissions:
 1. The regional emissions analysis for the transportation plan, TIP, or project not from a conforming plan and TIP shall include all regionally significant transportation projects expected in the nonattainment or maintenance area, including FHWA or FTA projects proposed in the transportation plan and TIP and all other regionally significant transportation projects which are disclosed to ADOT or the MPO as required by R18-2-1405. Projects which are not regionally significant are not required to be explicitly modeled, but VMT from such projects shall be estimated in accordance with reasonable professional practice. The effects of TCMs and similar projects that are not regionally significant may also be estimated in accordance with reasonable professional practice.

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2. The emissions analysis may not include for emissions reduction credit any TCMs which have been delayed beyond the scheduled date until such time as implementation has been assured. If the TCM has been partially implemented and it can be demonstrated that it is providing quantifiable emission reduction benefits, the emissions analysis may include that emissions reduction credit.
 3. Emissions reduction credit from projects, programs, or activities which require a regulation in order to be implemented may not be included in the emissions analysis unless the regulation is already adopted by the enforcing jurisdiction. Adopted regulations are required for demand management strategies for reducing emissions which are not specifically identified in the applicable implementation plan, and for control programs which are external to the transportation system itself, such as tailpipe or evaporative emission standards, limits on gasoline volatility, inspection and maintenance programs, and oxygenated or reformulated gasoline or diesel fuel. A regulatory program may also be considered to be adopted if an opt-in to a federally enforced program has been approved by EPA, if EPA has promulgated the program (if the control program is a federal responsibility, such as tailpipe standards), or if the CAA requires the program without need for individual state action and without any discretionary authority for EPA to set its stringency, delay its effective date, or not implement the program.
 4. Notwithstanding subsection (A)(3), during the transitional period, control measures or programs which are committed to in an implementation plan submission as described in R18-2-1418 through R18-2-1420, but which has not received final EPA action in the form of a finding of incompleteness, approval, or disapproval, may be assumed for emission reduction credit for the purpose of demonstrating that the requirements of R18-2-1418 through R18-2-1420 are satisfied.
 5. A regional emissions analysis for the purpose of satisfying the requirements of R18-2-1422 through R18-2-1424 may account for the programs in subsection (A)(4), but the same assumptions about these programs shall be used for both the Baseline and Action scenarios.
 6. Ambient temperatures shall be consistent with those used to establish the emissions budget in the applicable implementation plan. Factors other than temperatures, for example the fraction of travel in a hot stabilized engine mode, may be modified after interagency consultation according to R18-2-1405 if the newer estimates incorporate additional or more geographically specific information or represent a logically estimated trend in such factors beyond the period considered in the applicable implementation plan.
- B.** For serious, severe, and extreme ozone nonattainment areas and serious carbon monoxide areas after January 1, 1995, estimates of regional transportation-related emissions used to support conformity determinations shall be made according to procedures which meet the requirements in subsections (B)(1) through (5).
1. A network-based transportation demand model or models relating travel demand and transportation system performance to land-use patterns, population demographics, employment, transportation infrastructure, and transportation policies shall be used to estimate travel within the metropolitan planning area of the nonattainment area. Such a model shall possess all of the following attributes:
 - a. The modeling methods and the functional relationships used in the model shall in all respects be in accordance with acceptable professional practice and reasonable for purposes of emission estimation.
 - b. The network-based model shall be validated against ground counts for a base year that is not more than 10 years prior to the date of the conformity determination. Land use, population, and other inputs shall be based on the best available information and appropriate to the validation base year.
 - c. For peak-hour or peak-period traffic assignments, a capacity sensitive assignment methodology shall be used.
 - d. Zone-to-zone travel times used to distribute trips between origin and destination pairs shall be in reasonable agreement with the travel times which result from the process of assignment of trips to network links. Where use of transit currently is anticipated to be a significant factor in satisfying transportation demand, these times should also be used for modeling mode splits.
 - e. Free-flow speeds on network links shall be based on empirical observations.
 - f. Peak and off-peak travel demand and travel times shall be provided.
 - g. Trip distribution and mode choice shall be sensitive to pricing, where pricing is a significant factor, if the network model is capable of such determinations and the necessary information is available.
 - h. The model shall utilize and document a logical correspondence between the assumed scenario of land development and use and the future transportation system for which emissions are being estimated. Reliance on a formal land-use model is not specifically required but is encouraged.
 - i. A dependence of trip generation on the accessibility of destinations via the transportation system, including pricing, is strongly encouraged but not specifically required, unless the network model is capable of such determinations and the necessary information is available.
 - j. A dependence of regional economic and population growth on the accessibility of destinations via the transportation system is strongly encouraged but not specifically required, unless the network model is capable of such determinations and the necessary information is available.
 - k. Consideration of emissions increases from construction-related congestion is not specifically required.
 2. Highway Performance Monitoring System (HPMS) estimates of vehicle miles traveled shall be considered the primary measure of vehicle miles traveled within the portion of the nonattainment or maintenance area and for the functional classes of roadways included in HPMS, for urban areas which are sampled on a separate urban area basis. A factor or factors shall be developed to reconcile and calibrate the network-based model estimates of vehicle miles traveled in the base year of its validation to the HPMS estimates for the same period, and these factors shall be applied to model estimates of future vehicle miles traveled. In this factoring process, consideration will be given to differences in the facility coverage of the

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HPMS and the modeled network description. Departure from these procedures is permitted with the concurrence of USDOT and EPA.

3. Reasonable methods shall be used to estimate nonattainment area vehicle travel on off-network roadways within the urban transportation planning area and on roadways outside the urban transportation planning area.
 4. Reasonable methods in accordance with good practice shall be used to estimate traffic speeds and delays in a manner that is sensitive to the estimated volume of travel on each roadway segment represented in the network model.
- C. For areas which are not serious, severe, or extreme ozone nonattainment areas or serious carbon monoxide areas, or before January 1, 1995:
1. Procedures which satisfy some or all of the requirements of subsection (A) shall be used in all areas not subject to subsection (A) in which those procedures have been the previous practice of the MPO.
 2. Regional emissions may be estimated by methods which do not explicitly or comprehensively account for the influence of land use and transportation infrastructure on vehicle miles traveled and traffic speeds and congestion. Such methods shall account for VMT growth by extrapolating historical VMT or projecting future VMT by considering growth in population and historical growth trends for vehicle miles travelled per person. These methods shall also consider future economic activity, transit alternatives, and transportation system policies.
- D. This subsection applies to any nonattainment or maintenance area or any portion thereof which does not have a metropolitan transportation plan or TIP and whose projects are not part of the emissions analysis of any MPO's metropolitan transportation plan or TIP (because the nonattainment or maintenance area or portion thereof does not contain a metropolitan planning area or portion of a metropolitan planning area and is not part of a Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area which is or contains a nonattainment or maintenance area).
1. Conformity demonstrations for projects in these areas may satisfy the requirements of R18-2-1420, R18-2-1424, and R18-2-1427 with one regional emissions analysis which includes all the regionally significant transportation projects in the nonattainment or maintenance area or portion thereof.
 2. The requirements of R18-2-1420 shall be satisfied according to the procedures in R18-2-1420(C), with references to the "transportation plan" taken to mean the statewide transportation plan.
 3. The requirements of R18-2-1424 and R18-2-1427 which reference "transportation plan" or "TIP" shall be taken to mean those projects in the statewide transportation plan or statewide TIP which are in the nonattainment or maintenance area or portion thereof.
 4. The requirement of R18-2-1429(A)(2) shall be satisfied if all of the following are met:
 - a. The project is included in the regional emissions analysis which includes all regionally significant highway and transportation projects in the nonattainment or maintenance area or portion thereof and supports the most recent conformity determination made according to the requirements of R18-2-1420, R18-2-1424 or R18-2-1427 (as modified by subsec-

tions (D)(2) and (D)(3)), as appropriate for the time period and pollutant.

- b. The project's design concept and scope have not changed significantly from those which were included in the regional emissions analysis or in a manner which would significantly impact use of the facility.
- E. For areas in which the implementation plan does not identify construction-related fugitive PM₁₀ as a contributor to the nonattainment problem, the fugitive PM₁₀ emissions associated with highway and transit project construction are not required to be considered in the regional emissions analysis.
- F. In PM₁₀ nonattainment and maintenance areas with implementation plans which identify construction-related fugitive PM₁₀ as a contributor to the nonattainment problem, the regional PM₁₀ emissions analysis shall consider construction-related fugitive PM₁₀ and shall account for the level of construction activity, the fugitive PM₁₀ control measures in the applicable implementation plan, and the dust-producing capacity of the proposed activities.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1431. Procedures for Determining Localized CO and PM₁₀ Concentrations (Hot-spot Analysis)

- A. In the following cases, CO hot-spot analyses shall be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR 51 Appendix W ("Guideline on Air Quality Models (Revised)" (1988), supplement (A) (1987) and supplement (B) (1993), EPA publication no. 450/2-78-027R, incorporated by reference and on file with the Department and with the Secretary of State), unless, after the interagency consultation process described in R18-2-1405 and with the approval of the EPA Regional Administrator, these models, data bases, and other requirements are determined to be inappropriate:
1. For projects in or affecting locations, areas, or categories of sites which are identified in the applicable implementation plan as sites of current violation or possible current violation;
 2. For those intersections at Level-of-Service D, E, or F, or those that will change to Level-of-Service D, E, or F because of increased traffic volumes related to a new project in the vicinity;
 3. For any project involving or affecting any of the intersections which the applicable implementation plan identifies as the top three intersections in the nonattainment or maintenance area based on the highest traffic volumes;
 4. For any project involving or affecting any of the intersections which the applicable implementation plan identifies as the top three intersections in the nonattainment or maintenance area based on the worst Level-of-Service;
 5. Where use of the "Guideline" models is practicable and reasonable given the potential for violations.
- B. In cases other than those described in subsection (A), other quantitative methods may be used if they represent reasonable and common professional practice.
- C. CO hot-spot analyses shall include the entire project and may be performed only after the major design features which will significantly impact CO concentrations have been identified. The background concentration may be estimated using the ratio of future to current traffic multiplied by the ratio of future to current emission factors.

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- D. PM₁₀ hot-spot analysis shall be performed for projects which are located at sites at which violations have been verified by monitoring, and at sites which have essentially identical vehicle and roadway emission and dispersion characteristics (including sites near one at which a violation has been monitored). The projects which require PM₁₀ hot-spot analysis shall be determined through the interagency consultation process required in R18-2-1405. In PM₁₀ nonattainment and maintenance areas, new or expanded bus and rail terminals and transfer points which increase the number of diesel vehicles congregating at a single location require hot-spot analysis. USDOT may choose to make a categorical conformity determination on bus and rail terminals or transfer points based on appropriate modeling of various terminal sizes, configurations, and activity levels. The requirements of this subsection for quantitative hot-spot analysis will not take effect until EPA releases modeling guidance on this subject and announces in the Federal Register that these requirements are in effect.
- E. Hot-spot analysis assumptions shall be consistent with those in the regional emissions analysis for those inputs which are required for both analyses.
- F. PM₁₀ or CO mitigation or control measures shall be assumed in the hot-spot analysis only where there are enforceable written commitments from the project sponsor or operator to the implementation of such measures, as required by R18-2-1433(A).
- G. CO and PM₁₀ hot-spot analyses are not required to consider construction-related activities which cause temporary increases in emissions. Each site which is affected by construction-related activities shall be considered separately, using established "Guideline" methods. Temporary increases are defined as those which occur only during the construction phase and last five years or less at any individual site.
3. Emissions will be lower than needed to provide for continued maintenance.
- B. If an applicable implementation plan submitted before November 24, 1993, demonstrates that emissions from all sources will be less than the total emissions that would be consistent with attainment and quantifies that "safety margin," the state may submit a SIP revision which assigns some or all of this safety margin to highway and transit mobile sources for the purposes of conformity. Such a SIP revision, once it is endorsed by the governor and has been subject to a public hearing, may be used for the purposes of transportation conformity before it is approved by EPA.
- C. A conformity demonstration shall not trade emissions among budgets which the applicable implementation plan or implementation plan submission allocates for different pollutants or precursors, or among budgets allocated to motor vehicles and other sources, without a SIP revision or a SIP which establishes mechanisms for such trades.
- D. If the applicable implementation plan or implementation plan submission estimates future emissions by geographic subarea of the nonattainment area, ADOT or the MPO where one exists and USDOT are not required to consider this to establish subarea budgets, unless the applicable implementation plan or implementation plan submission explicitly indicates an intent to create such subarea budgets for the purposes of conformity.
- E. If a nonattainment area includes more than one MPO, the SIP may establish motor vehicle emissions budgets for each MPO. Otherwise, the MPOs shall collectively make a conformity determination for the entire nonattainment area.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1433. Enforceability of Design Concept and Scope and Project-level Mitigation and Control Measures**R18-2-1432. Using the Motor Vehicle Emissions Budget in the Applicable Implementation Plan or Implementation Plan Submission**

- A. In interpreting an applicable implementation plan or implementation plan submission with respect to its motor vehicle emissions budget, ADOT or the MPO where one exists and USDOT may not infer additions to the budget that are not explicitly intended by the implementation plan or submission. Unless the implementation plan explicitly quantifies the amount by which motor vehicle emissions could be higher while still allowing a demonstration of compliance with the milestone, attainment, or maintenance requirement and explicitly states an intent that some or all of this additional amount should be available to ADOT or the MPO and USDOT in the emission budget for conformity purposes, ADOT or the MPO may not interpret the budget to be higher than the implementation plan's estimate of future emissions. This applies in particular to applicable implementation plans or submissions which demonstrate that after implementation of control measures in the implementation plan any of the following apply:
1. Emissions from all sources will be less than the total emissions that would be consistent with a required demonstration of an emissions reduction milestone.
 2. Emissions from all sources will result in achieving attainment prior to the attainment deadline or ambient concentrations in the attainment deadline year will be lower than needed to demonstrate attainment.
- A. Prior to determining that a transportation project is in conformity, ADOT, the MPO where one exists, other recipient of funds designated under 23 U.S.C. or the Federal Transit Act, FHWA, or FTA shall obtain from the project sponsor or operator enforceable written commitments to implement in the construction of the project and operation of the resulting facility or service any project-level mitigation or control measures which are identified as conditions for NEPA process completion with respect to local PM₁₀ or CO impacts. Before making conformity determinations enforceable written commitments shall also be obtained for project-level mitigation or control measures which are conditions for making conformity determinations for a transportation plan or TIP and included in the project design concept and scope which is used in the regional emissions analysis required by R18-2-1418 through R18-2-1420 and R18-2-1422 through R18-2-1424 or used in the project-level hot-spot analysis required by R18-2-1416 and R18-2-1421.
- B. Project sponsors voluntarily committing to mitigation measures to facilitate positive conformity determinations shall provide enforceable written commitments and comply with the obligations of such commitments.
- C. Enforceable written commitments to mitigation or control measures shall be obtained prior to a positive conformity determination, and that project sponsors shall comply with such commitments.
- D. During the control strategy and maintenance periods, if ADOT, the MPO, or project sponsor believes the mitigation or control measure is no longer necessary for conformity, the project sponsor or operator may be relieved of its obligation to

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implement the mitigation or control measure if it can demonstrate that the requirements of R18-2-1416, R18-2-1418, and R18-2-1419 are satisfied without the mitigation or control measure and so notifies the agencies involved in the inter-agency consultation process required under R18-2-1405. ADOT or the MPO where one exists and USDOT shall confirm that the transportation plan and TIP still satisfy the requirements of R18-2-1418 and R18-2-1419 and that the project still satisfies the requirements of R18-2-1416, and therefore that the conformity determinations for the transportation plan, TIP, and project are still valid.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1434. Exempt Projects

Notwithstanding the other requirements of this subpart, highway and transit projects of the types listed in Table 2 are exempt from the requirement that a conformity determination be made. Such projects may proceed toward implementation even in the absence of a conforming transportation plan and TIP. A particular action of the type listed in Table 2 is not exempt if ADOT or the MPO where one exists in consultation with other agencies pursuant to R18-2-1405, the EPA, and the FHWA (in the case of a highway project) or the FTA (in the case of a transit project) concur that it has potentially adverse emissions impacts for any reason. States and MPOs shall ensure that exempt projects do not interfere with TCM implementation.

Table 2. Exempt Projects
Exempt Projects
SAFETY

1. Railroad or highway crossing.
2. Hazard elimination program.
3. Safer non-federal-aid system roads.
4. Shoulder improvements.
5. Increasing sight distance.
6. Safety improvement program.
7. Traffic control devices and operating assistance other than signalization projects.
8. Railroad or highway crossing warning devices.
9. Guardrails, median barriers, crash cushions.
10. Pavement resurfacing or rehabilitation.
11. Pavement marking demonstration.
12. Emergency relief (23 U.S.C. 125).
13. Fencing.
14. Skid treatments.
15. Safety roadside rest areas.
16. Adding medians.
17. Truck climbing lanes outside the urbanized area.
18. Lighting improvements.
19. Widening narrow pavements or reconstructing bridges (no additional travel lanes).
20. Emergency truck pullovers.

MASS TRANSIT

1. Operating assistance to transit agencies.
2. Purchase of support vehicles.
3. Rehabilitation of transit vehicles. (In PM₁₀ nonattainment or maintenance areas, such projects are exempt only if they are in compliance with control measures in the applicable implementation plan.)
4. Purchase of office, shop, and operating equipment for existing facilities.
5. Purchase of operating equipment for vehicles (e.g., radios, fareboxes, lifts, etc.).

6. Construction or renovation of power, signal, and communications systems.
7. Construction of small passenger shelters and information kiosks.
8. Reconstruction or renovation of transit buildings and structures (e.g., rail or bus buildings, storage and maintenance facilities, stations, terminals, and ancillary structures).
9. Rehabilitation or reconstruction of track structures, track, and trackbed in existing rights-of-way.
10. Purchase of new buses and rail cars to replace existing vehicles or for minor expansions of the fleet. (In PM₁₀ nonattainment or maintenance areas, such projects are exempt only if they are in compliance with control measures in the applicable implementation plan.)
11. Construction of new bus or rail storage or maintenance facilities categorically excluded in 23 CFR 771.

AIR QUALITY

1. Continuation of ride-sharing and van-pooling promotion activities at current levels.
2. Bicycle and pedestrian facilities.

OTHER

1. Specific activities which do not involve or lead directly to construction, such as:
 - a. Planning and technical studies.
 - b. Grants for training and research programs.
 - c. Planning activities conducted pursuant to Titles 23 and 49 U.S.C.
 - d. Federal-aid systems revisions.
2. Engineering to assess social, economic and environmental effects of the proposed action or alternatives to that action.
3. Noise attenuation.
4. Advance land acquisitions (23 CFR 712 or 23 CFR 771).
5. Acquisition of scenic easements.
6. Plantings, landscaping, etc.
7. Sign removal.
8. Directional and informational signs.
9. Transportation enhancement activities (except rehabilitation and operation of historic transportation buildings, structures, or facilities).
10. Repair of damage caused by natural disasters, civil unrest, or terrorist acts, except projects involving substantial functional, locational or capacity changes.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1435. Projects Exempt from Regional Emissions Analyses

Notwithstanding the other requirements of this subpart, highway and transit projects of the types listed in Table 3 are exempt from regional emissions analysis requirements. The local effects of these projects with respect to CO or PM₁₀ concentrations shall be considered to determine if a hot-spot analysis is required prior to making a project-level conformity determination. These projects may then proceed to the project development process even in the absence of a conforming transportation plan and TIP. A particular action of the type listed in Table 3 is not exempt from regional emissions analysis if the MPO in consultation with other agencies pursuant to R18-2-1405, the EPA, and the FHWA (in the case of a highway project) or the FTA (in the case of a transit project) concur that it has potential regional impacts for any reason.

Table 3. Projects Exempt From Regional Emissions Analyses

Projects Exempt From Regional Emissions Analyses

1. Intersection channelization projects.

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2. Intersection signalization projects at individual intersections.
3. Interchange reconfiguration projects.
4. Changes in vertical and horizontal alignment.
5. Truck size and weight inspection stations.
6. Bus terminals and transfer points.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1436. Special Provisions for Nonattainment Areas Which are Not Required to Demonstrate Reasonable Further Progress and Attainment

- A. This Section applies in the following areas:
 1. Rural transport ozone nonattainment areas,
 2. Marginal ozone areas,
 3. Submarginal ozone areas,
 4. Transitional ozone areas,
 5. Incomplete data ozone areas,
 6. Moderate CO areas with a design value of 12.7 ppm or less,
 7. Not classified CO areas.
- B. The criteria and procedures in R18-2-1422 through R18-2-1424 will remain in effect throughout the control strategy period for transportation plans, TIPs, and projects (not from a conforming plan and TIP) in lieu of the procedures in R18-2-1418 through R18-2-1420, except as otherwise provided in subsection (C).
- C. The state or MPO may voluntarily develop an attainment demonstration and corresponding motor vehicle emissions budget like those required in areas with higher nonattainment classifications. In this case, the state shall submit an implementation plan revision which contains that budget and attainment demonstration. Once EPA has approved this implementation plan revision, the procedures in R18-2-1418 through R18-2-1420 apply in lieu of the procedures in R18-2-1422 through R18-2-1424.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1437. Reserved

R18-2-1438. General Conformity for Federal Actions

The following subparts of 40 CFR 93, Determining Conformity of Federal Actions to State or Federal Implementation Plans, and all accompanying appendices, adopted as of July 1, 1994, and no future editions, are incorporated by reference. These standards are on file with the Office of the Secretary of State and with the Department and shall be applied by the Department.

Subpart B - Determining Conformity of General Federal Actions to State or Federal Implementation Plans (58 FR 63253, November 30, 1993).

Historical Note

Adopted effective January 31, 1995 (Supp. 95-1).

ARTICLE 15. FOREST AND RANGE MANAGEMENT BURNS

R18-2-1501. Definitions

In addition to the definitions contained in A.R.S. § 49-501 and R182-101, in this Article:

1. "Activity fuels" means those fuels created by human activities such as thinning or logging.
2. "ADEQ" means the Arizona Department of Environmental Quality.
3. "Annual emissions goal" means the annual establishment in cooperation with the F/SLMs, under R18-2-1503(G),

of a planned quantifiable value of emissions reduction from prescribed fires and fuels management activities.

4. "Assisting" means an agency or organization providing personnel, services, or other resources to the agency with direct responsibility for prescribed fire management.
5. "Burn Accomplishment Form" means the online database form as provided by the director to be completed for each approved or approved with conditions Daily Burn Request, with details of the conducted prescribed burn.
6. "Burn plan" for the purposes of this Article means the ADEQ online database form as provided by the director that includes information on the conditions under which a burn will occur with details of the burn and smoke management prescriptions.
7. "Burn prescription" means, with regard to a burn project, the pre-determined area, fuel, and weather conditions required to attain planned resource management objectives.
8. "Burn project" means an active or planned prescribed burn.
9. "Daily Burn Request" means the online database form as provided by the director that allows burners to request for permission to ignite on a single specific day, submitted under an acknowledged Burn Plan.
10. "Daily Burn Authorization Process" means the daily process by which ADEQ reviews and approves, approves with conditions, or disapproves "Daily Burn Requests" for the following day.
11. "Director" means the Director of ADEQ.
12. "Duff" means forest floor material consisting of decomposing needles and other natural materials.
13. "Emission reduction techniques (ERT)" means methods for controlling emissions from prescribed fires to minimize the amount of emission output per unit of area burned.
14. "Federal land manager (FLM)" means any department, agency, delegee, or agent of the federal government, including the following:
 - a. United States Forest Service,
 - b. United States Fish and Wildlife Service,
 - c. National Park Service,
 - d. Bureau of Land Management,
 - e. Bureau of Reclamation,
 - f. Department of Defense,
 - g. Bureau of Indian Affairs, and
 - h. Natural Resources Conservation Service.
15. "F/SLM" means a federal land manager or a state land manager.
16. "Local fire management officer" means a person designated by a F/SLM as responsible for fire management in a local district or area.
17. "National Wildfire Coordinating Group" means the national inter-agency group of federal and state land managers that shares similar wildfire management programs and has established standardized inter-agency training courses and qualifications for fire management positions.
18. "New Burn Plan" means a Burn Plan that has never been submitted to ADEQ.
19. "Non-burning alternatives to fire" means techniques that replace fire for at least five years as a means to treat activity fuels created to achieve a particular land management objective (e.g., reduction of fuel-loading, manipulation of fuels, enhancement of wildlife habitat, and ecosystem restoration). These alternatives are not used in conjunc-

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- tion with fire. Techniques used in conjunction with fire are referred to as emission reduction techniques (ERTs).
20. "Planned resource management objectives" means public interest goals in support of land management agency objectives including silviculture, wildlife habitat management, grazing enhancement, fire hazard reduction, wilderness management, cultural scene maintenance, weed abatement, watershed rehabilitation, vegetative manipulation, and disease and pest prevention.
 21. "Prescribed burning" means the controlled application of fire to wildland fuels that are in either a natural or modified state, under certain burn and smoke management prescription conditions that have been specified by the F/SLM in charge of or assisting the burn, to attain planned resource management objectives. Prescribed burning does not include a fire set or permitted by a public officer to provide instruction in fire-fighting methods, or construction or residential burning under R18-2-602.
 22. "Prescribed Fire Burn Boss" means a person designated by their respective F/SLM with the requisite training and certification to ensure that all ADEQ prescribed fire burn plan specifications and requirements are met before, during, and after a prescribed fire. This includes the following NWCG positions: Prescribed Fire Burn Boss Type 1, Prescribed Fire Burn Boss Type 2, and Prescribed Fire Burn Boss Type 3. A private burner does not qualify as a Burn Boss under this Article.
 23. "Private Burner" means a private person or company assisted by a F/SLM in conducting a prescribed burn under this Article. A person not covered under this definition shall be regulated under A.R.S. § 49-501 and A.A.C. R18-2-602.
 24. "Revised Burn Plan" means any Burn Plan that has been submitted to ADEQ by way of the online database which has remaining un-accomplished acres available and has been revised.
 25. "Smoke management prescription" means the predetermined meteorological conditions that affect smoke transport and dispersion under which a burn could occur without adversely affecting public health and welfare, including transportation networks, considering such factors as National Ambient Air Quality Standard and Class I Visibility Areas.
 26. "Smoke management techniques (SMT)" means management and dispersion practices used during a prescribed burn which affect the direction, duration, height, or density of smoke.
 27. "Smoke management unit" means any of the geographic areas defined by ADEQ whose area is based on primary watershed boundaries and whose outline is determined by diurnal windflow patterns that allow smoke to follow predictable drainage patterns. A map of the state divided into the smoke management units is on file with ADEQ.
 28. "State land manager (SLM)" means any department, agency, or political subdivision of the state government including the following:
 - a. State Land Department,
 - b. Department of Transportation,
 - c. Department of Game and Fish,
 - d. Parks Department,
 - e. Local and Municipal Governments and Agencies,
 - f. Arizona Department of Forestry and Fire Management, and
 - g. Fire Districts.
 29. "Smoke Sensitive Area" means areas where ADEQ determines that smoke and air pollutants can adversely affect public health or welfare. Such areas may include, but are not limited to cities, towns, villages, campgrounds, trails, populated recreational areas, hospitals, nursing homes, schools, roads, airports, public events, shopping centers, and mandatory Class I areas.
 30. "Wildfire" means an unplanned ignition, such as lightning, unauthorized and accidental human fires. Wildfires include those incidents where suppression may be limited for safety, economic, or resource concerns.
- Historical Note**
 Adopted effective October 8, 1996 (Supp. 96-4).
 Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).
- R18-2-1502. Applicability**
- A. A F/SLM that is conducting or assisting a prescribed burn shall follow the requirements of this Article.
 - B. A private burner may conduct burns under this Article if assisted by an F/SLM.
 - C. The provisions of this Article apply to all areas of the state except Tribal Nations and Communities land which has the same meaning as the term defined in 18 U.S.C. § 1151. All federally managed lands and all state lands, parks, and forests are under the jurisdiction of ADEQ in matters relating to air pollution from prescribed burning.
 - D. Notwithstanding subsection (C), any Tribal Nations and Communities may enter into a memorandum of agreement with ADEQ to implement this Article.
- Historical Note**
 Adopted effective October 8, 1996 (Supp. 96-4).
 Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).
- R18-2-1503. Annual, Program Evaluation and Planning**
- A. ADEQ shall hold a meeting after January 31 and before April 1 of each year between ADEQ and F/SLM to evaluate the program and set the annual emissions goals to minimize prescribed fire emissions to the maximum extent feasible using emission reduction techniques and non-burning alternatives to fire subject to economic, technical, and safety feasibility criteria, and consistent with land management objectives.
 - B. Outside of the annual meeting, ADEQ may request additional information about future prescribed burns to support regional coordination of smoke management, annual emission goal setting using ERTs, and non-burning alternatives to fire.
 - C. At least once every five years, ADEQ shall request long-term projections of future prescribed fire activity from the F/SLM to support planning for visibility impairment and assessment of air quality concerns by ADEQ.
 - D. F/SLM may submit topics to discuss at the yearly meeting by contacting ADEQ.
- Historical Note**
 Adopted effective October 8, 1996 (Supp. 96-4).
 Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).

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R18-2-1504. Prescribed Burn Plan

Each F/SLM planning a prescribed burn shall complete and submit to ADEQ the "Burn Plan" form supplied by ADEQ no later than 14 days before the date on which the F/SLM requests permission to burn. ADEQ shall consider the information supplied on the Burn Plan Form as binding conditions under which the burn shall be conducted. A Burn Plan shall be maintained by ADEQ until notification from the F/SLM of the completion of the burn project. The Burn Plan provisions listed in A.A.C. R18-2-1504(1) through (5), may be revised no later than 2:00 p.m. the business day before the burn. Any other revision to the Burn Plan for a burn project shall be submitted in writing no later than 14 days before the date on which the F/SLM requests permission to burn. ADEQ shall not act on the Daily Burn Request until the Burn Plan is submitted by the F/SLM and acknowledged as complete by ADEQ. To facilitate the Daily Burn Authorization Process under R18-2-1505, the Burn Plan Form shall include:

1. An emergency telephone number that is answered 24 hours a day, seven days a week;
2. Burn prescription;
3. Smoke management prescription;
4. The name of the person submitting the Burn Plan on behalf of the F/SLM;
5. Any other information to support the Burn Plan needed by ADEQ to assist in the Daily Burn Authorization Process for smoke management purposes, prevention of negative impacts on smoke sensitive areas, or assessment of contribution to visibility impairment of Class I areas.
6. The total number of acres in the project to be burned, the quantity and type of fuel, type of burn, and the ignition technique to be used;
7. The land management objective or purpose for the burn such as restoration or maintenance of ecological function and indicators of fire resiliency;
8. A map depicting the potential impact of the smoke unless waived either orally or in writing by ADEQ. The potential impact shall be determined by mapping both the daytime and nighttime smoke path and down-drainage flow for 15 miles from the burn site, with smoke-sensitive areas delineated. The map shall use the appropriate scale to show the impacts of the smoke adequately;
9. Modeling of smoke impacts unless waived either orally or in writing by ADEQ, for burns greater than 250 acres per day, or greater than 50 acres per day if the burn is within 15 miles of a Class I Area, an area that is nonattainment for particulates, a carbon monoxide nonattainment area, or other smoke-sensitive area. In consultation with the F/SLM, ADEQ shall provide guidelines on modeling.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4).
Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).

R18-2-1505. Prescribed Burn Requests and Authorization

A. Each F/SLM planning a prescribed burn, shall complete and submit to ADEQ the "Daily Burn Request" form supplied by ADEQ for each day the F/SLM will complete ignitions. The Daily Burn Request form shall include:

1. The contact information of the F/SLM conducting the burn;

2. Acknowledgement that a qualified Prescribed Fire Burn Boss is conducting the burn;
3. Date of the ignition;
4. The area to be burned on the day for which the Burn Request is submitted, with reference to the Burn Plan, including size, legal location to the section, and latitude and longitude to the minute;
5. Projected smoke impacts; and
6. Any local conditions or circumstances known to the F/SLM that, could impact the Daily Burn Authorization Process or the burn.

- B. After consultation and upon request by ADEQ, the F/SLM shall provide additional information related to the burn or any ongoing prescribed fires or wildfires such as: reports, digital photographs, meteorological, smoke dispersion, or air quality conditions to supplement the Daily Burn Request form and to aid in the Daily Burn Authorization Process. F/SLM may coordinate with ADEQ prior to submitting a Daily Burn Request to discuss potential air quality impacts or other concerns.
- C. The F/SLM shall submit the Daily Burn Request form to ADEQ as expeditiously as practicable, but no later than 2:00 p.m. of the business day preceding the burn.
- D. An F/SLM shall not ignite a prescribed burn without receiving the approval of ADEQ, as follows:
1. ADEQ shall only approve, approve with conditions, or disapprove a burn on the business day before the burn is to take place.
 2. If ADEQ fails to address a Burn Request by 10:00 p.m. the business day before the burn is to take place the Burn Request is approved by default after the burner makes a good faith effort to contact ADEQ to confirm that the Burn Request was received by exhausting available methods of communication, which may include contracting the ADEQ smoke management team directly, as well as the main number for the ADEQ air quality division, and leaving voicemails if there is no response.
 3. ADEQ may communicate its decision by verbal, written, or electronic means. ADEQ shall provide a written or electronic reply if requested by the F/SLM.
- E. If weather conditions cease to conform to those in the smoke management prescription of either the Burn Plan or any conditions on the approval of the applicable Burn Request, the F/SLM shall take appropriate action to reduce further smoke impacts, ensure safe and appropriate fire mitigation, and notify the public as per the requirements established by the National Wildfire Coordinating Group or F/SLM equivalent. The F/SLM may modify the smoke management prescription in the Burn Plan after consultation with ADEQ. A F/SLM conducting a burn shall contact ADEQ if there is any change in the burn conditions that ceases to conform with the Burn Plan and could cause negative impacts to smoke sensitive areas and communicate what areas of the submitted smoke management prescription in the Burn Plan need to be modified.
- F. The F/SLM shall ensure that there is industry-standard signage and notification to protect public safety on transportation corridors including roadways and airports during a prescribed fire.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4).
Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final

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rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).

R18-2-1506. Smoke Dispersion Evaluation

ADEQ shall approve, approve with conditions, or disapprove a Daily Burn Request submitted under R18-2 1505, by using the following factors for each smoke management unit:

1. Analysis of the emissions from burns in progress and residual emissions from previous burns on a day-to-day basis;
2. Analysis of the emissions from wildfires and consideration of their potential long-term growth;
3. Local burn conditions;
4. Burn prescription and smoke management prescription from the applicable Burn Plan;
5. Existing and predicted local air quality, i.e. meteorological or smoke modeling;
6. Local and synoptic meteorological conditions;
7. Type and location of areas to be burned;
8. Protection of the national visibility goal for Class I Areas under § 169A(a)(1) of the Clean Air Act and 40 CFR 51.309;
9. Assessment of duration and intensity of smoke emissions to minimize cumulative impacts;
10. Minimization of smoke impacts in Class I Areas, areas that are non-attainment for particulate matter, carbon monoxide, and ozone non-attainment areas, or other smoke sensitive areas including transportation corridors;
11. Protection of the National Ambient Air Quality Standards.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4). Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).

R18-2-1507. Prescribed Burn Accomplishment; Wildfire Reporting

- A. Each F/SLM conducting a prescribed burn shall complete and submit to ADEQ the "Burn Accomplishment" form supplied by ADEQ. For each burn approval, the F/SLM shall submit a Burn Accomplishment form to ADEQ within seven calendar days following the approved burn. The F/SLM shall include the following information on the Burn Accomplishment form:
 1. Any known conditions or circumstances that could impact subsequent Daily Burn approvals;
 2. The date, location, fuel type, fuel loading, and acreage accomplishments;
 3. The ERTs and SMTs described in R18-2-1509 and may include any further ERTs and SMTs that become available, that the F/SLM used to reduce emissions or manage the smoke from the burn.
- B. The F/SLM shall submit the Burn Accomplishment form as an electronic submittal.
- C. ADEQ shall maintain a record of Daily Burn Requests, Burn Plan Form Burn Approvals with Conditions, Denials, and Burn Accomplishments data for five years.
- D. ADEQ may request information about a burn prior to the submission of the Burn Accomplishment Form.
- E. The F/SLM in whose jurisdiction a wildfire occurs shall, upon request, make available to ADEQ no later than the day after the request is made and may include any necessary information for wildfire incidents, including the location, and estimate of predominant fuel type and quantity consumed, and an esti-

mate of the area blackened that day. The F/SLM shall participate in air quality coordination calls upon request by ADEQ.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4). Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).

R18-2-1508. Repealed**Historical Note**

Adopted effective October 8, 1996 (Supp. 96-4). Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Repealed by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).

R18-2-1509. Emission Reduction and Smoke Management Techniques

- A. Each F/SLM conducting a prescribed burn shall implement as many Emission Reduction Techniques and Smoke Management Techniques as are feasible subject to economic, technical, and safety feasibility criteria, and land management objectives.
- B. Emission Reduction Techniques include:
 1. Reducing biomass to be burned by use of techniques such as yarding or consolidation of unmerchandiseable material, multi-product timber sales, or public firewood access, when economically feasible;
 2. Reducing biomass to be burned by fuel exclusion practices such as preventing the fire from consuming dead snags or dead and downed woody material through lining, application of fire-retardant foam, or water;
 3. Using mass ignition techniques such as aerial ignition by helicopter to produce high intensity fires of high fuel density areas such as logging slash decks;
 4. Burning only fuels essential to meet resource management objectives;
 5. Minimizing consumption and smoldering by burning under conditions of high fuel moisture of duff and litter;
 6. Minimizing fuel consumption and smoldering by burning under conditions of high fuel moisture of large woody fuels;
 7. Minimizing soil content when slash piles are constructed by using brush blades on material-moving equipment and by constructing piles under dry soil conditions or by using hand piling methods;
 8. Burning fuels in piles or windrows;
 9. Using a backing fire in grass fuels;
 10. Burning fuels with an air curtain destructor, as defined in R18-2-101, operated according to manufacturer specifications and meeting applicable state or local opacity requirements;
 11. Extinguishing or mopping-up of smoldering fuels;
 12. Chunking of piles and other consolidations of burning material to enhance flaming and fuel consumption, and to minimize smoke production;
 13. Burning before litter fall, green-up of fuels, recently cut large fuels cure in areas with fuels reduction activity, and just before precipitation to reduce fuel smoldering and consumption;
 14. Reduce the area burned, by only burning a portion of the area within a designated perimeter or through mosaic burning.
- C. Smoke management techniques include:

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1. Burning from March 15 through September 15, when meteorological conditions allow for good smoke dispersion;
2. Igniting burns under good-to-excellent ventilation conditions;
3. Suspending operations under poor smoke dispersion conditions;
4. Considering smoke impacts on local community activities and land users;
5. Burning piles when other burns are not feasible, such as when snow or rain is present;
6. Using mass ignition techniques such as aerial ignition by helicopter to produce high combustion efficiency with short duration impacts;
7. Using all opportunities that meet the burn prescription and all burn locations to spread smoke impacts over a broader time period and geographic area;
8. Burning during optimum mid-day dispersion hours, with all ignitions in a burn unit completed by 3:00 p.m. to prevent trapping smoke in inversion or diurnal windflow patterns;
9. Providing information on the adverse impacts of using green or wet wood as fuel when public firewood access is allowed;
10. Implementing maintenance burning in a periodic rotation to shorten prescribed fire duration and reduce excessive fuel accumulations that could result in excessive smoke production in a wildfire; and
11. Using fire-management strategies to shift smoke into more favorable smoke dispersion seasons.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4). Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).

R18-2-1510. Repealed**Historical Note**

Adopted effective October 8, 1996 (Supp. 96-4). Former Section R18-2-1510 renumbered to R18-2-1511; new R18-2-1510 made by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Repealed by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).

R18-2-1511. Monitoring

- A. ADEQ may require a F/SLM to monitor air quality before, during, or after a prescribed burn as reasonably necessary to assess smoke impacts. Air quality monitoring may be conducted using both federal and non-federal reference methods, as well as other techniques including but not limited to digital photographs, video calling, webcams, visibility monitors, and air quality sensors.
- B. Unless waived by ADEQ, a F/SLM shall conduct a test burn at the burn site to verify the needed wind speed, direction, and stability, for burns greater than 250 acres per day, or greater than 50 acres per day if the burn is within 15 miles of a Class I Area, an area that is non-attainment for particulate matter, carbon monoxide, or ozone, or other smoke sensitive area.
- C. An F/SLM shall make monitoring information required under subsection (B) available to ADEQ on the business day following the burn ignition, if an instantaneous method was not used to convey the information.

- D. The F/SLM shall keep on file for one year following the burn date any monitoring information required under this Section.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4). Former Section R18-2-1511 renumbered to R18-2-1512; new R18-2-1511 renumbered from R18-2-1510 and amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).

R18-2-1512. Burner Qualifications

- A. All burn projects shall be conducted by personnel trained and certified in prescribed fire and smoke management techniques. Burn project personnel shall be trained in the fire and smoke management techniques required by the F/SLM in charge of the burn or the training requirements established by the National Wildfire Coordinating Group.
- B. A Prescribed Fire Burn Boss of the F/SLM with jurisdiction over the prescribed burn shall have smoke management training obtained through one of the following:
 1. Successful completion of a National Wildfire Coordinating Group or F/SLM-equivalent course addressing smoke management; or
 2. Attendance at an ADEQ-approved smoke management workshop.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4). Former Section R18-2-1512 renumbered to R18-2-1513; new R18-2-1512 renumbered from R18-2-1511 and amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).

R18-2-1513. Public Notification and Awareness Program; Regional Coordination

- A. The Director shall maintain a public education and awareness program webpage, in cooperation with the F/SLM and other interested parties, to inform the general public of the smoke management program described by this Article. The webpage shall inform the public about the health risks and impacts from smoke and prescribed fires; how smoke management techniques can protect air quality; and the role of prescribed fire in natural ecosystems.
- B. ADEQ shall make prescribed burn approval, and wildfire activity information readily available to the public and to facilitate regional coordination efforts and public notification.
- C. ADEQ shall ensure all publicly available information concerning smoke management, including electronic material, is updated annually, or as new information is published.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4). Former Section R18-2-1513 renumbered to R18-2-1514; new R18-2-1513 renumbered from R18-2-1512 and amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).

R18-2-1514. Surveillance and Enforcement

- A. An F/SLM conducting a prescribed burn shall permit and provide safe escort to ADEQ for the purpose of entering and inspecting burn sites to verify the accuracy of the Daily Burn

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Request, Burn Plan, or Accomplishment data as well as matching burn approval with actual conditions, smoke dispersion, and air quality impacts. Onground site inspection procedures and aerial surveillance shall be coordinated by ADEQ and the F/SLM for safety purposes.

- B. ADEQ may use remote automated weather station data if necessary to verify current and previous meteorological conditions at or near the burn site.
- C. ADEQ may audit burn accomplishment data, smoke dispersion measurements, or weather measurements from previously conducted burns, if necessary to verify conformity with, or deviation from, procedures and authorizations approved by ADEQ.
- D. Deviation from procedures and authorizations approved by ADEQ constitute a violation of this Article. Violations may require containment or appropriate smoke mitigation action of any active burns and may also require, in the Director's discretion, a five-day moratorium on ignitions by the responsible F/SLM. Violations of this Article are also subject to a civil penalty of not more than \$10,000 per day per violation under A.R.S. § 49-463.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4). Former Section R18-2-1514 repealed; new R18-2-1514 renumbered from R18-2-1513 and amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).

R18-2-1515. Forms and Information Transfers

- A. ADEQ shall make all forms for completion by a F/SLM available in electronic format as provided by the Director.
- B. After consultation with an F/SLM, ADEQ may require the F/SLM to provide data or completed forms in an electronic format as provided by the Director.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4). Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).

ARTICLE 16. EXPIRED

Article 16, consisting of Sections R18-2-1601 through R18-2-1606, made by final rulemaking at 9 A.A.R. 4541, effective December 2, 2003 (Supp. 03-4).

R18-2-1601. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 4541, effective December 2, 2003 (Supp. 03-4). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 2500, effective August 14, 2018 (Supp. 18-3).

R18-2-1602. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 4541, effective December 2, 2003 (Supp. 03-4). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 2500, effective August 14, 2018 (Supp. 18-3).

R18-2-1603. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 4541, effective December 2, 2003 (Supp. 03-4). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 2500, effective August 14, 2018 (Supp. 18-3).

R18-2-1604. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 4541, effective December 2, 2003 (Supp. 03-4). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 2500, effective August 14, 2018 (Supp. 18-3).

R18-2-1605. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 4541, effective December 2, 2003 (Supp. 03-4). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 2500, effective August 14, 2018 (Supp. 18-3).

R18-2-1606. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 4541, effective December 2, 2003 (Supp. 03-4). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 2500, effective August 14, 2018 (Supp. 18-3).

R18-2-1607. Expired**Historical Note**

Section reserved at 11 A.A.R. 386, effective December 20, 2004, expired under A.R.S. § 41-1056(J) at 24 A.A.R. 2500, effective August 14, 2018 (Supp. 18-3).

R18-2-1608. Expired**Historical Note**

Section reserved at 11 A.A.R. 386, effective December 20, 2004, expired under A.R.S. § 41-1056(J) at 24 A.A.R. 2500, effective August 14, 2018 (Supp. 18-3).

R18-2-1609. Expired**Historical Note**

Section reserved at 11 A.A.R. 386, effective December 20, 2004, expired under A.R.S. § 41-1056(J) at 24 A.A.R. 2500, effective August 14, 2018 (Supp. 18-3).

R18-2-1610. Expired**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 386, effective December 20, 2004 (Supp. 04-4). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1611. Expired**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 386, effective December 20, 2004 (Supp. 04-4). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1612. Expired**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 386, effective December 20, 2004 (Supp. 04-4). Section heading corrected at request of the Department, Office File

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No. M12-134, filed April 5, 2012 (Supp. 11-4). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1613. Expired**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 386, effective December 20, 2004 (Supp. 04-4). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

ARTICLE 17. EXPIRED**R18-2-1701. Expired****Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

Table 1. Expired**Historical Note**

Table 1 made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Table 1 expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

R18-2-1702. Expired**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

Table 2. Expired**Historical Note**

Table 2 made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Table 2 expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

R18-2-1703. Expired**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

R18-2-1704. Expired**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

R18-2-1705. Expired**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

R18-2-1706. Expired**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

R18-2-1707. Expired**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

R18-2-1708. Expired**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

Table 3. Expired**Historical Note**

Table 3 made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Table 3 expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

R18-2-1709. Expired**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

ARTICLE 18. REPEALED**R18-2-1801. Repealed****Historical Note**

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1802. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1803. Repealed**Historical Note**

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New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1804. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1805. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1806. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1807. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1808. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1809. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1810. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1811. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1812. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

CHAPTER APPENDICES**Appendix 1. Repealed****Historical Note**

Former Appendix 1 repealed, new Appendix 1 adopted effective October 2, 1979 (Supp. 79-5). Amended effective May 28, 1982 (Supp. 82-3). Amended effective September 22, 1983 (Supp. 83-5). Amended effective December 1, 1988 (Supp. 88-4). Appendix 1 repealed, new Appendix 1 adopted effective November 15, 1993 (Supp. 93-4). Amended effective October 7, 1994 (Supp. 94-4). Amended effective August 1, 1995 (Supp. 95-3). The reference to R18-2-101(80) amended to reference R18-2-101(84) (Supp. 99-3). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Repealed by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

Appendix 2. Test Methods and Protocols

The following test methods and protocols are approved for use as directed by the Department under this Chapter. These standards are incorporated by reference as applicable requirements revised as of June 30, 2017, and no future editions or amendments. These standards are on file with the Department, and are also available from the U.S. Government Printing Office, Superintendent of Documents, bookstore.gpo.gov, Mail Stop: SSOP IDCC-SSOM, Washington, D.C. 20402-9328.

- A. 40 CFR 50;
- B. 40 CFR 50, all appendices;
- C. 40 CFR 51, Appendix M, Section IV of Appendix S, and Appendix W;
- D. 40 CFR 52, Appendices D and E;
- E. 40 CFR 53;
- F. 40 CFR 58;
- G. 40 CFR 58, all appendices;
- H. 40 CFR 60, all appendices;
- I. 40 CFR 61, all appendices;
- J. 40 CFR 63, all appendices;
- K. 40 CFR 75, all appendices.
- L. 40 CFR 51.128, Appendix A(1)(B).
- M. Silt Content Test Method. The purpose of this test method is to estimate the silt content of the trafficked parts of commercial farm roads, as defined in R18-2-610. The higher the silt content, the more fine dust particles that are released when cars and trucks drive on commercial farm roads.
 - 1. Equipment:
 - a. A set of sieves with the following openings: 4 millimeters (mm), 2mm, 1 mm, 0.5 mm and 0.25 mm and a lid and collector pan
 - b. A small whisk broom or paintbrush with stiff bristles and dustpan 1 ft. in width. (The broom/brush should preferably have one, thin row of bristles no longer than 1.5 inches in length.)
 - c. A spatula without holes A small scale with half ounce increments (e.g. postal/package scale)
 - d. A shallow, lightweight container (e.g. plastic storage container)
 - e. A sturdy cardboard box or other rigid object with a level surface
 - f. Basic calculator

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- g. Cloth gloves (optional for handling metal sieves on hot, sunny days)
 - h. Sealable plastic bags (if sending samples to a laboratory)
 - i. Pencil/pen and paper
2. Step 1: Look for a routinely-traveled surface, as evidenced by tire tracks. [Only collect samples from surfaces that are not wet or damp due to precipitation, dew or watering.] Use caution when taking samples to ensure personal safety with respect to passing vehicles. Gently press the edge of a dustpan (1 foot in width) into the surface four times to mark an area that is 1 square foot. Collect a sample of loose surface material using a whisk broom or brush and slowly sweep the material into the dustpan, minimizing escape of dust particles. Use a spatula to lift heavier elements such as gravel. Only collect dirt/gravel to an approximate depth of 3/8 inch or 1 cm in the 1 square foot area. If you reach a hard, underlying subsurface that is < 3/8 inch in depth, do not continue collecting the sample by digging into the hard surface. In other words, you are only collecting a surface sample of loose material down to 1 cm. In order to confirm that samples are collected to 1 cm. in depth, a wooden dowel or other similar narrow object at least 1 foot in length can be laid horizontally across the survey area while a metric ruler is held perpendicular to the dowel. At this point, you can choose to place the sample collected into a plastic bag or container and take it to an independent laboratory for silt content analysis. A reference to the procedure the laboratory is required to follow is in subsection (10) below.
 3. Step 2: Place a scale on a level surface. Place a lightweight container on the scale. Zero the scale with the weight of the empty container on it. Transfer the entire sample collected in the dustpan to the container, minimizing escape of dust particles. Weigh the sample and record its weight.
 4. Step 3: Stack a set of sieves in order according to the size openings specified above, beginning with the largest size opening (4 mm) at the top. Place a collector pan underneath the bottom (0.25 mm) sieve.
 5. Step 4: Carefully pour the sample into the sieve stack, minimizing escape of dust particles by slowly brushing material into the stack with a whisk broom or brush. (On windy days, use the trunk or door of a car as a wind barricade.) Cover the stack with a lid. Lift up the sieve stack and shake it vigorously up, down and sideways for at least 1 minute.
 6. Step 5: Remove the lid from the stack and disassemble each sieve separately, beginning with the top sieve. As you remove each sieve, examine it to make sure that all of the material has been sifted to the finest sieve through which it can pass; e.g. material in each sieve (besides the top sieve that captures a range of larger elements) should look the same size. If this is not the case, re-stack the sieves and collector pan, cover the stack with the lid, and shake it again for at least 1 minute. (You only need to reassemble the sieve(s) that contain material which requires further sifting.)
 7. Step 6: After disassembling the sieves and collector pan, slowly sweep the material from the collector pan into the empty container originally used to collect and weigh the entire sample. Take care to minimize escape of dust particles. You do not need to do anything with material captured in the sieves -- only the collector pan. Weigh the container with the material from the collector pan and record its weight.
 8. Step 7: If the source is an unpaved road, multiply the resulting weight by 0.38. If the source is an unpaved parking lot, multiply the resulting weight by 0.55. The resulting number is the estimated silt loading. Then, divide by the total weight of the sample you recorded earlier in Step 2 and multiply by 100 to estimate the percent silt content.
 9. Step 8: Select another two routinely-traveled portions of the unpaved road or unpaved parking lot and repeat this test method. Once you have calculated the silt loading and percent silt content of the three samples collected, average your results together.
 10. Step 9: Examine Results. If the average silt loading is less than 0.33 oz/ft², the surface is STABLE. If the average silt loading is greater than or equal to 0.33 oz/ft², then proceed to examine the average percent silt content. If the source is an unpaved road and the average percent silt content is 6% or less, the surface is STABLE. If the source is an unpaved parking lot and the average percent silt content is 8% or less, the surface is STABLE. If your field test results are within 2% of the standard (for example, 4%-8% silt content on an unpaved road), it is recommended that you collect three additional samples from the source according to Step 1 and take them to an independent laboratory for silt content analysis.
 11. Independent Laboratory Analysis: You may choose to collect 3 samples from the source, according to Step 1, and send them to an independent laboratory for silt content analysis rather than conduct the sieve field procedure. If so, the test method the laboratory is required to use comes from the from the following text: *Procedures For Laboratory Analysis Of Surface/Bulk Dust Loading Samples*, (Fifth Edition, Volume I, Appendix C.2.3 "Silt Analysis", 1995), AP-42, Office of air Quality Planning & Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina.

Historical Note

Former Appendix 2 repealed, new Appendix 2 adopted effective October 2, 1979 (Supp. 79-5). Amended effective May 28, 1982 (Supp. 82-3). Amended effective December 1, 1988 (Supp. 88-4). Repealed effective November 15, 1993 (Supp. 93-4). New Appendix 2 adopted effective December 7, 1995 (Supp. 95-4). Amended effective May 9, 1996 (Supp. 96-2). Amended effective April 4, 1997; filed with the Office of the Secretary of State March 14, 1997 (Supp. 97-1). Amended effective December 4, 1997 (Supp. 97-4). Amended by final rulemaking at 5 A.A.R. 3221, effective August 12, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 4170, effective October 11, 2000 (Supp. 00-4). Amended by final rulemaking at 8 A.A.R. 2543, effective May 24, 2002 (Supp. 02-2). Amended by final rulemaking at 10 A.A.R. 3281, effective September 27, 2004 (Supp. 04-3). Amended by final rulemaking at 11 A.A.R. 3305, effective October 3, 2005 (Supp. 05-3). Amended by final rulemaking at 13 A.A.R. 4199, effective January 5, 2008 (Supp. 07-4). Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3). Amended by final expedited rulemaking at 21 A.A.R. 2747, effective December 13, 2015 (Supp. 15-4). Amended by final expedited rulemaking at 23 A.A.R. 1564, effective May

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2, 2018 (Supp. 18-2). Missing subsection number in (M) added at Step 4, as (5), subsections following (M)(5) corrected (Supp. 21-4).

Appendix 3. Logging

1. Each log entry required by a change under R18-2-317.02(B) shall include at least the following information:
 - a. A description of the change, including:
 - i. A description of any process change.
 - ii. A description of any equipment change, including both old and new equipment descriptions, model numbers and serial numbers, or any other unique equipment number.
 - iii. A description of any process material change.
 - b. The date and time that the change occurred.
 - c. The provision of R18-2-317.02(B) that authorizes the change to be made with logging.
 - d. The date the entry was made and the first and last name of the person making the entry.
2. Logs shall be kept for five years from the date created. Logging shall be performed in indelible ink in a bound log book with sequentially numbered pages, or in any other form, including electronic format, approved by the Director.

Historical Note

Appendix 3 adopted by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3).

Appendix 4. Reserved**Appendix 5. Repealed****Historical Note**

Appendix 5 repealed effective November 15, 1993 (Supp. 93-4).

Appendix 6. Repealed**Historical Note**

Adopted effective August 7, 1975 (Supp. 75-1). Former Appendix 6 repealed, new Appendix 6 adopted effective July 7, 1978 (Supp. 78-4). Former Appendix 6 repealed effective May 14, 1979 (Supp. 79-1).

Appendix 7. Repealed**Historical Note**

Adopted effective December 22, 1976 (Supp. 76-5). Former Appendix 7 repealed, new Appendix 7 adopted effective January 8, 1980 (Supp. 80-1). Editorial correction, Instructions for Schedule 2, paragraph (15) (Supp. 80-2). Repealed effective September 26, 1990 (Supp. 90-3).

A8 Appendix 8. Procedures for Utilizing the Sulfur Balance Method for Determining Sulfur Emissions**PROCEDURES FOR UTILIZING THE SULFUR BALANCE METHOD FOR DETERMINING SULFUR EMISSIONS****A8.1. Calculating Input Sulfur**

Total sulfur input is the sum of the product of the weight of each sulfur bearing material introduced into the smelting process as calculated in A8.1.1. multiplied by the fraction of sulfur contained in that material as calculated in A8.1.2. plus the amount of sulfur contained in fuel utilized in the smelting process as calculated in A8.1.3.

A8.1.1. Material Weight

The owner or operator of a copper smelter shall weigh all sulfur-bearing materials, other than fuels, introduced into the smelting process. The weighing shall be subject to the following conditions:

- A8.1.1.1.** Weight shall be determined on a belt scale, rail or truck scales, or other weighing device.
- A8.1.1.2.** Weight shall be determined within an accuracy of $\pm 5\%$.
- A8.1.1.3.** All devices or scales used for weighing shall be calibrated to manufacturer's specifications at least once a month.
- A8.1.1.4.** Sulfur-bearing materials subject to being weighed include concentrate, cement copper, reverbs that are discarded and not part of the internal circulating load and precipitates. Materials such as limestone and silica flux that are mixed with a charge of sulfur bearing materials shall be weighed and reported by the owner or operator.

A8.1.2. Sulfur Content

The owner or operator shall calculate the sulfur content of all sulfur-bearing materials introduced into the smelting process using the following steps or an alternative method approved according to A8.4.1.

- A8.1.2.1.** Sampling

The procedures followed by the owner or operator in sampling are dependent upon the input vehicles for the sulfur-bearing material.

 - A8.1.2.1.1. Beltfeed**

The smelter owner or operator shall collect a five-pound sample each hour. The owner or operator shall combine hourly samples for a total daily sample.
 - A8.1.2.1.2. Railcar**

The smelter owner or operator shall collect a 24-pound sample from each car by the auger method at a minimum of four locations. The owner or operator shall combine each car sample with all other car samples for a total lot sample.
 - A8.1.2.1.3. Truck**

The owner or operator shall collect a 12-pound sample from each truck load. The owner or operator shall take samples at two locations during unloading. If more than one truck

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delivers a single lot, the samples from each truck shall be combined for a total lot sample.

A8.1.2.2. Sample Preparation

The owner or operator shall prepare each total sample for analysis in the following manner:

A8.1.2.2.1. The sample shall be crushed to minus 1/4 inch particles.

A8.1.2.2.2. 2000 gm of the sample shall be split out using a Jones Riffle Splitter or similar device.

A8.1.2.2.3. The 2000 gm sample shall be pulverized to minus 150 mesh.

A8.1.2.2.4. The pulverized mass shall be mixed using a rolling cloth.

A8.1.2.2.5. 500 gm shall be split out for sample analysis.

A8.1.2.3. Sample Analysis

A8.1.2.3.1. The owner or operator shall analyze the sample to determine sulfur content using the Barium Sulfate (BaSO_4) Gravimetric Method according to A8.4.3. The analysis shall be accurate to within $\pm 1\%$.

A8.1.2.3.2. For purposes of comparison, the owner or operator shall analyze the sample for copper content using the Potassium Iodide (KI) Titration Method according to A8.4.3. The analysis shall be accurate to within $\pm 1\%$.

A8.1.3. Fuel Sulfur Content

The owner or operator shall calculate sulfur in fuels by multiplying the amount of fuel that enters the process by the fraction of sulfur in the fuel, as reported to the smelter operator by the fuel's supplier. The sulfur content determination shall be accurate to within $\pm 5\%$.

A8.2. Calculating Removed Sulfur

Total removed sulfur is the sum of the removed sulfur in each of the following products as determined by each process set forth below, or by other processes approved according to A8.4.1.

A8.2.1. Furnace and Converter Slags

A8.2.1.1. The owner or operator shall determine the weight of each slag using a scale with an accuracy within $\pm 5\%$.

A8.2.1.2. The owner or operator shall collect a five-pound sample from each slag pot during tapping operations.

A8.2.1.3. The owner or operator shall prepare the sample and determine the amount of sulfur and copper using the procedures specified in A8.1.2.2. and A8.1.2.3.

A8.2.2. Dust Collection Equipment Dusts

A8.2.2.1. After the owner or operator collects the dust and places it in a rail car or truck they shall weigh it using a scale with an accuracy within $\pm 5\%$.

A8.2.2.2. The owner or operator shall sample the dust and prepare and analyze a sample for sulfur and copper using the procedures specified in A8.1.2.1., A8.1.2.2., and A8.1.2.3.

A8.2.3. Strong Acids

A8.2.3.1. The owner or operator shall take an inventory of strong acids daily by means of a manometer or sight glass, and increase the inventory by the amounts of acid shipped or otherwise transferred during that day.

A8.2.3.2. The owner or operator shall ensure the daily inventory will be accurate to within $\pm 5\%$.

A8.2.3.3. The owner or operator shall take a sample of each batch of the inventoried acid and analyze the sample for sulfur, according to the procedures in A8.1.2.3.

A8.2.4. Weak Acids

A8.2.4.1. The owner or operator shall determine the amount of weak acid discharged from an acid plant and scrubber systems by a time volumetric method of measurement in gallons per minute and to an accuracy of within $\pm 20\%$.

A8.2.4.2. The owner or operator shall analyze a 500 ml sample of the weak acid daily for sulfur content according to the procedures in A8.1.2.3.

A8.2.5. Sulfur in Copper Production

A8.2.5.1. The owner or operator shall determine the weight of copper produced by weight of copper cast to an accuracy of within $\pm 5\%$.

A8.2.5.2. The owner or operator shall record the weight and number of castings.

A8.2.5.3. The owner or operator shall obtain a sample of the copper, either by the grab sample method while casting, or by the use of at least three drill holes on a representative casting from each charge.

A8.2.5.4. The owner or operator shall obtain at least one sample from each charge.

A8.2.5.5. The owner or operator shall analyze each sample for sulfur content using the Barium Sulfate (BaSO_4) Gravimetric Method according to A8.4.3. The analysis shall be accurate to within $\pm 50\%$.

A8.2.6. Materials in Process

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- A8.2.6.1.** The owner or operator shall determine the total tonnage of materials in process by physical inventory on the first or last day of each month.
- A8.2.6.2.** The owner or operator shall calculate a monthly change in in-process inventory for each material in process by taking the difference between the inventory from each material in process on the first or last day of the preceding month and multiplying that difference by the monthly composite sulfur assay for that material.
- A8.2.6.3.** The change in monthly in-process inventory shall be accurate to within $\pm 50\%$.
- A8.3. Sulfur Dioxide Emissions Monitoring**
- A8.3.1.** The sulfur dioxide emissions monitoring and recording system required under R18-2-715.01(K) through R18-2-715.01(N) shall meet the following specifications:
- A8.3.1.1.** The monitoring system shall be capable of continuously monitoring sulfur dioxide emissions with an accuracy of within $\pm 20\%$ and a confidence level of 95%.
- A8.3.1.2.** The owner or operator shall operate and calibrate the sulfur dioxide emission monitoring and recording equipment according to manufacturer's specifications for the equipment except that calibration shall be done at least once every 24 hours.
- A8.3.2.** The sulfur removal equipment bypass monitoring required under R18-2-715.01(Q) shall consist of a detector and recorder system capable of producing a permanent record of all periods that the bypass is in operation.
- A8.4. General Provisions**
- A8.4.1.** For purposes of this Appendix, an approved alternative method, process, or procedure, must be approved in writing by the Director and the U.S. Environmental Protection Agency.
- A8.4.2.** The processes and procedures specified in this Appendix shall be available for inspection, review and verification by the Department at all reasonable times.
- A8.4.3.** The barium sulfate gravimetric test method and potassium iodide titration test method provided in *Standard Methods of Chemical Analysis*, Volume One, *The Elements*, Sixth Edition, N. Howell Furman (ed.), D. Van Nostrand Company, Inc., Princeton, New Jersey, 1962, pages 410-411, 1006-1011, and 1342-1343 (and no future editions or amendments) is incorporated by reference and available at the Department.
- Historical Note**
Adopted effective December 22, 1976 (Supp. 76-5). Correction, Appendix 8, A8-2-1.1 (Supp. 77-2). Amended effective May 28, 1982 (Supp. 82-3). Amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 11 A.A.R. 2216, effective July 18, 2005 (Supp. 05-2). Subsection levels updated for clarity. No other changes have been made to Appendix 8 (Supp. 21-4).
- A9. Appendix 9. Monitoring Requirements**
- MONITORING REQUIREMENTS**
- A9.1.** Unless otherwise approved by the Director or specified in applicable Sections, the requirements of this Appendix shall apply to all continuous monitoring systems required under applicable Sections.
- A9.2.** All continuous monitoring systems and monitoring devices shall be installed and operational prior to conducting performance tests under rule R18-2-312. Verification of operational status shall, as a minimum, consist of the following:
- A9.2.1.** For continuous monitoring systems referenced in A9.3.1. below, completion of the conditioning period specified by applicable requirements in the Arizona Testing Manual and 40 CFR 60.
- A9.2.2.** For continuous monitoring systems referenced in A9.3.2. below, completion of seven days of operation.
- A9.2.3.** For monitoring devices referenced in other applicable Sections, completions of the manufacturer's written requirements or recommendations for checking the operation or calibration of the device.
- A9.3.** During any performance tests required under rule R18-2-312 or within 30 days thereafter and at such other times as may be required by the Director, the owner or operator of any affected facility shall conduct continuous monitoring system performance evaluations and furnish the Director within 60 days thereof, 2, or upon request, more copies of a written report of the results of such tests. The continuous monitoring system performance evaluations shall be conducted in accordance with the following specifications and procedures:
- A9.3.1.** Continuous monitoring systems listed within this subsection, except as provided in A9.3.2. below shall be evaluated in accordance with the requirements and procedures contained in the applicable performance specification of the Arizona Testing Manual and 40 CFR 60.
- A9.3.1.1.** Continuous monitoring systems for measuring opacity of emissions shall comply with Performance Specification 1.
- A9.3.1.2.** Continuous monitoring systems for measuring nitrogen oxides emissions

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- shall comply with Performance Specification 2.
- A9.3.1.3.** Continuous monitoring systems for measuring sulfur dioxide emissions shall comply with Performance Specification 2.
- A9.3.1.4.** Continuous monitoring systems for measuring the oxygen content or carbon dioxide content of effluent gases shall comply with Performance Specification 3.
- A9.3.2.** An owner or operator who, prior to September 11, 1974, entered into a binding contractual obligation to purchase specific continuous monitoring system components except as referenced by A9.3.2.3. below shall comply with the following requirements:
- A9.3.2.1.** Continuous monitoring systems for measuring opacity of emissions shall be capable of measuring emission levels within $\pm 20\%$. The Calibration Error Test and associated calculation procedures set forth in Performance Specification 1 of 40 CFR 60, Appendix B shall be used for demonstrating compliance with this specification.
- A9.3.2.2.** Continuous monitoring systems for measurement of nitrogen oxides or sulfur dioxide shall be capable of measuring emission levels within $\pm 20\%$ with a confidence level of 95%. The Calibration Error Test, the Field Test for Accuracy (Relative), and associated operating and calculation procedures set forth in Performance Specification 2 of 40 CFR 60, Appendix B shall be used for demonstrating compliance with this specification.
- A9.3.2.3.** Owners or operators of all continuous monitoring systems installed on an affected facility prior to October 6, 1975, are not required to conduct tests under A9.3.2.1. and/or A9.3.2.2. above unless requested by the Director.
- A9.3.3.** All continuous monitoring systems referenced by A9.3.2. above shall be upgraded or replaced (if necessary) with new continuous monitoring systems, and such improved systems shall be demonstrated to comply with applicable performance specifications under A9.3.1. above by September 11, 1979.
- A9.4.** Owners or operators of all continuous monitoring systems installed in accordance with the provisions of these rules shall check the zero and span drift at least once daily in accordance with the method prescribed by the manufacturer of such systems unless the manufacturer recommends adjustments at shorter intervals, in which case such recommendations shall be followed. The zero and span shall, as a minimum, be adjusted whenever the 24-hour zero drift or 24-hour calibration drift limits of the applicable performance specifications in 40 CFR 60, Appendix B are exceeded. For continuous monitoring systems measuring opacity of emissions, the optical surfaces exposed to the effluent gases shall be cleaned prior to performing the zero or span drift adjustments except that for systems using automatic zero adjustments, the optical surfaces shall be cleaned when the cumulative automatic zero compensation exceeds 4% opacity. Unless otherwise approved by the Director, the following procedures, as applicable, shall be followed:
- A9.4.1.** For extractive continuous monitoring systems measuring gases, minimum procedures shall include introducing applicable zero and span gas mixtures into the measurement system as near the probe as practical. Span and zero gases certified by their manufacturer to be traceable to the National Bureau of Standards reference gases will be used whenever these reference gases are available. The span and zero gas mixtures shall be the same composition as specified in the 40 CFR 60, Appendix B. Every six months from date of manufacture, span and zero gases shall be re-analyzed by conducting triplicate analyses with Reference Methods 6 for SO₂, 7 for NO_x and 3 for O₂ and CO₂, respectively. The gases may be analyzed at less frequent intervals if longer shelf lives are guaranteed by the manufacturer.
- A9.4.2.** For nonextractive continuous monitoring systems measuring gases, minimum procedures shall include upscale check(s) using a certified calibration gas cell or test cell which is functionally equivalent to a known gas concentration. The zero check may be performed by computing the zero value from upscale measurements or by mechanically producing a zero condition.
- A9.4.3.** For continuous monitoring systems measuring opacity of emissions, minimum procedures shall include a method for producing a simulated zero opacity condition and an upscale (span) opacity condition using a certified neutral density filter or other related technique to produce a known obscuration of the light beam. Such procedures shall provide a system check of the analyzer internal optical surfaces and all electronic circuitry including the lamp and photodetector assembly.
- A9.5.** Except for system breakdowns, repairs, calibration checks, and zero and span adjustments required under A9.4. above, all continuous monitoring systems shall be in continuous operation and shall meet minimum frequency of operation requirements as follows:
- A9.5.1.** All continuous monitoring systems referenced by A9.3.1. and A9.3.2. above for measuring opacity of emissions shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 10-second period.
- A9.5.2.** All continuous monitoring systems referenced by A9.3.1. above for measuring oxides of nitrogen, sulfur dioxide, carbon dioxide, or oxygen shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period.
- A9.5.3.** All continuous monitoring systems referenced by A9.3.2. above, except opacity, shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive one-hour period.

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- A9.6.** All continuous monitoring systems for monitoring devices shall be installed such that representative measurements of emissions or process parameters from the affected facility are obtained. Additional procedures for location of continuous monitoring systems contained in the applicable Performance Specifications of 40 CFR 60, Appendix B shall be used.
- A9.7.** When the effluents from a single affected facility or two or more affected facilities subject to the same emission standards are combined before being released to the atmosphere, the owner or operator may install applicable continuous monitoring systems on each effluent or on the combined effluent. When the affected facilities are not subject to the same emission standards, separate continuous monitoring systems shall be installed on each effluent. When the effluent from one affected facility is released to the atmosphere through more than one point, the owner or operator shall install applicable continuous monitoring systems on each separate effluent unless the installation of fewer systems is approved by the Director.
- A9.8.** Owners or operators of all continuous monitoring systems for measurement of opacity shall reduce all data to six-minute averages and for systems other than opacity to one-hour averages, respectively. Six minute opacity averages shall be calculated from 24 or more data points equally spaced over each six-minute period. For systems other than opacity, one-hour averages shall be computed from four or more data points equally spaced over each one-hour period. Data recorded during periods of system breakdowns, repairs, calibration checks, and zero and span adjustments shall not be included in the data averages computed under this subsection. An arithmetic or integrated average of all data may be used. The data output of all continuous monitoring systems may be recorded in reduced or nonreduced form (e.g. ppm pollutant and percent O₂ or lb/million Btu of pollutant). All excess emissions shall be converted into units of the standard using the applicable conversion procedures specified in subparts. After conversion into units of the standard, the data may be rounded to the same number of significant digits used in these rules to specify the applicable standard (e.g., rounded to the nearest 1% opacity).
- A9.9.** Upon written application by an owner or operator, the Director may approve alternatives to any monitoring procedures or requirements of these rules including, but not limited to the following:
- A9.9.1.** Alternative monitoring requirements when installation of a continuous monitoring system or monitoring device specified by these rules would not provide accurate measurements due to liquid water or other interferences caused by substances with the effluent gases.
 - A9.9.2.** Alternative monitoring requirements when the affected facility is infrequently operated.
 - A9.9.3.** Alternative monitoring requirements to accommodate continuous monitoring systems that require additional measurements to correct for stack moisture conditions.
 - A9.9.4.** Alternative locations for installing continuous monitoring systems or monitoring devices when the owner or operator can demonstrate that installation at alternate locations will enable accurate and representative measurements.
 - A9.9.5.** Alternative methods of converting pollutant concentration measurements to units of the standards.
 - A9.9.6.** Alternative procedures for performing daily checks of zero and span drift that do not involve use of span gases or test cells.
 - A9.9.7.** Alternatives to the ASTM test methods or sampling procedures specified by any subpart.
 - A9.9.8.** Alternative continuous monitoring systems that do not meet the design or performance requirements in Performance Specification 1 in 40 CFR 60, Appendix B but adequately demonstrate a definite and consistent relationship between its measurements and the measurements of opacity by a system complying with the requirements in Performance Specification 1. The Director may require that such demonstration be performed for each affected facility.
 - A9.9.9.** Alternative monitoring requirements when the effluent from a single affected facility or the combined effluent from two or more affected facilities are released to the atmosphere through more than one point.
- Historical Note**
Adopted effective May 14, 1979 (Supp. 79-1). Amended effective September 26, 1990 (Supp. 90-3). Amended effective June 15, 1995 (Supp. 95-2). Subsection levels updated for clarity. No other changes have been made to Appendix 9 (Supp. 21-4).
- Appendix 10. Repealed**
- Historical Note**
Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Amended effective June 19, 1981 (Supp. 81-3). Repealed by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).
- Appendix 11. Repealed**
- Historical Note**
Adopted effective May 14, 1979 (Supp. 79-1). Amended effective September 11, 1983 (Supp. 83-5). Repealed by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).
- Appendix 12. Expired**
- Historical Note**
New Appendix 12 made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Appendix 12 expired under A.R.S. § 41-1056(J) at 23 A.A.R. 3427, effective October 10, 2017 (Supp. 17-4).
- Appendix 13. Repealed**
- Historical Note**
New Appendix 13 made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Appendix repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).
- A14. Appendix 14. Procedures for Sulfur Dioxide and Lead Fugitive Emissions Studies for the Hayden Smelter**
- A14.1. Applicability**
This Appendix applies to the owner or operator of the primary copper smelter located in Hayden, Arizona at latitude 33°0'15"N and longitude 110°46'31"W.
- A14.2. Study Objectives**

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The owner or operator shall conduct fugitive emissions studies to derive a measurement or accurate estimate of total fugitive sulfur dioxide and lead emissions from the Hayden smelter during operations, including planned and unplanned start-up and shutdown periods and malfunctions, for the processes identified in A14.3 below. The studies shall include uncaptured fugitive sulfur dioxide emissions from the smelter processing units, but not emissions due solely to the use of fuel for space heating or steam generation, burners at anode casting, or slag pouring at the slag dump. The studies shall evaluate the extent to which correlations may exist between fugitive sulfur dioxide, lead, and particulate matter (PM/PM₁₀/PM_{2.5}) emissions, and shall develop such correlations as feasible.

The studies shall also be used to help validate that the operating conditions or ranges specified in the capture and control device maintenance and operations plans required in R18-2-B1301(D)(2) and R18-2-B1302(D)(2) are consistent with operating conditions demonstrating attainment of the 2008 Lead National Ambient Air Quality Standards (NAAQS) in the Hayden 2008 Lead NAAQS Nonattainment Area State Implementation Plan (SIP) and the 2010 Sulfur Dioxide NAAQS in the Hayden 2010 Sulfur Dioxide NAAQS Nonattainment Area SIP.

A14.3. Processes Evaluated

From the fugitive emissions studies, the owner or operator shall develop an emission factor or accurate estimate of fugitive emissions for sulfur dioxide and lead during operations, including planned and unplanned start-up and shutdown periods and malfunctions, produced by each of the following smelting processes:

- i. Flash furnace building, including flash furnace and dryer operations
- ii. Converter aisle, including converter and related operations
- iii. Anode furnace aisle, including oxidizing, poling and related operations

A14.4. Averaging Periods

The emission estimate shall include the average pounds per hour emission factor for the fugitive lead and sulfur dioxide emissions from each step in the smelting process identified in A14.3. The estimate shall include all time periods, including planned and unplanned start-up and shutdown periods and malfunctions.

A14.5. Methods and Study Protocols

The owner or operator shall submit to the Department and EPA Region IX for review and approval study protocols at least six months prior to conducting fugitive emission studies. Study protocols must be approved by the Department and EPA Region IX prior to commencement of fugitive emissions studies. Study protocols shall specify the method(s) used to meet the study objectives as described in A14.2, including during all recurring operating scenarios from all processes identified in A14.3.

Each fugitive emissions measurement system shall include validation of adequate velocity for flow measurements (i.e., the expected exhaust velocity is within the measurement range of the instrument), and have a sufficient number of flow and temperature sensors to ensure calculation of representative exhaust flows through each roof monitor vent. The number of such sensors and their locations for each monitoring system shall account for the physical configuration of the roof monitor vent, the locations of emitting activities relative

to the roof monitor vent, and heat generated by the equipment served by the roof monitor vent.

The fugitive emissions studies shall include operation and process information to help understand the emission impacts of startup, shutdown, malfunctions, and significant changes in process operations. This shall include, for example, dates, times and duration of these events, cause of malfunctions, and descriptions of process changes.

After the completion of each fugitive emissions study, the owner or operator shall modify study methods based on data and lessons learned from previous studies, and submit such modified methods in the proceeding study protocols prior to conducting future emissions studies.

A14.6. Study Duration, Frequency, and Submission Schedule

The first fugitive emissions study must commence not later than six months after the completion of the Converter Retrofit Project authorized by Significant Permit Revision No. 60647. The second study commencement date shall occur within the same calendar quarter, but five years later from the date of commencement of the first study. The owner or operator shall submit the results of each fugitive emissions study in a report to the Department and EPA Region IX for review and approval not later than six months after completing a study. The data collection portion of the first and second fugitive emissions studies shall be conducted for a period of 12 months to assess the content and quantity of fugitive sulfur dioxide and lead emissions.

A14.7. Study Reports and Subsequent Studies

At minimum, fugitive emission study reports submitted pursuant to A14.6 must include:

- i. Resultant emission factors used to determine fugitive emissions of sulfur dioxide and lead.
- ii. Resultant average fugitive lead emissions for each process identified in A14.3.
- iii. Resultant peak one-hour fugitive sulfur dioxide emissions for each process identified in A14.3.
- iv. Seasonal differences, if any.
- v. Comparisons of results from past studies, if any.
- vi. Descriptions and identification of volumetric flow monitoring provisions in R18-2-B1301(D)(2)(a) and R18-2-B1302(D)(2)(a) and operational limits R18-2-B1301(D)(2)(b) and R18-2-B1302(D)(2)(b) that are associated with fugitive emissions.
- vii. An analysis of whether the results from a study demonstrate that the volumetric flow monitoring provisions in R18-2-B1301(D)(2)(a) and R18-2-B1302(D)(2)(a) and the operational limits in R18-2-B1301(D)(2)(b) and R18-2-B1302(D)(2)(b) continuously ensure that actual fugitive sulfur dioxide and lead emissions are consistent with the modeled emission rates used in the attainment demonstrations in the Hayden 2008 Lead NAAQS Nonattainment Area SIP and the Hayden 2010 Sulfur Dioxide NAAQS Nonattainment Area SIP. The analysis must also identify subsequent fugitive emissions studies, if any, needed to remedy inaccurate operational limits and volumetric flow monitoring provisions and to ensure attainment of the 2008 Lead NAAQS and 2010 Sulfur Dioxide NAAQS. The scope, duration, and frequency of any subsequent fugitive emissions studies must also be identified. This provision and the report's conclusion neither require nor prohibit future fugitive emission studies.

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- viii. An analysis of whether supplemental modeling is needed to demonstrate that resultant fugitive emissions from a study provide attainment of the 2008 Lead NAAQS and 2010 Sulfur Dioxide NAAQS.
- ix. A summary of methods as followed per approved study protocols.

A14.8. Revisions to Operations and Maintenance Plan

If an analysis conducted in accordance with A14.7(vi) demonstrates that fugitive emissions associated with volumetric flow monitoring provisions in R18-2-B1301(D)(2)(a) and R18-2-B1302(D)(2)(a) and operational limits in R18-2-B1301(D)(2)(b) and R18-2-B1302(D)(2)(b) may exceed the modeled emission rates used in the Hayden 2008 Lead NAAQS Nonattainment Area SIP attainment demonstration and/or the Hayden 2010 Sulfur Dioxide NAAQS Nonattainment Area SIP attainment demonstration, and result in an increased likelihood of a NAAQS exceedance based on modeling required under A14.9, then the owner or operator shall submit to the Department for approval, not later than six months after completing a study, recommended changes to operational limits and volumetric flow monitoring provisions as an operations and maintenance plan revision pursuant to R18-2-B1301(D)(2)(e) and R18-2-B1302(D)(2)(e) that would achieve necessary fugitive emissions levels to demonstrate attainment of the NAAQS at the same level of assurance as in the attainment demonstrations. Until receiving approval of the plan revision, the owner or operator shall operate and maintain the volumetric flow monitoring provisions and the operational limits in accordance with the plan as initially submitted pursuant to R18-2-B1301(D)(2)(e) and R18-2-B1302(D)(2)(e). Additionally, the owner and operator shall submit new attainment demonstrations pursuant to A14.9, making appropriate demonstrations of attainment at adjusted fugitive emissions levels.

Similarly, if an analysis conducted in accordance with A14.7(vi) demonstrates that fugitive emissions associated with the volumetric flow monitoring provisions in R18-2-B1301(D)(2)(a) and R18-2-B1302(D)(2)(a) and operational limits in R18-2-B1301(D)(2)(b) and R18-2-B1302(D)(2)(b) may exceed the modeled emission rates used in the Hayden 2008 Lead NAAQS Nonattainment Area SIP attainment demonstration and/or the Hayden 2010 Sulfur Dioxide NAAQS Nonattainment Area SIP attainment demonstration, and result in an increased likelihood of a NAAQS exceedance based on modeling required under A14.9, then the Department shall submit appropriate changes to the operational limits and volumetric flow monitoring provisions, and any revised attainment demonstration pursuant to A14.9, if applicable, to EPA Region IX as a SIP revision not later than 12 months after completion of a fugitive emissions study.

A14.9. Supplemental Modeling

If an analysis conducted in accordance with A14.7(vii) demonstrates that fugitive emissions associated with volumetric flow monitoring provisions in R18-2-B1301(D)(2)(a) and R18-2-B1302(D)(2)(a) and operational limits in R18-2-B1301(D)(2)(b) and R18-2-B1302(D)(2)(b) are greater than the modeled emission rates used in the Hayden 2008 Lead NAAQS Nonattainment Area SIP attainment demonstration and/or the Hayden 2010 Sulfur Dioxide NAAQS Nonattainment Area SIP attainment demonstration, the owner or opera-

tor shall remodel to demonstrate whether the 2010 Sulfur Dioxide NAAQS and/or 2008 Lead NAAQS will be attained as such higher rates. The owner or operator shall submit such modeling to the Department and EPA Region IX for review and approval not later than six months after completing a fugitive emissions study.

If the revised modeling demonstrates that the 2010 Sulfur Dioxide NAAQS and/or 2008 Lead NAAQS will be attained, the Department shall submit such modeling demonstration and revised fugitive emissions assumptions as a SIP revision to EPA Region IX not later than 12 months after completion of a fugitive emissions study. Alternatively, the owner or operator shall propose additional emission control requirements to revise the SIP, or any combination of revised control measures and modeled attainment, to demonstrate attainment of the 2010 Sulfur Dioxide NAAQS and/or 2008 Lead NAAQS.

Historical Note

A14, Appendix 14 made by final rulemaking at 23 A.A.R. 722, effective May 7, 2017 (Supp. 17-1). Because of a clerical error in Supp. 17-1, A14, Appendix 14 was inadvertently published at the end of Article 13. At the request of the Department it has been moved to the end of this Chapter (Supp. 17-3). Subsection levels updated for clarity. No other changes have been made to Appendix 14 (Supp. 21-4).

A15. Appendix 15. Test Methods for Determining Opacity and Stabilization of Unpaved Roads**A15.1. Applicability**

This Appendix applies to unpaved roads at the primary copper smelter located in Hayden, Arizona at latitude 33°0'15"N and longitude 110°46'31"W.

A15.2. Opacity Test Method

The purpose of this test method is to estimate the percent opacity of fugitive dust plumes caused by vehicle movement on unpaved roads. This method can only be conducted by an individual who has received certification as a qualified observer. Qualification and testing requirements can be found in Section A15.4 of this Appendix.

A15.2.1. Step 1

Stand at least 16.5 feet from the fugitive dust source in order to provide a clear view of the emissions with the sun oriented in the 140° sector to the back. Following the above requirements, make opacity observations so that the line of vision is approximately perpendicular to the dust plume and wind direction. If multiple plumes are involved, do not include more than one plume in the line of sight at one time.

A15.2.2. Step 2

Record the fugitive dust source location, source type, method of control used, if any, observer's name, certification data and affiliation, and a sketch of the observer's position relative to the fugitive dust source. Also record the time, estimated distance to the fugitive dust source location, approximate wind direction, estimated wind speed, description of the sky condition (presence and color of clouds), observer's position to the fugitive dust source, and color of the plume and type of background on the visible emission observation from both when opacity readings are initiated and completed.

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A15.2.3. Step 3

Make opacity observations, to the extent possible, using a contrasting background that is perpendicular to the line of vision. Make opacity observations approximately 1 meter above the surface from which the plume is generated. Note that the observation is to be made at only one visual point upon generation of a plume, as opposed to visually tracking the entire length of a dust plume as it is created along a surface. Make two observations per vehicle, beginning with the first reading at zero seconds and the second reading at five seconds. The zero-second observation should begin immediately after a plume has been created above the surface involved. Do not look continuously at the plume but, instead, observe the plume briefly at zero seconds and then again at five seconds.

A15.2.4. Step 4

Record the opacity observations to the nearest 5% on an observational record sheet. Each momentary observation recorded represents the average opacity of emissions for a 5-second period. While it is not required by the test method, EPA recommends that the observer estimate the size of vehicles which generate dust plumes for which readings are taken (e.g. midsize passenger car or heavy-duty truck) and the approximate speeds the vehicles are traveling when readings are taken.

A15.2.5. Step 5

Repeat Step 3 (Section A15.2.3 of this Appendix) and Step 4 (Section A15.2.4 of this Appendix) until you have recorded a total of 12 consecutive opacity readings. This will occur once six vehicles have driven on the source in your line of observation for which you are able to take proper readings. The 12 consecutive readings must be taken within the same period of observation but must not exceed 1 hour. Observations immediately preceding and following interrupted observations can be considered consecutive.

A15.2.6. Step 6

Average the 12 opacity readings together. If the average opacity reading equals 20% or lower, the source is in compliance.

A15.3. Silt Content Test Method

The purpose of this test method is to estimate the silt content of the trafficked parts of unpaved roads. The higher the silt content, the more fine dust particles that are released when cars and trucks drive on unpaved roads.

A15.3.1. Equipment

- A15.3.1.1.** A set of sieves with the following openings: 4 millimeters (mm), 2 mm, 1 mm, 0.5 mm and 0.25 mm (or a set of standard/commonly available sieves), a lid, and collector pan.
- A15.3.1.2.** A small whisk broom or paintbrush with stiff bristles and dustpan 1 ft. in width. (The broom/brush should preferably have one, thin row of bristles no longer than 1.5 inches in length).
- A15.3.1.3.** A spatula without holes.
- A15.3.1.4.** A small scale with half-ounce increments (e.g., postal/package scale).

A15.3.1.5. A shallow, lightweight container (e.g., plastic storage container).

A15.3.1.6. A sturdy cardboard box or other rigid object with a level surface.

A15.3.1.7. A basic calculator.

A15.3.1.8. Cloth gloves (optional for handling metal sieves on hot, sunny days).

A15.3.1.9. Sealable plastic bags (if sending samples to a laboratory).

A15.3.1.10. A pencil/pen and paper.

A15.3.2. Step 1

Look for a routinely traveled surface, as evidenced by tire tracks. (Only collect samples from surfaces that are not damp due to precipitation or dew. This statement is not meant to be a standard in itself for dampness where watering is being used as a control measure. It is only intended to ensure that surface testing is done in a representative manner.) Use caution when taking samples to ensure personal safety with respect to passing vehicles. Gently press the edge of a dustpan (1 foot in width) into the surface four times to mark an area that is 1 square foot. Collect a sample of loose surface material using a whiskbroom or brush and slowly sweep the material into the dustpan, minimizing escape of dust particles. Use a spatula to lift heavier elements such as gravel. Only collect dirt/gravel to an approximate depth of 3/8 inch or 1 cm in the 1 square foot area. If you reach a hard, underlying subsurface that is < 3/8 inch in depth, do not continue collecting the sample by digging into the hard surface. In other words, you are only collecting a surface sample of loose material down to 1 cm. In order to confirm that samples are collected to 1 cm in depth, a wooden dowel or other similar narrow object at least 1 foot in length can be laid horizontally across the survey area while a metric ruler is held perpendicular to the dowel. At this point, you can choose to place the sample collected into a plastic bag or container and take it to an independent laboratory for silt content analysis. A reference to the procedure the laboratory is required to follow is at the end of this section.

A15.3.3. Step 2

Place a scale on a level surface. Place a lightweight container on the scale. Zero the scale with the weight of the empty container on it. Transfer the entire sample collected in the dustpan to the container, minimizing escape of dust particles. Weigh the sample and record its weight.

A15.3.4. Step 3

Stack a set of sieves in order according to the size openings specified above, beginning with the largest size opening (4 mm) at the top. Place a collector pan underneath the bottom (0.25 mm) sieve.

A15.3.5. Step 4

Carefully pour the sample into the sieve stack, minimizing escape of dust particles by slowly brushing material into the stack with a whiskbroom or brush. (On windy days, use the trunk or door of a car as a wind barricade.) Cover the stack with a lid. Lift up the sieve stack and shake it vigorously up, down and sideways for at least 1 minute.

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A15.3.6. Step 5

Remove the lid from the stack and disassemble each sieve separately, beginning with the top sieve. As you remove each sieve, examine it to make sure that all of the material has been sifted to the finest sieve through which it can pass (e.g., material in each sieve [besides the top sieve that captures a range of larger elements] should look the same size). If this is not the case, re-stack the sieves and collector pan, cover the stack with the lid, and shake it again for at least 1 minute. (You only need to reassemble the sieve(s) that contain material, which requires further sifting.)

A15.3.7. Step 6

After disassembling the sieves and collector pan, slowly sweep the material from the collector pan into the empty container originally used to collect and weigh the entire sample. Take care to minimize escape of dust particles. You do not need to do anything with material captured in the sieves; only the collector pan. Weigh the container with the material from the collector pan and record its weight.

A15.3.8. Step 7

If the source is an unpaved road, multiply the resulting weight by 0.38. The resulting number is the estimated silt loading. Then, divide by the total weight of the sample you recorded earlier in Step 2 (Section A15.3.3 of this Appendix) and multiply by 100 to estimate the percent silt content.

A15.3.9. Step 8

Select another two routinely traveled portions of the unpaved road and repeat this test method. Once you have calculated the silt loading and percent silt content of the three samples collected, average your results together.

A15.3.10. Step 9

Examine results. If the average silt loading is less than 0.33 oz/ft², the surface is STABLE. If the average silt loading is greater than or equal to 0.33 oz/ft², then proceed to examine the average percent silt content. If the source is an unpaved road and the average percent silt content is 6% or less, the surface is STABLE. If your field test results are within 2% of the standard (for example, 4%–8% silt content on an unpaved road), it is recommended that you collect three additional samples from the source according to Step 1 (Section A15.3.2 of this Appendix) and take them to an independent laboratory for silt content analysis.

A15.3.11. Independent Laboratory Analysis

You may choose to collect 3 samples from the source, according to Step 1 (Section A15.3.2 of this Appendix), and send them to an independent laboratory for silt content analysis rather than conduct the sieve field procedure. If so, the test method the laboratory is required to use is: U.S. Environmental Protection Agency (1995), "Procedures for Laboratory Analysis of Surface/Bulk Dust Loading Samples", (AP-42 Fifth Edition, Volume I, Appendix C.2.3 "Silt Analysis"), Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina.

A15.4. Qualification and Testing**A15.4.1. Certification Requirements**

To receive certification as a qualified observer, a candidate must be tested and demonstrate the ability to assign opacity readings in 5% increments to 25 different black plumes and 25 different white plumes, with an error not to exceed 15% opacity on any one reading and an average error not to exceed 7.5% opacity in each category. Candidates shall be tested according to the procedures described in Section A15.4.2 of this Appendix. Any smoke generator used pursuant to Section A15.4.2 of this Appendix shall be equipped with a smoke meter which meets the requirements of Section A15.4.3 of this Appendix. Certification tests that do not meet the requirements of Sections A15.4.2 and A15.4.3 of this Appendix are not valid. The certification shall be valid for a period of six months, and after each six-month period the qualification procedures must be repeated by an observer in order to retain certification.

A15.4.2. Certification Procedure

The certification test consists of showing the candidate a complete run of 50 plumes, 25 black plumes and 25 white plumes, generated by a smoke generator. Plumes shall be presented in random order within each set of 25 black and 25 white plumes. The candidate assigns an opacity value to each plume and records the observation on a suitable form. At the completion of each run of 50 readings, the score of the candidate is determined. If a candidate fails to qualify, the complete run of 50 readings must be repeated in any retest. The smoke test may be administered as part of a smoke school or training program, and may be preceded by training or familiarization runs of the smoke generator, during which candidates are shown black and white plumes of known opacity.

A15.4.3. Smoke Generator Specifications

Any smoke generator used for the purpose of Section A15.4.2 of this Appendix shall be equipped with a smoke meter installed to measure opacity across the diameter of the smoke generator stack. The smoke meter output shall display in-stack opacity, based upon a path length equal to the stack exit diameter on a full 0% to 100% chart recorder scale. The smoke meter optical design and performance shall meet the specifications shown in Table 1 of this Appendix. The smoke meter shall be calibrated as prescribed in Section A15.4.3.1 of this Appendix prior to conducting each smoke reading test. At the completion of each test, the zero and span drift shall be checked, and if the drift exceeds plus or minus 1% opacity, the condition shall be corrected prior to conducting any subsequent test runs. The smoke meter shall be demonstrated, at the time of installation, to meet the specifications listed in Table 1 of this Appendix. This demonstration shall be repeated following any subsequent repair or replacement of the photocell or associated electronic circuitry, including the chart recorder or output meter, or every six months, whichever occurs first.

A15.4.3.1. Calibration

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The smoke meter is calibrated after allowing a minimum of 30 minutes warm-up by alternately producing simulated opacity of 0% and 100%. When stable response at 0% or 100% is noted, the smoke meter is adjusted to produce an output of 0% or 100%, as appropriate. This calibration shall be repeated until stable 0% and 100% readings are produced without adjustment. Simulated 0% and 100% opacity values may be produced by alternately switching the power to the light source on and off while the smoke generator is not producing smoke.

A15.4.3.2. Smoke Meter Evaluation

The smoke meter design and performance are to be evaluated as follows:

A15.4.3.2.1. Light Source

Verify, from manufacturer's data and from voltage measurements made at the lamp, as installed, that the lamp is operated within plus or minus 5% of the nominal rated voltage.

A15.4.3.2.2. Spectral Response of Photocell

Verify from manufacturer's data that the photocell has a photopic response (i.e., the spectral sensitivity of the cell shall closely approximate the standard spectral-luminosity curve for photopic vision which is referenced in (b) of Table 1 of this Appendix).

A15.4.3.2.3. Angle of View

Check construction geometry to ensure that the total angle of view of the smoke plume, as seen by the photocell, does not exceed 15°. Calculate the total angle of view (ϕ_v) as follows:

$$\text{Total Angle of View} = 2 \tan^{-1} (d/2L)$$

where:

d = The photocell diameter + the diameter of the limiting aperture; and

L = The distance from the photocell to the limiting aperture. The limiting aperture is the point in the path between the photocell and the smoke plume where the angle of view is most restricted. In smoke generator smoke meters, this is normally an orifice plate.

A15.4.3.2.4. Angle of Projection

Check construction geometry to ensure that the total angle of projection of the lamp on the smoke plume does not exceed 15°. Calculate the total angle of projection (ϕ_p) as follows:

$$\text{Total Angle of Projection} = 2 \tan^{-1} (d/2L)$$

where:

d = The sum of the length of the lamp filament + the diameter of the limiting aperture; and

L = The distance from the lamp to the limiting aperture.

A15.4.3.2.5. Calibration Error

Using neutral-density filters of known opacity, check the error between the actual response and the theoretical linear response of the smoke meter. This check is accomplished by first calibrating the smoke meter, according to Section A15.4.3.1 of this Appendix, and then inserting a series of three neutral-density filters of nominal opacity of 20%, 50%, and 75% in the smoke meter path length. Use filters calibrated within plus or minus 2%. Care should be taken when inserting the filters to prevent stray light from affecting the meter. Make a total of five nonconsecutive readings for each filter. The maximum opacity error on any one reading shall be plus or minus 3%.

A15.4.3.2.6. Zero and Span Drift

Determine the zero and span drift by calibrating and operating the smoke generator in a normal manner over a 1-hour period. The drift is measured by checking the zero and span at the end of this period.

A15.4.3.2.7. Response Time

Determine the response time by producing the series of five simulated 0% and 100% opacity values and observing the time required to reach stable response. Opacity values of 0% and 100% may be simulated by alternately switching the power to the light source off and on while the smoke generator is not operating.

Historical Note

A15, Appendix 15, made by final rulemaking at 23 A.A.R. 767, effective May 7, 2017 (Supp. 17-1). Because of a clerical error in Supp. 17-1, A15, Appendix 15 was inadvertently published at the end of Article 13. At the request of the Department it has been moved to the end of this Chapter (Supp. 17-3). Subsection levels updated for clarity. No other changes have been made to Appendix 15 (Supp. 21-4).

Table 1. Smoke Meter Design and Performance Specifications

Parameter	Specification
a. Light source	Incandescent lamp operated at nominal rated voltage
b. Spectral response of photocell	Photopic (daylight spectral response of the human eye)
c. Angle of view	15° maximum total angle
d. Angle of projection	15° maximum total angle

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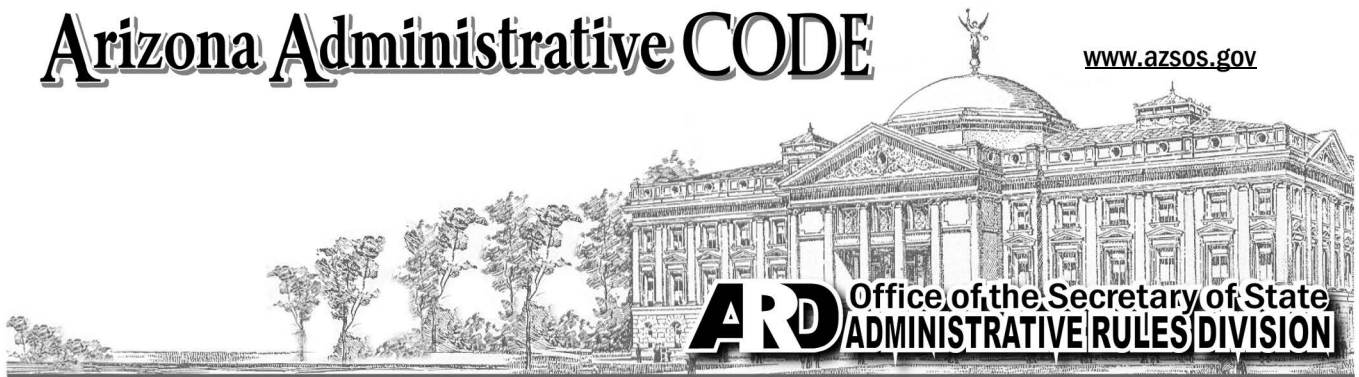
e. Calibration error	Plus or minus 3% opacity; maximum
f. Zero and span drift	Plus or minus 1% opacity, 30 minutes
g. Response time	Less than or equal to 5 sec- onds

Historical Note

Table 1 made by final rulemaking at 23 A.A.R. 767, effective May 7, 2017 (Supp. 17-1). Table 1 separated from Appendix 15. No other changes have been made to Table 1 (Supp. 21-4).

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CHAPTER 4. DEPARTMENT OF ENVIRONMENTAL QUALITY - SAFE DRINKING WATER

The table of contents on page one contains links to the referenced page numbers in this Chapter.

Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of April 1, 2023 through June 30, 2023

R18-4-107.	Special Regulations, Including Monitoring - 40	R18-4-402.	Use of Lead Free Pipes, Fittings, Fixtures, Solder,
	CFR 141, Subpart E 8		and Flux for Drinking Water – 40 CFR 143,
			Subpart B 26

Questions about these rules? Contact:

Department: Arizona Department of Environmental Quality
Address: 1110 W. Washington St.
Phoenix, AZ 85007
[Website:](#) www.azdeq.gov
Name: Laura Carusona, Safe Drinking Water Manager
Telephone: (602) 771-0053
[Email:](#) carusona.laura@azdeq.gov

The release of this Chapter in Supp. 23-2 replaces Supp. 16-1, 1-38 pages.

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

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

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

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ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

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

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

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

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

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

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 4. DEPARTMENT OF ENVIRONMENTAL QUALITY - SAFE DRINKING WATER

Authority: A.R.S. § 49-104 et seq.

Supp. 23-2

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Article 2 consisting of Sections R18-4-201 through R18-4-290, adopted effective August 8, 1991 (Supp. 91-3).

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Article 6, consisting of Sections R18-4-601 through R18-4-607, adopted by final rulemaking effective September 23, 1999; the A.A.R. citation was not available at the time of publication and will appear in Supp. 99-4 (Supp. 99-3).

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TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 4. DEPARTMENT OF ENVIRONMENTAL QUALITY - SAFE DRINKING WATER

ARTICLE 1. PRIMARY DRINKING WATER REGULATIONS**R18-4-101. Authority and Purpose**

- A. This Chapter is created under the authority of A.R.S. Title 49, Chapter 2, Article 9, and the federal Safe Drinking Water Act, 42 U.S.C. 300f through 300j-26.
- B. The purposes of this Chapter include the following:
1. To protect the public health and welfare by ensuring that all potable water distributed or sold to the public by public water systems is free from unwholesome, poisonous, deleterious, or other foreign substances, and filth or disease-causing substances or organisms; and
 2. To enable the state to maintain primary enforcement responsibility of the Safe Drinking Water Act, including the requirements of 40 CFR 141 and 142.

Historical Note

Former Section R9-20-504 repealed, new Section R9-20-504 adopted effective November 1, 1979 (Supp. 79-6). Former Section R9-20-504 amended, renumbered as Section R9-20-501, then renumbered as Section R18-4-101 effective October 23, 1987 (Supp. 87-4). R18-4-101 recodified to R18-5-101 (Supp. 95-2). New Section adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Amended effective December 8, 1998 (Supp. 98-4). Amended by final rulemaking effective September 23, 1999; the A.A.R. citation was not available at the time of publication and will appear in Supp. 99-4 (Supp. 99-3). Amended by final rulemaking at 5 A.A.R. 4456, effective September 23, 1999 (Supp. 99-4). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 3046, effective May 1, 2002 (Supp. 02-3). Section repealed; new Section made by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-102. Incorporation by Reference of 40 CFR 141 and 142

- A. Unless otherwise specified in this Chapter, all references to regulations in 40 CFR 141 and 142 in this Chapter refer to the July 1, 2014, version of the regulations. Copies of the incorporated material are available for review at the Arizona Department of Environmental Quality, 1110 W. Washington St., Phoenix, AZ, 85007, and are available from the U.S. General Printing office at <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>.
- B. A reference to a federal statute or regulation in a federal statute or regulation incorporated by reference in this Chapter shall refer to and incorporate by reference the referenced statute or regulation as of the date specified in subsection (A), unless the referenced statute or regulation is incorporated by reference elsewhere in this Chapter in a modified form, in which case the reference shall be to the statute or regulation as incorporated in this Chapter.
- C. Documents incorporated by reference in a federal statute or regulation incorporated by reference in this Chapter are also incorporated by reference in this Chapter, as of the date specified in the federal statute or regulation.
- D. A federal rule incorporated by reference in this Chapter shall include all "Effective Date Notes" associated with the federal rule.
- E. The term "State" or "primacy agency" in the text of a federal statute or regulation incorporated by reference in this Chapter shall mean the Arizona Department of Environmental Quality unless otherwise noted.

Historical Note

Adopted as Section R9-20-502 and renumbered as Section R18-4-102 effective October 23, 1987 (Supp. 87-4). R18-4-102 recodified to R18-5-102 (Supp. 95-2). New Section adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section repealed; new Section made by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3). Amended by final rulemaking at 22 A.A.R. 379, effective April 2, 2016 (Supp. 16-1).

R18-4-103. General – 40 CFR 141, Subpart A

- A. 40 CFR 141, Subpart A (40 CFR 141.1 through 141.6), is incorporated by reference as of the date specified in R18-4-102, except for the changes listed in this Section; this incorporation does not include any later amendments or editions.
- B. The definition of "State" in 40 CFR 141.2 is not incorporated by reference. In addition to the terms defined in A.R.S. §§ 49-201 and 49-351, and 40 CFR 141.2, in this Chapter, unless otherwise specified, the terms listed below have the following meanings.

"Air-gap separation" means a physical separation between the discharge end of a supply pipe and the top rim of its receiving vessel of at least 1 inch or twice the diameter of the supply pipe, whichever is greater.

"ANSI/NSF Standard 60" means American National Standards Institute/NSF International Standard 60 - 2014a, Drinking Water Treatment Chemicals - Health Effects, November 17, 2014, incorporated by reference and on file with the Department. This material is available from NSF International, 789 N. Dixboro Road, P.O. Box 130140, Ann Arbor, MI 48113-0140, USA; (734) 769-8010; <http://www.nsf.org>. This incorporation by reference includes no future editions or amendments.

"ANSI/NSF Standard 61" means American National Standards Institute/NSF International Standard 61 - 2014a, Drinking Water System Components - Health Effects, October 19, 2014, incorporated by reference and on file with the Department. This material is available from NSF International, 789 N. Dixboro Road, P.O. Box 130140, Ann Arbor, MI 48113-0140, USA; (734) 769-8010; <http://www.nsf.org>. This incorporation by reference includes no future editions or amendments.

"Backflow" means a reverse flow condition that causes water or mixtures of water and other liquids, gases, or substances to flow back into the distribution system. Backflow can be created by a difference in water pressure (backpressure), a vacuum or partial vacuum (backsiphonage), or a combination of both.

"Backflow-prevention assembly" means a mechanical device used to prevent backflow.

"Capacity" means the overall capability of a water system to consistently produce and deliver water meeting all national and state primary drinking water regulations in effect when new or modified operations begin. Capacity includes the technical, managerial, and financial capacities of the water system to plan for, achieve, and maintain compliance with applicable national and state primary drinking water regulations.

TITLE 18. ENVIRONMENTAL QUALITY

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“Capacity development” means improving public water system finances, management, infrastructure, and operations, so that the public water system can provide safe drinking water consistently, reliably, and cost-effectively.

“Capacity development report” means an annual report adopted by the Department that describes progress made in improving technical, managerial, or financial capacity of public water systems in Arizona.

“Cross connection” means a physical connection between a public water system and any source of water or other substance that may lead to contamination of the water provided by the public water system through backflow.

“Distribution system” means a pipeline, appurtenance, device, and facility of a public water system that conducts water from a source or water treatment plant to persons served by the system.

“Department” means the Arizona Department of Environmental Quality.

“Double check valve assembly” means a backflow-prevention assembly that contains two independently acting check valves with tightly closing, resilient-seated shut-off valves on each end of the assembly and properly located, resilient-seated test cocks.

“Elementary business plan” means a document containing all of the items necessary for a complete review of the technical, managerial, and financial capacity of a new public water system under Article 6 of this Chapter.

“Entry point to the distribution system” means a compliance sampling point anywhere on a finished water line that is representative of a water source and located after the well, surface water intake, treatment plant, storage tank, or pressure tank, whichever is last in the process flow, but prior to where the water is discharged into the distribution system and prior to the first service connection.

“EPA” means the United States Environmental Protection Agency.

“Exclusion” means a waiver granted by the Department under R18-4-219 from a requirement of this Chapter that is not a requirement contained in a federal drinking water law.

“Exemption” means a form of temporary relief from a maximum contaminant level or treatment technique granted by the Department to a public water system, pending installation and operation of treatment facilities, acquisition of an alternate source, or completion of improvements in treatment processes to bring the system into compliance with drinking water regulations.

“Financial capacity” means the ability of a public water system to acquire and manage sufficient financial resources for the system to achieve and maintain compliance with the federal Safe Drinking Water Act.

“Groundwater system” means a public water system that is supplied solely by groundwater that is not under the direct influence of surface water.

“Lead-free” has the same meaning prescribed in A.R.S. § 49-353(B).

“Major stockholder” means a person who has 20% or more ownership interest in a public water system.

“Master priority list” means a list created by the Department that ranks public water systems according to the criteria in R18-4-803.

“Monitoring assistance program” means the program established by A.R.S. § 49-360 to assist public water systems with mandatory monitoring for contaminants and administered by the Department under 18 A.A.C. 4.

“Operational assistance” means professional or financial assistance provided to a public water system to improve the technical, managerial, or financial operations of the public water system.

“Protected water source” means a groundwater source that:

- Meets the requirements of A.A.C. R18-5-502(D);
- Is not located within 100 feet of a drywell as defined by A.R.S. § 49-331(3), and
- Is not located within 100 feet of a condition that can constitute an environmental nuisance as described in A.R.S. § 49-141(A).

“Reduced pressure principle backflow-prevention assembly” means a backflow-prevention assembly that contains two independently acting check valves; a hydraulically operating, mechanically independent pressure differential relief valve located between the two check valves; tightly closing, resilient seated shut-off valves on each end of the check valve assembly; and properly located resilient seated test cocks.

“Service connection” means a location at the meter or, in the absence of a meter, at the curbstop or building inlet.

“Service line” means the water line that runs from the corporation stop at a water main to the building inlet, including any pigtail, gooseneck, or fitting.

“State” means the Arizona Department of Environmental Quality, except during any time period during which the Department does not have primary enforcement responsibility pursuant to Section 1413 of the Act, the term “State” means the Regional Administrator of EPA Region 9.

“System evaluation assistance” means assistance provided to assess the status of the public water system's technical, managerial, and financial components, with emphasis on infrastructure status.

“Technical assistance” means operational assistance, system evaluation assistance, or both.

“Treatment” means a process that changes the quality of water by physical, chemical, or biological means.

“Treatment technique” means a treatment procedure promulgated by EPA in lieu of an MCL.

“Variance” means relief from a maximum contaminant level or treatment technique granted by the Department to a public water system when characteristics of a system's raw water source preclude the system from complying with maximum contaminant levels prescribed by drinking water regulations, despite application of best technology,

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treatment techniques, or other means available to the system.

“Water main” means a pipe that is exterior to buildings and is used to distribute drinking water to more than one property.

“Water Infrastructure Finance Authority” means the entity created under A.R.S. § 49-1201 et seq. to provide financial assistance to political subdivisions, Indian tribes, and eligible drinking water facilities for constructing, acquiring, or improving wastewater treatment facilities, drinking water facilities, nonpoint source projects, and other related water quality facilities and projects.

“Water treatment plant” means a process, device, or structure used to improve the physical, chemical, or biological quality of the water in a public water system. A booster chlorination facility that is designed to maintain an effective disinfectant residual in water in the distribution system is not a water treatment plant.

- C. 40 CFR 141.4, entitled “variances and exemptions,” is incorporated by reference subject to the following modifications:
1. The phrase “entity with primary enforcement responsibility” is changed to “Department.”
 2. When reviewing and acting on requests for variances and exemptions, the Department shall act in accordance with the procedures at 42 U.S.C. 300g-4 and 300g-5 (2004) of the Act (Public Health Service Act §§ 1415 and 1416), including:
 - a. The Department shall require a public water system granted a variance under subsection (C) to comply with the requirements in a compliance schedule as expeditiously as practicable.
 - b. The Department shall promptly notify EPA of all variances and exemptions granted by the Department in the manner specified in the Act.
 - c. The Department shall enforce a schedule or other requirement on which a variance or exemption is conditioned under 42 U.S.C. 300g-3 and A.R.S. § 49-354, as if the schedule or other requirement is part of a national primary drinking water regulation incorporated by reference in this Chapter.
 - d. “Treatment technique requirement,” for the purpose of subsection (C), means a requirement in a national primary drinking water regulation which specifies for a contaminant, in accordance with 42 U.S.C. 300f(1)(C)(ii), each treatment technique known to lead to a reduction in the level of the contaminant sufficient to satisfy the requirements of 42 U.S.C. 300g-1(b).
 - e. If the Department grants a variance or exemption, the Department shall prescribe:
 - i. A compliance schedule that includes increments of progress or measures to develop an alternative source of water supply; and
 - ii. An implementation schedule that includes such control measures as the Department deems necessary for each contaminant.
- D. 40 CFR 142, 142.2, 142.20, and Subparts E, F, G, and K, are incorporated by reference as of the date specified in R18-4-102, with the following changes; this incorporation does not include any later amendments or editions. The following substitutions are to be applied in the listed order.
1. 40 CFR 142.46, 142.302, 142.313 are not incorporated by reference.
 2. 40 CFR 142.20(a), (b). The phrase “States with primary enforcement responsibility” is changed to “the Department”; the second sentences in 142.20(a) and 142.20(b) are deleted.
 3. 40 CFR 142.60(b), 142.61(b). The phrase “Administrator in a state that does not have primary enforcement responsibility or a state with primary enforcement responsibility (primacy state) that issues variances” is changed to “Department.”
 4. 40 CFR 142.40(a), (b); 142.41; 142.50(a); 142.51. The phrase “a State that does not have primary enforcement responsibility” is changed to “Arizona”.
 5. 40 CFR 142.60(b), (c), (d); 142.61(b), (c). The phrase “Administrator or [‘primacy’ or ‘primary’] state that issues variances” is changed to “Department.”
 6. 40 CFR 142.60(b), (d); 142.61(b), (d); 142.62(e), (g)(1); 142.65(a)(4). The phrase “Administrator or [the] primacy state” is changed to “Department”; the phrase “Administrator’s or primacy state’s” is changed to “Department’s.”
 7. In 40 CFR 142, Subpart K:
 - a. The phrases “[‘a’ or ‘the’] State or [the] Administrator,” “Administrator or State,” “the public water system, State and the Administrator,” and “a State exercising primary enforcement responsibility for public water systems (or the Administrator for other systems)” are changed to “the Department.”
 - b. 40 CFR 142.301. The last sentence is deleted.
 - c. 40 CFR 142.303(b). The phrase “a State exercising primary enforcement responsibility for public water systems” is changed to “the Department.”
 - d. 40 CFR 142.306(b)(2). The phrase “(or by the Administrator in States which do not have primary enforcement responsibility)” is deleted.
 - e. 40 CFR 142.308(a), 142.309(c). The phrase “the State, Administrator, or [the] public water system as directed by the State or Administrator” is changed to “the Department or the public water system, as determined by the Department.”
 - f. 40 CFR 142.308(b). The text of this subsection is replaced by the following: “At the time of proposal, the Department must publish a notice in the *Arizona Administrative Register* or a newspaper or newspapers of wide circulation in the affected region of the State. This notice shall include the information listed in paragraph (c) of this section.”
 - g. 40 CFR 142.308(c)(7). The phrase “the primacy agency” is changed to “the Department.”
 8. In all parts of 40 CFR 142 incorporated by reference other than Subpart K, the term “Administrator” is changed to “Department”; the pronoun “he” is changed to “the Department”; and the pronoun “his” is changed to “the Department’s.”
 9. In all parts of 40 CFR 142 incorporated by reference, the term “a state” or “the state” is changed to “the Department”; the term “the State’s” is changed to “the Department’s.”
 10. 40 CFR 142.62(h)(3). The term “State-approved” is changed to “Department-approved.”
 11. In 40 CFR 142.44(b). The text of this subsection is replaced by the following: “Public notice of an opportunity for hearing on a variance schedule shall be circulated in a manner designed to inform interested and potentially

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interested persons of the proposed schedule, and shall meet the notice requirements of A.A.C. R18-1-401.”

12. In 40 CFR 142.54(b). The text of this subsection is replaced by the following: “Public notice of an opportunity for hearing on an exemption schedule shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed schedule, and shall meet the notice requirements of A.A.C. R18-1-401.”
13. 40 CFR 142.44(d), 142.54(d). The third, fourth, and fifth sentences of these subsections are deleted.
14. 40 CFR 142.44(e), 142.54(e). The text of these subsections is replaced by the following: “A hearing convened pursuant to paragraph (d) of this section shall be conducted according to the procedural requirements of A.A.C. R18-1-402.”

- E. 40 CFR 141.5 is not incorporated by reference.

Historical Note

Former Section R9-20-505 repealed, new Section R9-20-505 adopted effective November 1, 1979 (Supp. 79-6). Former Section R9-20-505 amended, renumbered as Section R9-20-503, then renumbered as Section R18-4-103 effective October 23, 1987 (Supp. 87-4). R18-4-103 recodified to R18-5-103 (Supp. 95-2). New Section adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 3046, effective May 1, 2002 (Supp. 02-3). Section R18-4-103 repealed; new Section made by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3). Amended by final rulemaking at 22 A.A.R. 379, effective April 2, 2016 (Supp. 16-1).

R18-4-104. Maximum Contaminant Levels – 40 CFR 141, Subpart B

40 CFR 141, Subpart B (40 CFR 141.11 through 141.13), is incorporated by reference as of the date specified in R18-4-102; this incorporation does not include any later amendments or editions.

Historical Note

Former Section R9-20-506 repealed, new Section R9-20-506 adopted effective November 1, 1979 (Supp. 79-6). Amended effective March 19, 1980 (Supp. 80-2). Former Section R9-20-506 amended, renumbered as Section R9-20-504, then renumbered as Section R18-4-104 effective October 23, 1987 (Supp. 87-4). R18-4-104 recodified to R18-5-104 (Supp. 95-2). New Section adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Amended effective December 8, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 3046, effective May 1, 2002 (Supp. 02-3). Amended under R1-1-109(B) to correct a manifest clerical error; subsection R18-4-104(J)(3) moved to its proper place as subsection R18-4-104(K)(3); compare at 8 A.A.R. 3086, July 26, 2002 (Supp. 03-1). Section R18-4-104 renumbered to R18-4-211; new Section made by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-105. Monitoring and Analytical Requirements – 40 CFR 141, Subpart C

- A. 40 CFR 141, Subpart C (40 CFR 141.21 through 141.29 and Appendix A), is incorporated by reference as of the date speci-

fied in R18-4-102, subject to the modifications specified in this Section; this incorporation does not include any later amendments or editions.

- B. 40 CFR 141.21(c)(2), 141.21(d) and 141.21(f) are not incorporated by reference.
- C. 40 CFR 141.22: the last sentence of 141.22(a) is replaced by the following: “Turbidity measurements shall be made using analytical methods approved by EPA and the Arizona Department of Health Services.”
- D. 40 CFR 141.23(k) is not incorporated by reference.
- E. 40 CFR 141.24(f)(17), 141.24(f)(20), and 141.24(h)(19) are not incorporated by reference.
- F. 40 CFR 141.25: the following text replaces the text of 40 CFR 141.25(a) and (b): “Analysis for the following contaminants shall be conducted to determine compliance with 40 CFR 141.66 (radioactivity) using analytical methods approved by EPA and the Arizona Department of Health Services:
 1. Naturally occurring contaminants: gross alpha and beta, gross alpha, radium 226, radium 228, and uranium.
 2. Man-made contaminants: radioactive cesium, radioactive iodine, radioactive strontium 89, 90, tritium, and gamma emitters.”
- G. 40 CFR 141.27, alternate analytical techniques, is not incorporated by reference; the following text is substituted in its place: “The use of an alternate analytical technique approved by EPA and the Arizona Department of Health Services shall not decrease the frequency of monitoring required by this Chapter.”
- H. 40 CFR 141.28:
 1. In 40 CFR 141.28(a), the term “State” is changed to “Arizona Department of Health Services.”
 2. In 40 CFR 141.28(b), the term “State” is changed to “Arizona Department of Health Services or Arizona Department of Environmental Quality.”
 3. A new subsection (c) is added: “A laboratory that performs drinking water analysis in Arizona shall be certified by EPA or the Arizona Department of Health Services.”

Historical Note

Former Section R9-20-507 repealed, new Section R9-20-507 adopted effective November 1, 1979 (Supp. 79-6). Former Section R9-20-507 amended, renumbered as Section R9-20-505, then renumbered as Section R18-4-105 effective October 23, 1987 (Supp. 87-4). R18-4-105 recodified to R18-5-105 (Supp. 95-2). New Section adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Section repealed by final rulemaking at 8 A.A.R. 3046, effective May 6, 2002 (Supp. 02-3). New Section R18-4-105 renumbered from R18-4-105.01 at 8 A.A.R. 2756, effective June 6, 2002 (Supp. 02-3). Subsection citation in part 4 of Table 2 corrected (Supp. 04-1). Section R18-4-105 and Tables 1 through 4 repealed; new Section made by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3). Amended by final rulemaking at 22 A.A.R. 379, effective April 2, 2016 (Supp. 16-1).

R18-4-105.01. Renumbered**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3046, effective May 6, 2002 (Supp. 02-3). Section renumbered to R18-4-105 at 8 A.A.R. 2756, effective June 6, 2002 (Supp. 02-3).

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R18-4-106. Reporting and Recordkeeping – 40 CFR 141, Subpart D

- A. 40 CFR 141, Subpart D (40 CFR 141.31 through 141.35), is incorporated by reference as of the date specified in R18-4-102; this incorporation does not include any later amendments or editions. The requirements in the following subsections are in addition to the requirements of 40 CFR 141, Subpart D.
- B. Department reporting forms. A public water system shall report to the Department the results of all analyses completed under this Chapter on Department-approved forms.
- C. Direct reporting. A public water system may contract with a laboratory or another agent to report monitoring results to the Department, but the public water system remains legally responsible for compliance with reporting requirements.

Historical Note

Adopted effective March 19, 1980 (Supp. 80-2). Former Section R9-20-508 amended, renumbered as Section R9-20-506, then renumbered as Section R18-4-106 effective October 23, 1987 (Supp. 87-4). Amended subsection (F) effective November 30, 1988 (Supp. 88-4). R18-4-106 recodified to R18-5-106 (Supp. 95-2). New Section adopted effective April 28, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section R18-4-106 repealed; new Section made by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-107. Special Regulations, Including Monitoring - 40 CFR 141, Subpart E

40 CFR 141, Subpart E (40 CFR 141.40 through 141.42) revised as of July 1, 2021 and published by the Office of the Federal Register, National Archives and Records Administration is incorporated by reference. This rule does not include any later amendments or editions of the incorporated material. Copies of the incorporated material are available for inspection at the Arizona Department of Environmental Quality, 1110 W. Washington, Phoenix, AZ 85007 or may be obtained from the U.S. Government Publishing Office, bookstore.gpo.gov, P.O. Box. 979050, St. Louis, MO 63197-9000.

Historical Note

Former Section R9-20-509 repealed, new Section R9-20-509 adopted effective November 1, 1979 (Supp. 79-6). Former Section R9-20-509 amended, renumbered as Section R9-20-507, then renumbered as Section R18-4-107 effective October 23, 1987 (Supp. 87-4). Amended subsection (B) effective November 30, 1988 (Supp. 88-4). R18-4-107 recodified to R18-5-107 (Supp. 95-2). New Section adopted effective April 28, 1995 (Supp. 95-2). Section R18-4-107 repealed; new Section made by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3). Amended by final expedited rulemaking at 29 A.A.R. 1472 (June 30, 2023), with an immediate effective date of June 7, 2023 (Supp. 23-2).

R18-4-108. Maximum Contaminant Level Goals and Maximum Residual Disinfectant Level Goals – 40 CFR 141, Subpart F

40 CFR 141, Subpart F (40 CFR 141.50 through 141.55), is incorporated by reference as of the date specified in R18-4-102; this incorporation does not include any later amendments or editions.

Historical Note

Former Section R9-20-510 repealed, new Section R9-20-510 adopted effective November 1, 1979 (Supp. 79-6). Former Section R9-20-510 amended, renumbered as Section R9-20-508, then renumbered as Section R18-4-108

effective October 23, 1987 (Supp. 87-4). Amended subsection (D) effective November 30, 1988 (Supp. 88-4). R18-4-108 recodified to R18-5-108 (Supp. 95-2). New Section R18-4-108 renumbered from R18-4-109 and amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section R18-4-108 renumbered to R18-4-205; new Section made by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-109. Primary Drinking Water Regulations: Maximum Contaminant Levels and Maximum Residual Disinfectant Levels – 40 CFR 141, Subpart G

40 CFR 141, Subpart G (40 CFR 141.60 through 141.66), is incorporated by reference as of the date specified in R18-4-102; this incorporation does not include any later amendments or editions.

Historical Note

Former Section R9-20-511 repealed, new Section R9-20-511 adopted effective November 1, 1979 (Supp. 79-6). Former Section R9-20-511 amended, renumbered as Section R9-20-509, then renumbered as Section R18-4-109 effective October 23, 1987 (Supp. 87-4). R18-4-109 recodified to R18-5-109 (Supp. 95-2). New Section adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Former Section R18-4-109 renumbered to R18-4-108; new Section R18-4-109 made by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section R18-4-109 repealed; new Section made by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-110. Filtration and Disinfection – 40 CFR 141, Subpart H

- A. 40 CFR 141, Subpart H (40 CFR 141.70 through 141.76), is incorporated by reference as of the date specified in R18-4-102, subject to the modifications specified in this Section; this incorporation does not include any later amendments or editions.
- B. The text of 40 CFR 141.74(a) is replaced by the following: “*Analytical requirements.* In order to demonstrate compliance with the requirements of this Part, public water systems shall use analytical methods approved by EPA and the Arizona Department of Health Services for monitoring under this Part.”

Historical Note

Former Section R9-20-512 repealed, new Section R9-20-512 adopted effective November 1, 1979 (Supp. 79-6). Former Section R9-20-512 amended, renumbered as Section R9-20-510, then renumbered as Section R18-4-110 effective October 23, 1987 (Supp. 87-4). Amended subsection (B) effective November 30, 1988 (Supp. 88-4). R18-4-110 recodified to R18-5-110 (Supp. 95-2). New Section adopted effective April 28, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section R18-4-110 repealed; new Section made by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-111. Control of Lead and Copper – 40 CFR 141, Subpart I

- A. 40 CFR 141, Subpart I (40 CFR 141.80 through 141.91), is incorporated by reference as of the date specified in R18-4-102, subject to the modifications specified in this Section; this incorporation does not include any later amendments or editions.

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- B.** The first sentence of 40 CFR 141.89(a) is replaced by the following: "Analyses for lead, copper, pH, conductivity, calcium, alkalinity, orthophosphate, silica, and temperature shall be conducted using analytical methods approved by EPA and the Arizona Department of Health Services. Analyses under this Section for lead and copper shall be conducted by laboratories that have been certified by EPA or the Arizona Department of Health Services."
- C.** The text of 40 CFR 141.89(a)(1) is not incorporated by reference.
1. Public water systems shall use analytical methods approved by EPA and the Arizona Department of Health Services for monitoring under this Chapter; and
 2. Analyses of drinking water samples shall be conducted by laboratories that have been certified by EPA or the Arizona Department of Health Services.
- D.** A party approved by the Department shall measure daily chlorine samples at the entrance to the distribution system.
- E.** A public water system may measure residual disinfectant concentrations for chlorine, chloramines, and chlorine dioxide by using N,N-diethyl-p-phenylenediamine (DPD) colorimetric test kits. A party approved by the Department shall measure residual disinfectant concentration.

Historical Note

Adopted as Section R9-20-511 and renumbered as Section R18-4-111 effective October 23, 1987 (Supp. 87-4). R18-4-111 recodified to R18-5-111 (Supp. 95-2). New Section adopted effective April 28, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section R18-4-111 repealed; new Section made by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-112. Use of Non-Centralized Treatment Devices – 40 CFR 141, Subpart J

40 CFR 141.101 is incorporated by reference as of the date specified in R18-4-102; this incorporation does not include any later amendments or editions.

Historical Note

Former Section R9-20-517 repealed, new Section R9-20-517 adopted effective November 1, 1979 (Supp. 79-6). Amended effective March 19, 1980 (Supp. 80-2). Former Section R9-20-517 amended, renumbered as Section R9-20-512, then renumbered as Section R18-4-112 effective October 23, 1987 (Supp. 87-4). R18-4-112 recodified to R18-5-112 (Supp. 95-2). New Section adopted effective April 28, 1995 (Supp. 95-2). Section R18-4-112 renumbered to R18-4-219; new Section made by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-113. Treatment Techniques – 40 CFR 141, Subpart K

40 CFR 141, Subpart K (40 CFR 141.110 through 141.111), is incorporated by reference as of the date specified in R18-4-102; this incorporation does not include any later amendments or editions.

Historical Note

Adopted as Section R9-20-513 and renumbered as Section R18-4-113 effective October 23, 1987 (Supp. 87-4). Amended subsections (A) and (C) effective November 30, 1988 (Supp. 88-4). R18-4-113 recodified to R18-5-113 (Supp. 95-2). New Section adopted effective April 28, 1995 (Supp. 95-2). Section R18-4-113 repealed; new Section made by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-114. Disinfectant Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors – 40 CFR 141, Subpart L

- A.** 40 CFR 141, Subpart L (40 CFR 141.130 through 141.135), is incorporated by reference as of the date specified in R18-4-102, subject to the modifications specified in this Section; this incorporation does not include any later amendments or editions.
- B.** 40 CFR 141.131 is not incorporated by reference.
- C.** In order to demonstrate compliance with the requirements of this Chapter:

Historical Note

Former Section R9-20-519 repealed, new Section R9-20-519 adopted effective November 1, 1979 (Supp. 79-6). Former Section R9-20-519 amended, renumbered as Section R9-20-514, then renumbered as Section R18-4-114 effective October 23, 1987 (Supp. 87-4). R18-4-114 recodified to R18-5-114 (Supp. 95-2). New Section adopted effective April 28, 1995 (Supp. 95-2). Section R18-4-114 renumbered to R18-4-202; new Section made by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-115. Renumbered**Historical Note**

Former Section R9-20-520 repealed, new Section R9-20-520 adopted effective November 1, 1979 (Supp. 79-6). Former Section R9-20-520 amended, renumbered as Section R9-20-515, then renumbered as Section R18-4-115 effective October 23, 1987 (Supp. 87-4). R18-4-115 recodified to R18-5-115 (Supp. 95-2). New Section adopted effective April 28, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section R18-4-115 renumbered to R18-4-215 by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-116. Renumbered**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Section R18-4-116 renumbered to R18-4-204 by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-117. Consumer Confidence Reports – 40 CFR 141, Subpart O

40 CFR 141, Subpart O (40 CFR 141.151 through 141.155 and Appendix A), is incorporated by reference as of the date specified in R18-4-102; this incorporation does not include any later amendments or editions.

Historical Note

Adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Section R18-4-117 renumbered to R18-4-209; new Section made by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-118. Enhanced Filtration and Disinfection - Systems Serving 10,000 or More People – 40 CFR 141, Subpart P

40 CFR 141, Subpart P (40 CFR 141.170 through 141.175), is incorporated by reference as of the date specified in R18-4-102; this incorporation does not include any later amendments or editions.

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Historical Note

Adopted effective April 28, 1995 (Supp. 95-2). Section R18-4-118 renumbered to R18-4-208; new Section made by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-119. Public Notification of Drinking Water Violations – 40 CFR 141, Subpart Q

40 CFR 141, Subpart Q (40 CFR 141.201 through 141.211 and Appendices A, B, and C), is incorporated by reference as of the date specified in R18-4-102; this incorporation does not include any later amendments or editions.

Historical Note

Former Section R18-4-215 renumbered R18-4-119 pursuant to R1-1-404 effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section R18-4-119 renumbered to R18-4-213; new Section made by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-120. Renumbered**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Amended effective December 8, 1998 (Supp. 98-4). Section R18-4-120 renumbered to R18-4-206 by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-121. Ground Water Rule – 40 CFR 141, Subpart S

- A. 40 CFR Part 141, Subpart S (40 CFR 141.400 through 141.405), is incorporated by reference as of the date specified in R18-4-102, subject to the modifications specified in this Section; this incorporation does not include any later amendments or editions.
- B. 40 CFR 141.402(a)(4) is modified as follows:
Consecutive and wholesale systems.
 - (i) In addition to the other requirements of this paragraph (a), a consecutive ground water system that has a total coliform-positive sample, collected under § 141.21(a) until March 31, 2016 or under §§ 141.854 through 141.857 beginning April 1, 2016, within 24 hours of being notified of the total coliform-positive sample must:
 - (A) Notify the wholesale system(s) and,
 - (B) Collect a sample from its consecutive connection with the wholesale ground water system and analyze it for a fecal indicator under paragraph (c) of this section.
 - (ii) If the sample collected under paragraph (a)(4)(i)(B) of this section is fecal indicator-positive, within 24 hours:
 - (A) The consecutive system must notify the wholesale ground water system, and
 - (B) Both systems must consult with the Department on additional sampling to meet the requirements of paragraph (a)(3) of this section.

Historical Note

Adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Section R18-4-121 renumbered to R18-4-201; new Section made by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3). Amended by final rulemaking at 22 A.A.R. 379, effective April 2, 2016 (Supp. 16-1).

R18-4-122. Enhanced Filtration and Disinfection – Systems Serving Fewer Than 10,000 People – 40 CFR 141, Subpart T
40 CFR 141, Subpart T (40 CFR 141.500 through 141.571), is incorporated by reference as of the date specified in R18-4-102; this incorporation does not include any later amendments or editions.

Historical Note

Adopted effective April 28, 1995 (Supp. 95-2). Amended effective December 8, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section R18-4-122 renumbered to R18-4-207; new Section made by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

Appendix A. Renumbered**Historical Note**

New Appendix made by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Appendix A repealed; new Appendix A made by final rulemaking at 8 A.A.R. 3046, effective May 1, 2002 (Supp. 02-3). Appendix A renumbered to a position after R18-4-125 at 8 A.A.R. 2756, effective June 6, 2002 (Supp. 02-3).

R18-4-123. Initial Distribution System Evaluations – 40 CFR 141, Subpart U

40 CFR 141, Subpart U (40 CFR 141.600 through 141.605), is incorporated by reference as of the date specified in R18-4-102; this incorporation does not include any later amendments or editions.

Historical Note

Adopted effective April 28, 1995 (Supp. 95-2). Section R18-4-123 renumbered to R18-4-216; new Section made by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-124. Stage 2 Disinfection Byproducts Requirements – 40 CFR 141, Subpart V

40 CFR 141, Subpart V (40 CFR 141.620 through 141.629), is incorporated by reference as of the date specified in R18-4-102; this incorporation does not include any later amendments or editions.

Historical Note

Adopted effective February 9, 1996 (Supp. 96-1). Section R18-4-124 renumbered to R18-4-203; new Section made by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-125. Enhanced Treatment For *Cryptosporidium* – 40 CFR 141, Subpart W

40 CFR 141, Subpart W (40 CFR 141.700 through 141.723), is incorporated by reference as of the date specified in R18-4-102; this incorporation does not include any later amendments or editions.

Historical Note

Adopted effective February 9, 1996 (Supp. 96-1). Section R18-4-125 renumbered to R18-4-214; new Section made by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-126. Revised Total Coliform Rule 40 CFR Part 141, Subpart Y

- A. 40 CFR Part 141, Subpart Y (40 CFR 141.851 through 141.861), is incorporated by reference as of the date specified in R18-4-102, subject to modifications specified in this Section; this incorporation does not include any later amendments or editions.
- B. 40 CFR 141.851(d), 141.852, 141.853(c)(2), and 141.854(h)(2)(i) – (ii) are not incorporated by reference.

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Historical Note

New Section made by final rulemaking at 22 A.A.R. 379, effective April 2, 2016 (Supp. 16-1).

Appendix A. Repealed**Historical Note**

Appendix A renumbered from a position after R18-4-122 to a position after R18-4-125 at 8 A.A.R. 2756, effective June 6, 2002 (Supp. 02-3). Subsection citation in Appendix A corrected (Supp. 04-1). Appendix A repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

ARTICLE 2. STATE DRINKING WATER REGULATIONS**R18-4-201. Enforcement**

- A. A water supplier who constructs, operates, or maintains a public water system contrary to the provisions of this Chapter or fails to maintain the quality of water within the public water system as required by this Chapter is subject to the actions provided in A.R.S. §§ 49-142 and 49-354.
- B. If the Department determines that a public water system is not in compliance with any of the provisions of this Chapter, the Department may issue an order to the water supplier that requires the public water system to make no further service connections or that limits the number of service connections until the Department determines that the public water system achieves compliance.
- C. The Department may determine compliance or initiate enforcement action based upon analytical results and other information compiled by the Department or other federal, state, or local agencies.
- D. The Department shall round compliance data to the same number of significant figures as the MCL in question to determine compliance with the MCL.

Historical Note

Former Section R9-8-212 repealed, new Section R9-8-212 adopted effective May 26, 1978 (Supp. 78-3). Amended effective August 7, 1979 (Supp. 79-4). Amended effective November 2, 1982 (Supp. 82-6). Amended by renumbering subsections (P) thru (W) as (Q) thru (X) and adding a new subsection (P) effective January 6, 1984 (Supp. 84-1). Former Section R9-8-212 renumbered without change as Section R18-4-212 (Supp. 87-3). Former Section R18-4-212 amended and renumbered as Section R18-4-201 effective June 30, 1989 (Supp. 89-2). Section repealed, new Section adopted effective August 8, 1991 (Supp. 91-3). Section repealed, new Section adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Section R18-4-201 repealed; new Section renumbered from R18-4-121 and amended by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-202. Certified Operators

A water supplier of a public water system shall ensure that:

1. The water system is operated in accordance with 18 A.A.C. 5, Article 1.
2. The water system is operated by an operator who is properly certified pursuant to 18 A.A.C. 5, Article 1, to operate each water treatment plant in the system and the distribution system.

Historical Note

Adopted effective April 28, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 973, effective February

19, 2002 (Supp. 02-1). Section R18-4-202 repealed; new Section renumbered from R18-4-114 and amended by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-203. Operation and Maintenance

A water supplier shall maintain and keep in proper operating condition all facilities used in production, treatment, and distribution of the water supply so as to comply with the requirements of this Chapter and 18 A.A.C. 5.

Historical Note

Adopted effective April 28, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section R18-4-203 renumbered to R18-4-210; new Section renumbered from R18-4-124 and amended by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-204. Emergency Operation Plans

- A. The water supplier for a community water system shall develop and keep an emergency operations plan in an easily accessible location. At a minimum, the emergency operations plan shall detail the steps that the community water system will take to assure continuation of service in the following emergency situations:
 1. Loss of a source;
 2. Loss of water supply due to major component failure;
 3. Damage to power supply equipment or loss of power;
 4. Contamination of water in the distribution system from backflow;
 5. Collapse of a reservoir, reservoir roof, or pumphouse structure;
 6. A break in a transmission or distribution line; and
 7. Chemical or microbiological contamination of the water supply.
- B. The emergency operations plan required by subsection (A) shall address all of the following:
 1. Provision of alternate sources of water during the emergency;
 2. Notice procedures for regulatory agencies, news media, and users;
 3. Disinfection and testing of the distribution system once service is restored;
 4. Identification of critical system components that shall remain in service or be returned to service quickly;
 5. Critical spare parts inventory; and
 6. Staff training in emergency response procedures.
- C. In the event that an emergency situation that is listed in subsection (A) occurs, the Emergency Operation Plan shall be implemented by the community water system.

Historical Note

Adopted effective April 28, 1995 (Supp. 95-2). Section R18-4-204 repealed; new Section renumbered from R18-4-116 and amended by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-205. Sample Collection, Preservation, and Transportation

A public water system shall collect each sample using the sample preservation, container, and maximum holding time procedure prescribed by the Arizona Department of Health Services in 9 A.A.C. 14, Article 6, and approved by EPA for the analytical method used.

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Historical Note

Adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Section R18-4-205 repealed; new Section renumbered from R18-4-108 and amended by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-206. Monitoring and Sampling by the Department and MAP Contractors

- A. The Department may take samples from a public water system. If the Department takes a sample at a public water system, the Department shall forward a copy of the analytical results to the water supplier.
- B. If a public water system fails to monitor, the Department may monitor to determine compliance with MCLs. A public water system shall not use Department monitoring to satisfy monitoring requirements prescribed by this Chapter. This subsection does not apply to monitoring under the monitoring assistance program.
- C. A contractor shall take compliance samples for the categories of contaminants listed in A.R.S. § 49-360(A) for a public water system that participates in the monitoring assistance program.
- D. The sampling location for chemical contaminants must be the entry point to the distribution system or the compliance monitoring point specified by the Department, unless otherwise specified in this Chapter. An entry point to a distribution system is the point at which water is discharged into the distribution system from a well, storage tank, pressure tank, or water treatment plant.

Historical Note

Adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Amended effective December 8, 1998 (Supp. 98-4). Section R18-4-206 repealed; new Section renumbered from R18-4-120 and amended by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-207. Entry and Inspection of Public Water Systems

- A. A Department inspection shall comply with A.R.S. § 41-1009.
- B. 40 CFR 142.34(a) is incorporated by reference as of the date specified in R18-4-102, subject to the modifications specified in this Section; this incorporation does not include any later amendments or editions. The phrase "Administrator" is changed to "Department."

Historical Note

Adopted effective April 28, 1995 (Supp. 95-2). Amended by final rulemaking at 7 A.A.R. 5067, effective October 16, 2001 (Supp. 01-4). Section R18-4-207 repealed; new Section renumbered from R18-4-122 and amended by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-208. Sanitary Surveys

- A. Each public water system shall undergo sanitary surveys in accordance with a schedule established by the Department, or when the Department determines that a sanitary survey is necessary to assure compliance with this Chapter.
- B. A sanitary survey shall be performed for a public water system at least once every five years; however, a non-community water system using only protected and disinfected ground water shall have a sanitary survey performed at least every 10 years.

- C. When establishing a sanitary survey schedule or determining that a sanitary survey is required prior to the next scheduled sanitary survey, the Department shall consider:
 - 1. The quality and quantity of the source water; and
 - 2. Whether the system is properly designed, maintained and operated.
- D. Proper operation and maintenance means operating and maintaining the public water system in compliance with this Chapter; 18 A.A.C. 5, Article 5; and in conformance with the applicable portions of Engineering Bulletin No. 10, "Guidelines for the Construction of Water Systems," incorporated by reference in A.A.C. R18-5-502.
- E. The Department shall review the results of a sanitary survey to determine whether the existing monitoring frequency is adequate, and whether any additional measures are required in order to ensure that the system will remain in compliance with this Chapter.
- F. In conducting a sanitary survey of a groundwater system, information on sources of contamination within a delineated wellhead protection area shall be considered by the Department instead of collecting new information, if the information was collected since the last time the system was subject to a sanitary survey.
- G. A water supplier shall make the changes to the design, operation, and maintenance of the public water system specified by the Department in order to bring the system into compliance with the requirements of this Chapter, and shall make the changes within the time limits set by the Department.
- H. A sanitary survey of a public water system shall be made by a representative of the Department, a professional engineer or sanitarian who is registered in Arizona, a certified water system operator, or other person approved by the Department.
- I. A sanitary survey shall comply with A.R.S. § 41-1009 when conducted by the Department.

Historical Note

Adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Section R18-4-208 repealed; new Section renumbered from R18-4-118 and amended by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-209. Unsafe Supplies

The Department may order a public water system to disconnect a source to protect the public health from an acute health risk that is attributable to the source. An acute health risk is posed when one of the following occurs:

- 1. A violation of a MCL for total coliform and fecal coliform or *E. coli* are present that is attributable to the source,
- 2. A violation of the MCL for nitrate or nitrite that is attributable to the source, or
- 3. An occurrence of a waterborne disease outbreak that is attributable to the source.

Historical Note

Adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Amended by final rulemaking at 7 A.A.R. 5067, effective October 16, 2001 (Supp. 01-4). Section R18-4-209 repealed; new Section renumbered from R18-4-117 by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-210. Total Coliform; Special Events

- A. A water system that does not meet the definition of a public water system, but serves a large number of persons for a short

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duration of time, such as a special event, must take corrective action as required in R18-4-126 after receiving a positive coliform result, including taking additional samples until all samples test negative for total coliform and negative for *E. coli* if:

1. The total number of user-days exceeds 600.
2. A user-day is calculated by multiplying the number of days the event will run by the average number of persons expected to be served each day.

- B.** The water system shall submit a minimum of two sample results to the Department at least seven days before the beginning of the special event. The water system shall submit a minimum of one additional sample result to the Department for each day of the special event.

Historical Note

Adopted effective May 26, 1978 (Supp. 78-3). Amended effective August 7, 1979 (Supp. 79-4). Amended subsection (C) and added subsection (D) effective January 6, 1984 (Supp. 84-1). Former Section R9-8-210 renumbered without change as Section R18-4-210 (Supp. 87-3). Repealed effective June 30, 1989 (Supp. 89-2). New Section adopted effective August 8, 1991 (Supp. 91-3). Section repealed, new Section adopted effective April 28, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section repealed by final rulemaking at 8 A.A.R. 3046, effective May 6, 2002 (Supp. 02-3). New Section R18-4-210 renumbered from R18-4-203 and amended by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3). Amended by final rulemaking at 22 A.A.R. 379, effective April 2, 2016 (Supp. 16-1).

R18-4-211. Reporting Requirements

- A.** Cross connection incidents. A public water system shall submit a written cross connection incident report to the Department and the local county health department within five days of the occurrence of a cross connection problem that results in contamination of water provided by the public water system. The report shall address all of the following:
1. Date and time of discovery of the cross connection incident,
 2. Nature of the cross connection incident,
 3. Affected area,
 4. Cause of the cross connection incident,
 5. Public health impact,
 6. Date and text of any public health advisory issued,
 7. Corrective action taken, and
 8. Date of completion of corrective action.
- B.** Emergencies. A public water system shall notify the Department, by telephone or facsimile, as soon as possible but no later than 24 hours after the occurrence of any of the following emergencies:
1. Loss of water supply from a source;
 2. Loss of water supply due to major component failure;
 3. Damage to power supply equipment or loss of power;
 4. Contamination of water in the distribution system from backflow;
 5. Collapse of a reservoir, reservoir roof, or pumphouse structure;
 6. Break in a transmission or distribution line that results in a loss of service to customers for more than four hours; and
 7. Chemical or microbiological contamination of the water supply.

- C.** Waterborne disease outbreak. A public water system shall report to the Department the occurrence of a waterborne disease outbreak that may be attributable to water provided by the public water system as soon as possible but no later than 24 hours after the public water system receives actual notice of the waterborne disease outbreak.
- D.** Department requests for records. A public water system shall submit to the Department, within the time stated in the Department's request, copies of any records that the public water system is required to retain under this Chapter or copies of any documents that the Department is entitled to inspect under 42 U.S.C. 300j-4 (2001).
- E.** Department reporting forms. A public water system shall report to the Department the results of all analyses completed under this Chapter on Department-approved forms.
- F.** Direct reporting. A public water system may contract with a laboratory or another agent to report monitoring results to the Department, but the public water system remains legally responsible for compliance with reporting requirements.
- G.** Forty eight-hour reporting requirement. A public water system shall report the failure to comply with any of the provisions of this Chapter to the Department within 48 hours, except where a different reporting period is specified in this Chapter.

Historical Note

Corrected A.R.S. reference (Supp. 77-3). Amended effective May 26, 1978 (Supp. 78-3). Amended effective January 6, 1984 (Supp. 84-1). Former Section R9-8-211 renumbered without change as Section R18-4-211 (Supp. 87-3). Amended effective Dec. 1, 1988 (Supp. 88-4). Repealed effective June 30, 1989 (Supp. 89-2). New Section adopted effective August 8, 1991 (Supp. 91-3). Section repealed, new Section adopted effective April 28, 1995 (Supp. 95-2). Section R18-4-211 repealed; new Section renumbered from R18-4-104 and amended by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-212. Groundwater Under the Direct Influence of Surface Water

- A.** The Department suspects the following sources to be groundwater under the direct influence of surface water:
1. A spring;
 2. An infiltration gallery;
 3. A radial well collector, Ranney well, or horizontal well;
 4. A well that is less than 500 feet from a surface water, and:
 - a. The Department conducts a vulnerability assessment and determines that the source is vulnerable to direct surface water influence, or
 - b. The Department cannot assess the vulnerability of the groundwater source to direct surface water influence because of a lack of information or the uncertainty of available information on the local hydrogeology or well construction characteristics;
 5. A shallow well with perforations or well screens that are less than 50 feet below the ground surface;
 6. A hand-dug or auger-bored well without a casing;
 7. A groundwater source for which turbidity data is available that shows that the groundwater violates an interim MCL for turbidity;
 8. A groundwater source for which data is available that shows that total coliform, fecal coliform, or *E. coli* are present in untreated groundwater from the source that are not related to new well development, source modification, repair, or maintenance; and

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9. Any groundwater source if the temperature of the ground-water fluctuates 15% to 20% from the mean groundwater temperature over the course of a year or if changes in the temperature of the groundwater correlate to similar changes in the temperature of surface water.
- B. The Department shall conduct a sanitary survey of each public water system that the Department suspects is using a groundwater source under the direct influence of surface water.
- C. The Department shall provide written notice to a public water system that the Department suspects a groundwater source is under the direct influence of surface water. A public water system may submit information to the Department to show that a groundwater source is not under the direct influence of surface water. Information that is submitted to show that a suspect groundwater source is not under the direct influence of surface water shall be in writing and shall be prepared by a qualified professional, such as a professional engineer registered in Arizona, registered geologist, water system operator, or hydrogeologist. The Department shall review any information submitted by a qualified professional to show a suspect groundwater source is not under the direct influence of surface water within 90 days after receipt of the information and determine if the source remains suspect.
- D. If a groundwater source continues to be suspect after the analyses required in subsections (A) through (C), the Department may require a public water system that is suspected of using a groundwater source that is under the direct influence of surface water to conduct Microscopic Particle Analysis (MPA) monitoring of the groundwater source. A public water system may request that the Department allow the system to use an alternative method to determine whether a groundwater source is under the direct influence of surface water. An alternative method to determine whether a groundwater source is under the direct influence of surface water shall be approved by the Arizona Department of Health Services under 9 A.A.C. 14, Article 6.
- E. A public water system shall conduct MPA monitoring as follows:
 1. Each sample shall be representative of the groundwater source. A public water system shall not take a sample of blended water or a sample of water from the distribution system.
 2. Each sample shall be collected and analyzed according to the procedures prescribed in the "Consensus Method for Determining Groundwaters Under the Direct Influence of Surface Water Using Microscopic Particulate Analysis (MPA)," EPA 910/9-92-029, United States Environmental Protection Agency, Environmental Services Division, Manchester Environmental Laboratory, 7411 Beach Dr. E., Port Orchard, WA 98366, October 1992 (and no future editions or amendments), which is incorporated by reference and on file with the Department.
 3. The Department shall schedule MPA monitoring at a time when the groundwater source is most susceptible to direct surface water influence.
 4. The Department shall use the MPA risk ratings in Table 1 to determine whether groundwater is under the direct influence of surface water.
 - a. If the MPA risk rating of the initial sample indicates a high or moderate risk of direct surface water influence, the public water system shall collect a second sample for MPA at the same location on a date scheduled by the Department. If the MPA risk rating of the second sample indicates a high or moderate risk of direct surface water influence, the Department shall determine that the groundwater is under the direct influence of surface water. If the risk rating of the second sample indicates a low risk of direct surface water influence, the public water system shall collect a third sample for MPA at the same location on a date scheduled by the Department. If a third sample is taken, the Department shall determine whether the groundwater is under the direct influence of surface water under subsection (E)(4)(c).
 - b. If the MPA risk rating of the initial sample indicates a low risk of direct surface water influence, the public water system shall collect a second sample for MPA at the same location on a date scheduled by the Department. If the MPA risk rating of the second sample indicates a low risk of direct surface water influence, the Department shall determine that the groundwater is not under the direct influence of surface water. If the MPA risk rating of the second sample indicates a high or moderate risk of direct surface water influence, the public water system shall collect a third sample for MPA at the same location on a date scheduled by the Department. If a third sample is taken, the Department shall determine whether the groundwater is under the direct influence of surface water under subsection (E)(4)(c).
 - c. If a third sample is required and the MPA risk rating of the third sample indicates a high or moderate risk of direct surface water influence, the Department shall determine that the groundwater is under the direct influence of surface water. If the MPA risk rating of the third sample indicates a low risk of direct surface water influence, the Department shall determine that the groundwater is not under the direct influence of surface water.
- F. If the Department determines a source to be groundwater under the direct influence of surface water under subsection (E) and a public water system demonstrates to the Department that it is feasible to take corrective action to prevent direct surface water influence, the Department shall establish a schedule of compliance for the public water system to take corrective action instead of requiring installation of filtration and disinfection treatment. A schedule of compliance to take corrective action shall require:
 1. Completion of corrective action no later than 18 months after receipt of the initial MPA monitoring results, and
 2. A second round of MPA monitoring to determine whether the source is under the direct influence of surface water after completion of the corrective action.
- G. Except as provided in subsection (F), a public water system with a source that the Department determines to be groundwater under the direct influence of surface water shall provide filtration and disinfection required under 40 CFR 141 Subparts H, P, and T, as incorporated by reference in this Chapter, within 18 months after the date that the Department makes the final determination that the groundwater is under the direct influence of surface water.
- H. The Department shall provide a written notice to a public water system of a final determination that a groundwater source is under the direct influence of surface water. The notice shall contain the information required by A.R.S. § 41-1092.03(A).

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- I. A public water system may appeal a final determination that a groundwater source is under the direct influence of surface water by serving notice of appeal with the Department under the Uniform Administrative Hearing Procedures in A.R.S. Title 41, Chapter 6, Article 10. A public water system shall file notice of appeal with the Department within 30 days after receiving notice of the Department's determination that a groundwater source is under the direct influence of surface water. The Department shall notify the Office of Administrative Hearings which shall schedule a hearing on the appeal within 60 days after the date that notice of appeal is filed with the Department. Hearings shall be conducted according to the

Uniform Administrative Hearing Procedures in A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

Adopted effective August 8, 1991 (Supp. 91-3). Section repealed, new Section adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Amended effective December 8, 1998 (Supp. 98-4).

Section R18-4-212 repealed; new Section renumbered from R18-4-301.01 and amended by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

Table 1. Decision Matrix for Determining Groundwater Under the Direct Influence of Surface Water

Initial Sample MPA Risk Rating	Second Sample MPA Risk Rating	Third Sample MPA Risk Rating	Groundwater Under the Direct Influence of Surface Water
High	High or Moderate		Yes
High	Low	High or Moderate	Yes
High	Low	Low	No
Moderate	High or Moderate		Yes
Moderate	Low	High or Moderate	Yes
Moderate	Low	Low	No
Low	High or Moderate	High or Moderate	Yes
Low	High or Moderate	Low	No
Low	Low		No

Historical Note

New Table 1 renumbered from R18-4-301.01, Table 1 by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-213. Standards for Additives, Materials, and Equipment

- A. Each product added directly to water during production or treatment shall conform to ANSI/NSF Standard 60. Products covered by this subsection include but are not limited to:
1. Coagulation and flocculation chemicals;
 2. Chemicals for corrosion and scale control;
 3. Chemicals for softening, precipitation, sequestering, and pH adjustment;
 4. Disinfection and oxidation chemicals;
 5. Chemicals for fluoridation, defluoridation, algae control, and dechlorination;
 6. Dyes and tracers;
 7. Antifreezes, antifoamers, regenerants, and separation process scale inhibitors and cleaners; and
 8. Water well drilling and rehabilitation aids.
- B. Except as identified in subsections (D) and (E), a material or product installed after January 1, 1993, that comes into contact with water or a water treatment chemical shall conform to ANSI/NSF Standard 61. Products and materials covered by this subsection include but are not limited to:
1. Process media, such as carbon and sand;
 2. Joining and sealing materials, such as solvents, cements, welding materials, and gaskets;
 3. Lubricants;
 4. Pipes and related products, such as tanks and fittings;
 5. Mechanical devices used in treatment, transmission, or distribution systems such as valves, chlorinators, and separation membranes; and
 6. Surface coatings and paints.
- C. Evidence that a product conforms to the requirements of this Section shall be the appearance on the product or product package of a seal of a certifying entity that is accredited by the
- E. The Department exempts the following materials and products

American National Standards Institute to provide the certification.

- D. *Chemicals and additives certified as conforming to the national sanitation foundation standards comply with the standards required by this section. ... In those instances where chemicals, additives and drinking water system components that come into contact with drinking water are essential to the design, construction or operation of the drinking water system and have not been certified by the national sanitation foundation or have national sanitation foundation certification but are not available from more than one source, the standards shall provide for the use of alternatives which include:*
1. *Chemicals and additives composed entirely of ingredients determined by the environmental protection agency, the food and drug administration or other federal agencies as appropriate for addition to potable water or aqueous food.*
 2. *Chemicals and additives composed entirely of ingredients listed in the national academy of sciences water chemicals codex.*
 3. *Chemicals, additives and drinking water system components consistent with the specifications of the American water works association.*
 4. *Chemicals, additives and drinking water system components that are designed for use in drinking water systems and that are consistent with the specifications of the American society for testing and materials.*
 5. *Drinking water system components that are historically used or in use in drinking water systems consistent with standard practice and that have not been demonstrated during past applications in the United States to contribute to water contamination.* A.R.S. §§ 49-353.01(B) and (C) (2006).

from the requirement to conform to ANSI/NSF Standard 61:

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1. A concrete structure, tank, or treatment tank basin that is constructed onsite if the structure, tank, or basin is not normally coated or sealed and the construction materials used in the concrete are consistent with subsection (D). If a coating or sealant is specified by the design engineer, the coating or sealant shall comply with ANSI/NSF Standard 61;
2. An earthen reservoir or canal located upstream of water treatment;
3. A water treatment plant that is comprised of components that comply with subsections (B), (C), and (D);
4. A synthetic tank constructed of material that meets Food and Drug Administration standards for a material that comes into contact with drinking water or aqueous food, or a galvanized steel tank, either of which is:
 - a. Less than 15,000 gallons in capacity, and
 - b. Used in a public water system with 500 or fewer service connections; or
5. A pipe, treatment plant component, or water distribution system component made of lead-free stainless steel.

Historical Note

Former Section R9-8-213 repealed, new Section R9-8-213 adopted effective May 26, 1978 (Supp. 78-3). Amended effective August 7, 1979 (Supp. 79-4). Amended effective January 6, 1984 (Supp. 84-1). Former Section R9-8-213 renumbered without change as Section R18-4-213 (Supp. 87-3). Amended effective June 30, 1989 (Supp. 89-2). Section repealed, new Section adopted effective August 8, 1991 (Supp. 91-3). Section repealed, new Section adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Section R18-4-213 repealed; new Section renumbered from R18-4-119 and amended by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-214. Hauled Water

- A. All hauled water for delivery to a public water system shall be obtained from a source that is approved pursuant to 18 A.A.C. 5, Article 5, or a regulated public water system.
- B. Materials or products that come into contact with the water shall comply with R18-4-213(B).
- C. Roof hatches shall be fitted with a watertight cover.
- D. A bottom drain valve or other provisions to allow complete drainage and cleaning of a water transport container shall be provided.
- E. Hoses that are used to deliver drinking water shall be equipped with a cap and shall remain capped when not in use.
- F. A water hauler shall, at all times, maintain a residual free chlorine level of 0.2 mg/l to 1.0 mg/l in the water that is hauled in a water transport container. A chlorine disinfectant shall be added at the time water is loaded into the container. The residual free chlorine level shall be measured each time water is off-loaded from the container. The water hauler shall maintain a log of all on-loading, chlorine disinfectant additions and residual-free chlorine measurements. Such records shall be maintained for at least three years and made available to the Department for review upon request.
- G. A water transport container shall be for hauling drinking water only. The container shall be plainly and conspicuously labeled "For Drinking Water Use Only."

Historical Note

Adopted effective August 8, 1991 (Supp. 91-3). Section repealed, new Section adopted effective April 28, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R.

3046, effective May 1, 2002 (Supp. 02-3). Section R18-4-214 repealed; new Section renumbered from R18-4-125 and amended by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-214.01. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3046, effective May 1, 2002 (Supp. 02-3). Section R18-4-214.01 repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-214.02. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3046, effective January 1, 2004 (Supp. 02-3). R18-4-214.02 including Table 1 and Table 2 repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-215. Backflow Prevention

- A. A public water system shall protect its system from contamination caused by backflow through unprotected cross-connections by requiring the installation and periodic testing of backflow-prevention assemblies. Required backflow-prevention assemblies shall be installed as close as practicable to the service connection.
- B. A public water system shall ensure that a backflow-prevention assembly is installed whenever any of the following occur:
 1. A substance harmful to human health is handled in a manner that could permit its entry into the public water system. These substances include chemicals, chemical or biological process waters, water from public water supplies that has deteriorated in sanitary quality, and water that has entered a fire sprinkler system. A Class 1 or Class 2 fire sprinkler system is exempt from the requirements of this Section;
 2. A source of water supply exists on the user's premises that is not accepted as an additional source by the public water system or is not approved by the Department;
 3. An unprotected cross-connection exists or a cross-connection problem has previously occurred within a user's premises; or
 4. There is a significant possibility that a cross-connection problem will occur and entry to the premises is restricted to the extent that cross-connection inspections cannot be made with sufficient frequency or on sufficiently short notice to ensure that unprotected cross-connections do not exist.
- C. Unless a cross-connection problem is specifically identified, or as otherwise provided in this Section, the requirements of this Section shall not apply to single-family residences used solely for residential purposes.
- D. A backflow-prevention assembly required by this Section shall comply with the following:
 1. If equipped with test cocks, it shall have been issued a certificate of approval by:
 - a. The University of Southern California Foundation for Cross-Connection Control and Hydraulic Research (USC-FCCCRR), or
 - b. A third-party certifying entity that is unrelated to the product's manufacturer or vendor, and is approved by the Department.
 2. If not equipped with test cocks, it shall be approved by a third-party certifying entity that is unrelated to the prod-

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uct's manufacturer or vendor and is approved by the Department.

- E. The minimum level of backflow protection that is provided to protect a public water system shall be the level recommended in Section 7.2 of the Manual of Cross-Connection Control, Ninth Edition, USC-FCCCHR, KAP-200 University Park MC-2531, Los Angeles, CA, 90089-2531, December 1993, (and no future editions or amendments), incorporated by reference and on file with the Department. The types of backflow prevention that may be required, listed in decreasing order according to the level of protection they provide, include: an air-gap separation (AG), a reduced pressure principle backflow prevention (RP) assembly, a pressure vacuum breaker (PVB) assembly, and a double check valve (DC) assembly. Nothing contained in this Section shall prevent a public water system from requiring the use of a higher level of protection than the level required by this subsection.

1. A public water system may make installation of a required backflow-prevention assembly a condition of service. A user's failure to comply with this requirement shall be sufficient cause for the public water system to terminate water service.
2. Specific installation requirements for backflow prevention include the following:
 - a. Any backflow prevention required by this Section shall be installed in accordance with the manufacturer's specifications.
 - b. For an AG installation, all piping between the user's connection and the receiving tank shall be entirely visible unless otherwise approved in writing by the public water system.
 - c. An RP assembly shall not be installed in a meter box, pit, or vault unless adequate drainage is provided.
 - d. A PVB assembly may be installed for use on a landscape water irrigation system if the irrigation system conforms to all of the criteria listed below. An RP assembly is required whenever any of the criteria are not met.
 - i. The water use beyond the assembly is for irrigation purposes only;
 - ii. The PVB is installed in accordance with the manufacturer's specifications;
 - iii. The irrigation system is designed and constructed to be incapable of inducing backpressure; and
 - iv. The injection of chemical pesticides and fertilizers, chemigation, is not used or provided in the irrigation system.

- F. Each backflow-prevention assembly required by this Section shall be tested at least annually, or more frequently if directed by the public water system or the Department. Each assembly shall also be tested after installation, relocation, or repair. An assembly shall not be placed in service unless it has been tested and is functioning as designed. The following provisions shall apply to the testing of backflow-prevention assemblies:

1. Testing shall be in accordance with procedures described in Section 9 of the Manual of Cross-Connection Control. The public water system shall notify the water user when testing of backflow-prevention assemblies is needed. The notice shall specify the date by which the testing must be completed and the results forwarded to the public water system.

2. Testing shall be performed by a person who is currently certified as a "general" tester by the California-Nevada Section of the American Water Works Association (CA-NV Section, AWWA), the Arizona State Environmental Technical Training (ASETT) Center, or other certifying authority approved by the Department.
3. When a backflow-prevention assembly is tested and found to be defective, it shall be repaired or replaced in accordance with the provisions of this Section.

- G. A public water system shall maintain records of backflow-prevention assembly installations and tests performed on backflow-prevention assemblies in its service area. Records shall be retained by the public water system for at least three years and shall be made available for review by the Department upon request. These records shall include an inventory of backflow-prevention assemblies required by this Section and, for each assembly, all of the following information:

1. Assembly identification number and description,
2. Location,
3. Date of tests,
4. Description of repairs and recommendations for repairs made by the tester, and
5. The tester's name and certificate number.

- H. A public water system shall submit a written cross-connection incident report to the Department and the local health authority within five business days after a cross-connection problem occurs that results in contamination of the public water system. The report shall address all of the following:

1. Date and time of discovery of the unprotected cross-connection,
2. Nature of the cross-connection problem,
3. Affected area,
4. Cause of the cross-connection problem,
5. Public health impact,
6. Date and text of any public health advisory issued,
7. Each corrective action taken, and
8. Date of completion of each corrective action.

- I. An individual with direct responsibility for implementing a backflow prevention program for a water system serving more than 50,000 persons, or an individual with direct responsibility for implementing a backflow prevention program for a for a water system serving 50,000 or fewer persons if the Department has determined that such a need exists, shall be licensed as a "cross-connection control program specialist" by the CA-NV Section, AWWA, the ASETT Center, or another certifying authority approved by the Department.

Historical Note

Adopted effective August 8, 1991 (Supp. 91-3). Section repealed, new Section adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Section R18-4-215 repealed; new Section renumbered from R18-4-115 and amended by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-216. Vending Machines

An owner of a water vending machine shall be responsible for the proper operation of each water vending machine. The owner shall do all of the following:

1. Clean and maintain each water vending machine according to the manufacturer's recommendations;
2. Retain maintenance and cleaning records for one year;
3. Have analyses performed at least once every six months for total coliform bacteria. Results of such analyses shall be retained for one year. If a sample is positive for total

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coliform, the water vending machine shall be removed from service, and all components shall be cleaned, replaced, or serviced. The water vending machine shall not be placed back into service until another total coliform bacteria analysis is performed and the result is negative; and

4. Maintain in operable condition all ultraviolet, ozone, or other disinfection components and automatic disabling capabilities built into the vending machine for use in the event of a disinfection system malfunction.

Historical Note

Adopted effective August 8, 1991 (Supp. 91-3). Section repealed, new Section adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Amended effective December 8, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section R18-4-216 repealed; new Section renumbered from R18-4-123 and amended by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-217. Use of Blending to Achieve Compliance with Maximum Contaminant Levels

- A. A public water system may use blending to achieve compliance with a MCL if all of the following requirements are met:
 1. The public water system has obtained the Department's written approval for a blending plan that includes the following elements:
 - a. Detailed drawings and schematics that show flow, concentrations, and controls;
 - b. Proposed automatic or electronic devices that will be incorporated to ensure that the blend remains in the desired range or shuts off the offending source or triggers an alarm when the blend falls out of the desired range;
 - c. Individual test results from all sources proposed to be blended;
 - d. Projected contaminant levels that will result from blending that show both best-case and worst-case scenarios;
 - e. Identified techniques, and any other information requested by the Department, that show how the blending plan will produce water that will comply with MCLs; and
 2. The public water system has obtained the Department's written approval for a monitoring program designed to verify continued compliance with MCLs at all subsequent downstream service connections. This program shall include monitoring on at least a quarterly basis of both of the following:
 - a. All sources contributing to the blend; and
 - b. Blended water to ensure that the provisions of this Section are met.
- B. A public water system shall submit an amended blending plan to the Department to confirm that the new blend achieves compliance with MCLs whenever sources are added to or removed from service or the relative flow rates from blended sources are changed in a way that changes the blend.

Historical Note

Adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Amended by final rulemaking at 7 A.A.R. 5067, effective October 16, 2001 (Supp. 01-4). Section R18-4-217 repealed; new Section renumbered from R18-4-221 and amended by final

rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-218. Criteria and Procedures for Public Water Systems Using Point-of-Entry or Point-of-Use Treatment Devices

- A. A water supplier may use a point-of-entry (POE) or point-of-use (POU) treatment technology to achieve compliance with a MCL or treatment technique if the water supplier meets the requirements of this Section.
- B. A public water system may use a POE or POU treatment device to achieve compliance with a MCL, if the treatment device:
 1. Is not used to achieve compliance with an MCL or treatment technique for a microbial contaminant or an indicator for a microbial contaminant, in accordance with 42 U.S.C. 300g-1(b)(4)(E)(ii) (2007);
 2. Is listed in 40 CFR 141 as an acceptable compliance technology for the applicable contaminant;
 3. Is certified against the applicable NSF/ANSI Standards;
 4. Is owned, controlled and maintained by a public water system or by a person under contract with the public water system to ensure proper operation, maintenance, and compliance with MCLs or treatment techniques; and
 5. Is equipped with mechanical warnings to ensure that customers are automatically notified of recommended system maintenance and or operational problems. This performance indication device shall provide notice to the end user at a defined moment in time without shutting off the POE or POU device.
- C. Prior to installing a POE or POU treatment device, a public water system shall obtain the Department's written approval of a POE or POU operation and maintenance (O & M) plan. A public water system shall submit an O & M plan to the Department that ensures proper long-term operation, maintenance, and monitoring of the POE or POU treatment devices. An O & M plan shall ensure that:
 1. The POE or POU treatment device provides health protection equivalent to the health protection provided by centralized water treatment. "Equivalent" means that water treated by the POE or POU treatment device meets all national primary drinking water regulations.
 2. A residential building, or a nonresidential building that uses water for human consumption, that is connected to the public water system has a POE or POU treatment device that is installed, operated, maintained, and monitored in a manner that assures continuous compliance with the MCLs, treatment techniques, and other requirements of this Chapter.
 3. Multi-unit residential and nonresidential buildings utilizing POU treatment devices to achieve compliance with this Chapter have a sufficient number of POU devices installed to provide adequate potable water for all residents, employees, and customers.
 4. The rights and responsibilities of persons served by the public water system are conveyed with the title upon the sale of property containing a POU treatment device, including but not limited to the following:
 - a. The public water system owns and is responsible for maintaining a POU treatment device that is installed to meet the requirements of this Section; and
 - b. Persons served by public water systems must grant public water system employees reasonable access to POU treatment devices, so that the devices can be properly maintained. Public water systems may discontinue water service to a customer who refuses to

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allow public water system employees to enter the customer's home or business to inspect and maintain POU treatment devices.

Historical Note

Adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section R18-4-218 repealed; new Section renumbered from R18-4-222 and amended by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-219. Exclusions

- A. A water supplier may request an exclusion from any requirement contained in this Chapter if such requirement is not also a requirement contained in a federal drinking water law. The Department shall consider the application of a water supplier for an exclusion from compliance with portions of this Chapter if the water supplier satisfactorily demonstrates that:
1. The request is not for a requirement that could be the subject of a variance or exemption under R18-4-103;
 2. The request is not for requirements relating to turbidity, nitrate, or microbiological contaminants; and
 3. The exclusion will not result in unreasonable risk to public health.
- B. An application for an exclusion shall contain the following information:
1. The nature and duration of the exclusion requested,
 2. Analytical results of water quality sampling of the water system including tests conducted as required by this Chapter,
 3. An explanation and submittal of evidence that the exclusion will not result in an unreasonable risk to public health, and
 4. Other information that the applicant believes to be pertinent or that the Department requires.
- C. The Department shall take the following action on the application:
1. If the Department grants the request for an exclusion, it shall notify the applicant of that decision in writing within 90 days of receipt of the application. Such notice shall identify the facility covered, the conditions and requirements of the exclusion, including control measures, and that the exclusion may be terminated upon a finding that the water system has failed to comply with any conditions or requirements of the exclusion.
 2. If the Department determines that an exclusion is not justified, it shall notify the applicant of the intention of denial within 90 days of receipt of the application, indicating the reasons for the proposed denial, and shall offer the applicant an opportunity to submit additional information to the Department within 30 days of the notice of intention to deny application. The Department shall make a final determination and notify the applicant within 30 days after receiving such additional information. If no additional information is submitted, the application shall be denied.
- D. In addition to reviewing a request submitted by a water supplier, the Department may, on its own initiative, grant exclusions to water systems, either individually or on a group basis, if the exclusions meet criteria prescribed in subsection (A).

Historical Note

Adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Amended effective

December 8, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section R18-4-219 repealed; new Section renumbered from R18-4-112 and amended by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-220. Repealed**Historical Note**

Adopted effective May 26, 1978 (Supp. 78-3). Amended effective August 7, 1979 (Supp. 79-4). Amended effective January 6, 1984 (Supp. 84-1). Former Section R9-8-220 renumbered without change as Section R18-4-220 (Supp. 87-3). Section repealed effective June 30, 1989 (Supp. 89-2). New Section adopted effective August 8, 1991 (Supp. 91-3). Section repealed, new Section adopted April 28, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 3046, effective May 1, 2002 (Supp. 02-3). Section R18-4-220 repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-221. Renumbered**Historical Note**

Former Section R9-8-221 repealed, new Section R9-8-221 adopted effective May 26, 1978 (Supp. 78-3). Correction, subsection (D), paragraph (2), subparagraph (b), drinking water standard for silvex, should read 0.01 mg/l as amended effective May 26, 1978 (Supp. 82-3). Amended subsection (D) effective November 2, 1982 (Supp. 82-6). Amended effective January 6, 1984 (Supp. 84-1). Former Section R9-8-221 renumbered without change as Section R18-4-221 (Supp. 87-3). Amended and new subsections (F) and (G) added effective June 30, 1989 (Supp. 89-2). Section repealed, new Section adopted effective August 8, 1991 (Supp. 91-3). Section repealed, new Section adopted effective April 28, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section R18-4-221 renumbered to R18-4-217 by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-222. Renumbered**Historical Note**

Former Section R9-8-222 repealed, new Section R9-8-222 adopted effective May 26, 1978 (Supp. 78-3). Amended effective January 6, 1984 (Supp. 84-1). Former Section R9-8-222 renumbered without change as Section R18-4-222 (Supp. 87-3). Amended and new subsections (C) and (D) added effective June 30, 1989 (Supp. 89-2). Section repealed, new Section adopted effective August 8, 1991 (Supp. 91-3). Section repealed, new Section adopted effective April 28, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section R18-4-222 renumbered to R18-4-218 by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-223. Use of Bottled Water

- A. A public water system may use bottled water on a temporary basis to avoid an unreasonable risk to health. A public water

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system shall not use bottled water to achieve compliance with a MCL.

- B. If a public water system uses bottled water to avoid an unreasonable risk to health, the public water system is responsible for the provision of sufficient quantities of bottled water to every person served by the public water system via door-to-door bottled water delivery.
- C. A public water system that uses bottled water as a condition for receiving a variance or an exemption shall comply with the following:
 1. The public water system shall develop and put in place a monitoring program approved by the Department that provides reasonable assurances that the bottled water meets applicable MCLs. The public water system shall monitor a representative sample of the bottled water to determine compliance with applicable MCLs during the first three-month period that it supplies the bottled water to the public and annually thereafter. Results of the bottled water monitoring program shall be provided to the Department annually; or
 2. The public water system shall receive a certification from the bottled water company that the bottled water supplied has been taken from an "approved source" as defined in 21 CFR 129.3(a); the bottled water company has conducted monitoring in accordance with 21 CFR 129.80(g)(1) through (3); and the bottled water does not exceed any MCLs or quality limits as set out in 21 CFR 165.110, 21 CFR 110, and 21 CFR 129. The public water system shall provide the certification to the Department in the first quarter after it supplies bottled water and annually thereafter. The Department may waive the certification requirements prescribed in this subsection if an approved monitoring program is already in place in another state; and
 3. The public water system is fully responsible for the provision of sufficient quantities of bottled water to every person served by the public water system via door-to-door bottled water delivery.

Historical Note

Former Section R9-8-223 repealed, new Section R9-8-223 adopted effective May 26, 1978 (Supp. 78-3).

Amended effective August 7, 1979 (Supp. 79-4).

Amended subsection (D), paragraph (4) effective November 2, 1982 (Supp. 82-6). Amended effective January 6, 1984 (Supp. 84-1). Former Section R9-8-223 renumbered without change as Section R18-4-223 (Supp. 87-3). Amended and a new subsection (F) added effective June 30, 1989 (Supp. 89-2). Section repealed, new Section adopted effective August 8, 1991 (Supp. 91-3). Section repealed, new Section adopted effective April 28, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1).

R18-4-224. Renumbered**Historical Note**

Former Section R9-224 repealed, new Section R9-8-224 adopted effective May 26, 1978 (Supp. 78-3). Amended effective January 6, 1984 (Supp. 84-1). Former Section R9-8-224 renumbered without change as Section R18-4-224 (Supp. 87-3). Amended effective June 30, 1989 (Supp. 89-2). Former Section R18-4-224 repealed effective August 8, 1991 (Supp. 91-3). New Section adopted effective December 8, 1998 (Supp. 98-4). Amended by final rulemaking at 7 A.A.R. 5067, effective October 16,

2001 (Supp. 01-4). Section R18-4-224 renumbered to R18-4-301 by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-225. Renumbered**Historical Note**

Adopted effective May 26, 1978 (Supp. 78-3). Former Section R9-8-225 renumbered without change as Section R18-4-225 (Supp. 87-3). Former Section R18-4-224 repealed effective August 8, 1991 (Supp. 91-3). New Section adopted effective December 8, 1998 (Supp. 98-4). Amended by final rulemaking at 7 A.A.R. 5067, effective October 16, 2001 (Supp. 01-4). Section R18-4-225 renumbered to R18-4-304 by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-226. Renumbered**Historical Note**

Adopted effective May 26, 1978 (Supp. 78-3). Amended effective August 7, 1979 (Supp. 79-4). Amended subsection (B) effective January 6, 1984 (Supp. 84-1). Former Section R9-8-226 renumbered without change as Section R18-4-226 (Supp. 87-3). Amended effective June 30, 1989 (Supp. 89-2). Former Section R18-4-224 repealed effective August 8, 1991 (Supp. 91-3). New Section adopted effective December 8, 1998 (Supp. 98-4). Amended by final rulemaking at 7 A.A.R. 5067, effective October 16, 2001 (Supp. 01-4). Section R18-4-226 renumbered to R18-4-305 by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-227. Repealed**Historical Note**

Adopted effective May 26, 1978 (Supp. 78-3). Amended effective January 6, 1984 (Supp. 84-1). Former Section R9-3-227 renumbered without change as Section R18-4-227 (Supp. 87-3). Amended effective June 30, 1989 (Supp. 89-2). Former Section R18-4-224 repealed effective August 8, 1991 (Supp. 91-3).

R18-4-228. Repealed**Historical Note**

Adopted effective June 30, 1989 (Supp. 89-2). Former Section R18-4-224 repealed effective August 8, 1991 (Supp. 91-3).

R18-4-229. Repealed**Historical Note**

Adopted effective June 30, 1989 (Supp. 89-2). Former Section R18-4-224 repealed effective August 8, 1991 (Supp. 91-3).

R18-4-230. Repealed**Historical Note**

Adopted effective May 26, 1978 (Supp. 78-3). Former Section R9-8-230 renumbered without change as Section R18-4-230 (Supp. 87-3). Amended effective June 30, 1989 (Supp. 89-2). Section repealed, new Section adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

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R18-4-231. Repealed

(Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

Historical Note

Former Section R9-8-231 repealed, new Section R9-8-231 adopted effective May 26, 1978 (Supp. 78-3). Former Section R9-8-231 renumbered without change as Section R18-4-231 (Supp. 87-3). Amended effective June 30, 1989 (Supp. 89-2). Section repealed, new Section adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-232. Repealed**Historical Note**

Former Section R9-8-232 repealed, new Section R9-8-232 adopted effective May 26, 1978 (Supp. 78-3). Amended effective January 6, 1984 (Supp. 84-1). Former Section R9-8-232 renumbered without change as Section R18-4-232 (Supp. 87-3). Amended effective June 30, 1989 (Supp. 89-2). Section repealed, new Section adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-233. Repealed**Historical Note**

Former Section R9-8-233 repealed, new Section R9-8-232 adopted effective May 26, 1978 (Supp. 78-3). Former Section R9-8-233 renumbered without change as Section R18-4-233 (Supp. 87-3). Section repealed, new Section adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-234. Repealed**Historical Note**

Former Section R9-8-234 repealed, new Section R9-8-234 adopted effective May 26, 1978 (Supp. 78-3). Amended effective Feb. 20, 1980 (Supp. 80-1). Amended effective January 6, 1984 (Supp. 84-1). Former Section R9-8-234 renumbered without change as Section R18-4-234 (Supp. 87-3). Amended effective June 30, 1989 (Supp. 89-2). Section repealed, new Section adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-235. Repealed**Historical Note**

Adopted effective January 6, 1984 (Supp. 84-1). Former Section R9-8-235 renumbered without change as Section R18-4-235 (Supp. 87-3). Section repealed, new Section adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-236. Repealed**Historical Note**

Adopted effective January 6, 1984 (Supp. 84-1). Former Section R9-8-236 renumbered without change as Section R18-4-236 (Supp. 87-3). Amended effective June 30, 1989 (Supp. 89-2). Section repealed, new Section adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-237. Repealed**Historical Note**

Adopted effective June 30, 1989 (Supp. 89-2). Section repealed, new Section adopted effective August 8, 1991

R18-4-238. Repealed**Historical Note**

Adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-239. Repealed**Historical Note**

Adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-240. Repealed**Historical Note**

Adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-241. Repealed**Historical Note**

Adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-242. Repealed**Historical Note**

Adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-243. Repealed**Historical Note**

Adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-244. Repealed**Historical Note**

Adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-245. Repealed**Historical Note**

Adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-246. Repealed**Historical Note**

Adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-247. Repealed**Historical Note**

Adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-248. Repealed**Historical Note**

Adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-249. Repealed**Historical Note**

Adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

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R18-4-250. Repealed**Historical Note**

Former Section R9-8-250 repealed, new Section R9-8-250 adopted effective May 26, 1978 (Supp. 78-3). Former Section R9-8-250 renumbered without change as Section R18-4-250 (Supp. 87-3). Amended effective June 30, 1989 (Supp. 89-2). Section repealed, new Section adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-251. Repealed**Historical Note**

Former Section R9-8-250 repealed, new Section R9-8-251 adopted effective May 26, 1978 (Supp. 78-3). Amended effective August 7, 1979 (Supp. 79-4). Amended by adding subsection (B) effective November 2, 1982 (Supp. 82-6). Former Section R9-8-251 renumbered without change as Section R18-4-251 (Supp. 87-3). Amended effective June 30, 1989 (Supp. 89-2). Repealed effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-252. Repealed**Historical Note**

Former Section R9-8-252 repealed, new Section R9-8-252 adopted effective May 26, 1978 (Supp. 78-3). Amended effective August 7, 1979 (Supp. 79-4). Amended subsection (A) effective January 6, 1984 (Supp. 84-1). Former Section R9-8-252 renumbered without change as Section R18-4-252 (Supp. 87-3). Amended by adding a new subsection (C) effective June 30, 1989 (Supp. 89-2). Repealed effective August 8, 1991 (Supp. 91-3).

R18-4-253. Repealed**Historical Note**

Former Section R9-8-253 repealed, new Section R9-8-253 adopted effective May 26, 1978 (Supp. 78-3). Amended effective August 7, 1979 (Supp. 79-4). Amended subsection (A) and deleted subsection (B) effective January 6, 1984 (Supp. 84-1). Former Section R9-8-253 renumbered without change as Section R18-4-253 (Supp. 87-3). Repealed effective August 8, 1991 (Supp. 91-3).

R18-4-254. Reserved**R18-4-255. Reserved****R18-4-256. Reserved****R18-4-257. Reserved****R18-4-258. Reserved****R18-4-259. Reserved****R18-4-260. Repealed****Historical Note**

Adopted effective May 26, 1978 (Supp. 78-3). Former Section R9-8-260 renumbered without change as Section R18-4-260 (Supp. 87-3). Amended effective June 30, 1989 (Supp. 89-2). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-261. Repealed**Historical Note**

Adopted effective May 26, 1978 (Supp. 78-3). Former Section R9-8-261 renumbered without change as Section R18-4-261 (Supp. 87-3). Amended effective June 30, 1989 (Supp. 89-2). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-262. Repealed**Historical Note**

Adopted effective May 26, 1978 (Supp. 78-3). Former Section R9-8-262 renumbered without change as Section R18-4-262 (Supp. 87-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-263. Repealed**Historical Note**

Adopted effective May 26, 1978 (Supp. 78-3). Amended effective January 6, 1984 (Supp. 84-1). Former Section R9-8-263 renumbered without change as Section R18-4-263 (Supp. 87-3). Section repealed, new Section adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-264. Repealed**Historical Note**

Adopted effective May 26, 1978 (Supp. 78-3). Amended subsection (B) effective January 6, 1984 (Supp. 84-1). Former Section R9-8-264 renumbered without change as Section R18-4-264 (Supp. 87-3). Repealed effective June 30, 1989 (Supp. 89-2). New Section adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-265. Repealed**Historical Note**

Adopted effective May 26, 1978 (Supp. 78-3). Amended effective January 6, 1984 (Supp. 84-1). Former Section R9-8-265 renumbered without change as Section R18-4-265 (Supp. 87-3). Amended subsections (B) and (C) effective June 30, 1989 (Supp. 89-2). Section repealed, new Section adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-266. Repealed**Historical Note**

Adopted effective May 26, 1978 (Supp. 78-3). Former Section R9-8-266 renumbered without change as Section R18-4-266 (Supp. 87-3). Amended subsection (A) effective June 30, 1989 (Supp. 89-2). Section repealed, new Section adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-267. Repealed**Historical Note**

Adopted effective May 26, 1978 (Supp. 78-3). Amended effective August 7, 1979 (Supp. 79-4). Amended effective January 6, 1984 (Supp. 84-1). Former Section R9-8-267 renumbered without change as Section R18-4-267 (Supp. 87-3). Amended effective June 30, 1989 (Supp. 89-2). Section repealed, new Section adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

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R18-4-268. Repealed**Historical Note**

Adopted effective May 26, 1978 (Supp. 78-3). Amended effective January 6, 1984 (Supp. 84-1). Former Section R9-8-268 renumbered without change as Section R18-4-268 (Supp. 87-3). Amended effective June 30, 1989 (Supp. 89-2). Section repealed, new Section adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-269. Repealed**Historical Note**

Adopted effective May 26, 1978 (Supp. 78-3). Former Section R9-8-269 renumbered without change as Section R18-4-269 (Supp. 87-3). Amended subsection (A) effective June 30, 1989 (Supp. 89-2). Section repealed, new Section adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-270. Repealed**Historical Note**

Adopted effective May 26, 1978 (Supp. 78-3). Former Section R9-8-270 renumbered without change as Section R18-4-270 (Supp. 87-3). Repealed effective June 30, 1989 (Supp. 89-2). New Section adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-271. Repealed**Historical Note**

Adopted effective May 26, 1978 (Supp. 78-3). Former Section R9-8-271 renumbered without change as Section R18-4-271 (Supp. 87-3). Amended effective June 30, 1989 (Supp. 89-2). Section repealed, new Section adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-272. Repealed**Historical Note**

Adopted effective May 26, 1978 (Supp. 78-3). Amended subsections (A) and (D) effective January 6, 1984 (Supp. 84-1). Former Section R9-8-272 renumbered without change as Section R18-4-272 (Supp. 87-3). Amended effective June 30, 1989 (Supp. 89-2). Section repealed, new Section adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-273. Repealed**Historical Note**

Adopted effective May 26, 1978 (Supp. 78-3). Amended effective August 7, 1979 (Supp. 79-4). Amended effective January 6, 1984 (Supp. 84-1). Former Section R9-8-273 renumbered without change as Section R18-4-273 (Supp. 87-3). Amended effective June 30, 1989 (Supp. 89-2). Section repealed, new Section adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-274. Reserved**R18-4-275. Reserved****R18-4-276. Reserved****R18-4-277. Reserved****R18-4-278. Reserved****R18-4-279. Reserved****R18-4-280. Repealed****Historical Note**

Adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-281. Repealed**Historical Note**

Adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-282. Repealed**Historical Note**

Adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

R18-4-283. Reserved**R18-4-284. Reserved****R18-4-285. Reserved****R18-4-286. Reserved****R18-4-287. Reserved****R18-4-288. Reserved****R18-4-289. Reserved****R18-4-290. Repealed****Historical Note**

Adopted effective May 26, 1978 (Supp. 78-3). Former Section R9-8-290 renumbered without change as Section R18-4-290 (Supp. 87-3). Amended effective June 30, 1989 (Supp. 89-2). Section repealed, new Section adopted effective August 8, 1991 (Supp. 91-3). Repealed effective April 28, 1995 (Supp. 95-2).

Appendix 1. Repealed**Historical Note**

Amended effective January 6, 1984 (Supp. 84-1). Amended effective June 30, 1989 (Supp. 89-2). Repealed effective August 8, 1991 (Supp. 91-3).

Appendix 2. Repealed**Historical Note**

Amended effective January 6, 1984 (Supp. 84-1). Amended effective June 30, 1989 (Supp. 89-2). Repealed effective August 8, 1991 (Supp. 91-3).

Appendix 3. Repealed**Historical Note**

Amended effective January 6, 1984 (Supp. 84-1). Amended effective June 30, 1989 (Supp. 89-2). Repealed effective August 8, 1991 (Supp. 91-3).

Appendix 4. Repealed**Historical Note**

Former Appendix 4 repealed, new Appendix 4 adopted effective January 6, 1984 (Supp. 84-1). Amended effective June 30, 1989 (Supp. 89-2). Repealed effective August 8, 1991 (Supp. 91-3).

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Appendix 5. Repealed**Historical Note**

Former Appendix 5 renumbered as Appendix 6, new Appendix 5 adopted effective November 2, 1982 (Supp. 82-6). Amended effective June 30, 1989 (Supp. 89-2). Repealed effective August 8, 1991 (Supp. 91-3).

Appendix 6. Repealed**Historical Note**

Former Appendix 5 renumbered as Appendix 6 effective November 2, 1982 (Supp. 82-6). Former Appendix 6 repealed, new Appendix 6 adopted effective January 6, 1984 (Supp. 84-1). Amended effective June 30, 1989 (Supp. 89-2). Repealed effective August 8, 1991 (Supp. 91-3).

Appendix 7. Repealed**Historical Note**

Adopted effective June 30, 1989 (Supp. 89-2). Repealed effective August 8, 1991 (Supp. 91-3).

ARTICLE 3. MONITORING ASSISTANCE PROGRAM**R18-4-301. Applicability**

- A.** A public water system that serves 10,000 or fewer persons shall participate in the monitoring assistance program. Within 60 days after receiving notice of participation in the monitoring assistance program from the Department, a public water system that determines that it serves more than 10,000 persons shall substantiate its determination by submitting to the Department the portion of the most recent census provided by the Arizona Department of Economic Security, Research Administration, Population Statistics Unit that supports the public water system's determination.
- B.** A public water system that is not obligated to participate in the monitoring assistance program may elect to participate in the monitoring assistance program if the owner of the public water system:
 1. Notifies the Department in writing of the public water system's intention to participate in the monitoring assistance program,
 2. Agrees to participate in the monitoring assistance program for a minimum of three years, and
 3. Pays the fees required by R18-4-304. Subject to payment of the required fees, the public water system's participation shall begin at the start of the next full calendar year of a compliance period.

Historical Note

Adopted effective April 28, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 3046, effective May 1, 2002 (Supp. 02-3). Section R18-4-301 repealed; new Section renumbered from R18-4-224 and amended by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-301.01. Renumbered**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 1686, effective April 19, 1999 (Supp. 99-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section R18-4-301.01 renumbered to R18-4-212 by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

Table 1. Renumbered**Historical Note**

New Table made by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Table 1 following R18-4-301.01 renumbered to R18-4-212, Table 1 by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-301.02. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3046, effective May 1, 2002 (Supp. 02-3). Section R18-4-301.02 and Tables 1 and 2 repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-302. Contractor Responsibilities

- A.** Under the monitoring assistance program, a contractor is authorized to collect, transport, analyze, and report water samples on behalf of a participating public water system. The contractor or a party designated by the contractor shall conduct baseline monitoring for all chemicals for which the system is required to monitor under this Chapter, except for copper, lead, disinfection byproducts, and microbiological contaminants, which remain the responsibility of the public water system. Baseline monitoring includes routine monitoring for contaminants included in the monitoring assistance program. Baseline monitoring does not include increased monitoring required by this Chapter when the results of baseline monitoring indicate the presence of a contaminant at a level that requires increased monitoring by a participating public water system.
- B.** A contractor shall deliver copies of monitoring analysis results to the public water system and to the Department.

Historical Note

Adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Amended by final rulemaking at 8 A.A.R. 3046, effective May 1, 2002 (Supp. 02-3). Section R18-4-302 repealed; new Section made by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-303. Public Water System Responsibilities

- A.** Although a contractor performs baseline monitoring when a public water system participates in the monitoring assistance program, the public water system remains legally responsible for compliance with all other requirements of this Chapter.
- B.** The legal owner of a public water system participating in the monitoring assistance program shall notify the Department by July 1 of each year of:
 1. The legal owner's name, current mailing address, and phone number;
 2. The population currently served by the public water system;
 3. The public water system identification number; and
 4. The number of meters and service connections currently in the public water system.
- C.** A public water system that participates in the monitoring assistance program shall not deny a contractor access to or restrict a contractor's access to the public water system or prevent a contractor from collecting a sample covered under the monitoring assistance program.
- D.** Direct reporting. A public water system may contract with a laboratory or another agent to report monitoring results to the Department, but the public water system remains legally responsible for compliance with reporting requirements.

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Historical Note

Adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Amended by final rulemaking at 8 A.A.R. 3046, effective May 1, 2002 (Supp. 02-3). Section R18-4-303 repealed; new Section made by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-304. Fees for the Monitoring Assistance Program

- A. The Department shall assess, and a public water system participating in the monitoring assistance program shall pay, the following annual fees, subject to adjustments referenced in subsection (B):
1. An annual fee of \$250, and
 2. A unit fee of \$2.57 per meter or service connection.
- B. If the monitoring assistance fund has a surplus after execution of the previous year's contract, any surplus in excess of \$200,000 in any year shall be used to reduce future fees for public water systems that paid annual fees in the previous compliance period, in a manner consistent with the program invoicing system. In the first compliance period that a public water system participates in the monitoring assistance program, the public water system shall pay the full amount of annual fees due under this Section, and is not entitled to a fee reduction resulting from a surplus in the monitoring assistance fund from a prior compliance period.
- C. If a public water system serving 10,000 or fewer persons at the beginning of a compliance period increases service during the compliance period so that the public water system serves more than 10,000 persons annually, the public water system may elect to cease participation in the monitoring assistance program under the following conditions:
1. If the monitoring assistance program has already conducted monitoring for the public water system during the compliance period, the public water system shall remain in the monitoring assistance program, and pay annual fees, for the remainder of the compliance period.
 2. If the monitoring assistance program has not conducted monitoring for the public water system during the compliance period, the public water system may cease participating in the monitoring assistance program, and if so, the Department shall refund any monitoring fees paid by the public water system during the compliance period.

Historical Note

Adopted effective April 28, 1995 (Supp. 95-2). Section R18-4-304 repealed; new Section renumbered from R18-4-225 and amended by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-305. Collection and Payment of Fees

- A. The Department shall annually mail an invoice for fees to the legal owner of a public water system participating in the monitoring assistance program. The owner of the public water system shall pay the invoiced amount to the Department, at the address listed on the invoice, by the due date indicated on the invoice.
- B. The Department shall make refunds or billing corrections if a public water system demonstrates an error in the amount billed. The owner of a public water system shall send a written request for a refund or correction to the Department, at the address on the invoice, within 90 days of the invoice date.
- C. The Department may verify the number of meters and service connections of a participating public water system.
- D. The Department shall not waive fees prescribed by R18-4-304.

- E. The owner of a public water system that fails to pay fees assessed by the Department in a timely manner shall be subject to the penalties listed in A.R.S. § 49-354. Failure to notify the Department of the owner's current mailing address does not relieve the owner of a public water system from liability for penalties.

Historical Note

Adopted effective April 28, 1995 (Supp. 95-2). Section R18-4-305 renumbered to R18-4-306 by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). New Section R18-4-305 renumbered from R18-4-226 and amended by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-306. Repealed**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Former Section R18-4-306 repealed; new Section R18-4-306 renumbered from R18-4-305 and amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-307. Repealed**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-308. Repealed**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-309. Repealed**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-310. Repealed**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-311. Repealed**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-312. Repealed

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Historical Note

Adopted effective April 28, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-313. Repealed**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-314. Repealed**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-315. Repealed**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-316. Repealed**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-317. Repealed**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

Table 1. Repealed**Historical Note**

Table 1 adopted by final rulemaking at 5 A.A.R. 1686, effective April 19, 1999 (Supp. 99-2). Table repealed by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1).

Appendix A. Repealed**Historical Note**

New Appendix made by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Appendix A repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

Appendix B. Repealed**Historical Note**

New Appendix made by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Appendix B repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

ARTICLE 4. OTHER SAFE DRINKING WATER ACT REGULATIONS**R18-4-401. Repealed****Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Amended effective December 8, 1998 (Supp. 98-4). Former Section R18-4-401 repealed; new Section R18-4-401 renumbered from R18-4-402 and amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-402. Use of Lead Free Pipes, Fittings, Fixtures, Solder, and Flux for Drinking Water – 40 CFR 143, Subpart B

40 CFR 143, Subpart B (40 CFR 143.10 through 143.20) revised as of July 1, 2021 and published by the Office of the Federal Register, National Archives and Records Administration is incorporated by reference. This rule does not include any later amendments or editions of the incorporated material. Copies of the incorporated material are available for inspection at the Arizona Department of Environmental Quality, 1110 W. Washington, Phoenix, AZ 85007 or may be obtained from the U.S. Government Publishing Office, bookstore.gpo.gov, P.O. Box. 979050, St. Louis, MO 63197-9000.

Historical Note

Adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Amended effective December 8, 1998 (Supp. 98-4). Former Section R18-4-402 renumbered to R18-4-401; new Section R18-4-402 renumbered from R18-4-403 and amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3). New Section made by final expedited rulemaking at 29 A.A.R. 1472 (June 30, 2023), with an immediate effective date of June 7, 2023 (Supp. 23-2).

R18-4-403. Repealed**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Section repealed; new Section adopted effective June 3, 1998 (Supp. 98-3). Amended by final rulemaking at 7 A.A.R. 5067, effective October 16, 2001 (Supp. 01-4). Section R18-4-403 renumbered to R18-4-402 by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). New Section made by final rulemaking at 8 A.A.R. 3046, effective May 1, 2002 (Supp. 02-3). Repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-404. Repealed**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Amended effective December 8, 1998 (Supp. 98-4). Section repealed by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1).

R18-4-405. Repealed**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Amended effective December 8, 1998 (Supp. 98-4). Section repealed by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1).

ARTICLE 5. RECODIFIED

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Article 5 recodified to 18 A.A.C. 5, Article 5 at 10 A.A.R. 585, effective January 30, 2004 (Supp. 04-1).

R18-4-501. Recodified**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Section recodified to R18-5-501 at 10 A.A.R. 585, effective January 30, 2004 (Supp. 04-1).

R18-4-502. Recodified**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). A.R.S. citation in subsection (D)(4) corrected (Supp. 04-1). Section recodified to R18-5-502 at 10 A.A.R. 585, effective January 30, 2004 (Supp. 04-1).

R18-4-503. Recodified**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section recodified to R18-5-503 at 10 A.A.R. 585, effective January 30, 2004 (Supp. 04-1).

R18-4-504. Recodified**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section recodified to R18-5-504 at 10 A.A.R. 585, effective January 30, 2004 (Supp. 04-1).

R18-4-505. Recodified**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Subsection citation in subsection (B) corrected (Supp. 04-1). Section recodified to R18-5-505 at 10 A.A.R. 585, effective January 30, 2004 (Supp. 04-1).

R18-4-506. Recodified**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section recodified to R18-5-506 at 10 A.A.R. 585, effective January 30, 2004 (Supp. 04-1).

R18-4-507. Recodified**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section recodified to R18-5-507 at 10 A.A.R. 585, effective January 30, 2004 (Supp. 04-1).

R18-4-508. Recodified**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section recodified to R18-5-508 at 10 A.A.R. 585, effective January 30, 2004 (Supp. 04-1).

R18-4-509. Recodified**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section recodified to R18-5-509 at 10 A.A.R. 585, effective January 30, 2004 (Supp. 04-1).

Appendix A. Repealed**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Correction of word "sued" to "used" in subsection (71) (Supp. 96-1). Appendix A amended effective June 3, 1998 (Supp. 98-3). Appendix A repealed by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1).

Appendix B. Repealed**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Appendix B repealed; new Appendix B renumbered from Appendix C without change effective June 3, 1998 (Supp. 98-3). Appendix B repealed by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1).

Appendix C. Renumbered**Historical Note**

Adopted effective April 28, 1995 (Supp. 95-2). Appendix C renumbered to Appendix B without change effective June 3, 1998 (Supp. 98-3).

ARTICLE 6. CAPACITY DEVELOPMENT REQUIREMENTS FOR A NEW PUBLIC DRINKING WATER SYSTEM**R18-4-601. Applicability**

This Article applies to new CWSs and new NTNCWSs that begin operation on or after October 1, 1999. This Article does not apply to an existing public water system.

Historical Note

New Section adopted by final rulemaking effective September 23, 1999; the A.A.R. citation was not available at the time of publication and will appear in Supp. 99-4 (Supp. 99-3). Amended by final rulemaking at 5 A.A.R. 4456, effective September 23, 1999 (Supp. 99-4).

R18-4-602. Elementary Business Plan

- A. To become a new public water system, an owner shall file an elementary business plan for review and approval by the Department, on a form provided by the Department. The elementary business plan shall meet the requirements of and contain all information required in R18-4-603, R18-4-604, and R18-4-605.
- B. An owner shall not commence operation of a public water system without Department approval under R18-4-606.
- C. If the owner of a new public water system fails to submit a complete application, the Department shall suspend the review process and send a notice of incomplete elementary business plan to the owner. The owner shall submit the missing information to the Department within 60 days of the date of the notice of incomplete elementary business plan. If missing information is not received at the Department within the 60 day time period, the Department shall deny the elementary business plan and return the elementary business plan to the owner.

Historical Note

New Section adopted by final rulemaking effective September 23, 1999; the A.A.R. citation was not available at the time of publication and will appear in Supp. 99-4

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(Supp. 99-3). Amended by final rulemaking at 5 A.A.R. 4456, effective September 23, 1999 (Supp. 99-4).

R18-4-603. Technical Capacity Requirements

An owner of a new public water system shall submit the following to the Department for a determination of technical capacity:

1. Documentation of a drinking water source adequacy minimum of 50 gallons of water per person per day for a period of 100 years, a 100 year water availability designation from the Arizona Department of Water Resources (ADWR), or a Certificate of Assured Water Supply from ADWR;
2. Documentation that the drinking water served to the public will meet the safe drinking water standards of this Chapter;
3. Documentation that infrastructure, treatment, and storage design meets the requirements of this Chapter, Articles 2, 3, and 5;
4. Documentation that the public water system is operated by a certified operator of the sufficient grade and type; and
5. Documentation that contains at least the following:
 - a. Day 1 to final build-out technical and engineering needs projections;
 - b. Proposed water system design specification and proposed uses including commercial and domestic use phases;
 - c. Information describing the life of the plant;
 - d. A demonstration that all site-specific components meet nationally recognized standards, such as those established by the American Water Works Association, National Sanitation Foundation, or Underwriter's Laboratory;
 - e. Manufacturers' specifications on components used in the construction of the water system; and
 - f. Corrective action plan to address site-specific component replacement or repair protocols based on manufacturer's recommendations or engineer's specification.

Historical Note

New Section adopted by final rulemaking effective September 23, 1999; the A.A.R. citation was not available at the time of publication and will appear in Supp. 99-4 (Supp. 99-3). Amended by final rulemaking at 5 A.A.R. 4456, effective September 23, 1999 (Supp. 99-4).

R18-4-604. Managerial Capacity Requirements

An owner of a new public water system shall submit the following information as part of the elementary business plan to the Department for a determination of managerial capacity:

1. A statement of how the public water system is owned, such as by major stockholders, board of directors, sole proprietor cooperative, governmental agency or district, corporation, limited partnership, or limited liability corporation;
2. Name, address, and phone number of owner;
3. Organizational chart of the new public water system;
4. Staff job descriptions and responsibilities;
5. Water system capital improvement plan up to the proposed full system build-out or for a five-year projection, whichever is greater;
6. Certified operator grade and type that will be required by the new public water system, based upon water system design specifications;

7. A statement of the intent to create a CWS or NTNCWS and any intent to transfer ownership of the public water system as part of the construction plan or project phase build-out;
8. Method to ensure provision of information listed in Appendix B, item 4 to subsequent owners; and
9. A disclosure statement signed by the owner setting forth the owner's responsibility to comply with the requirements of this Article and to disclose all information relevant to the operation of the public water system upon transfer of ownership as outlined in Appendix B.

Historical Note

New Section adopted by final rulemaking effective September 23, 1999; the A.A.R. citation was not available at the time of publication and will appear in Supp. 99-4 (Supp. 99-3). Amended by final rulemaking at 5 A.A.R. 4456, effective September 23, 1999 (Supp. 99-4).

R18-4-605. Financial Capacity Requirements

An owner of a new public water system shall submit information for a five-year financial capacity plan, or a financial capacity plan to the end of the build-out phase, whichever is longer, that demonstrates financial capacity and documents or contains all of the information listed in Appendices C and D.

Historical Note

New Section adopted by final rulemaking effective September 23, 1999; the A.A.R. citation was not available at the time of publication and will appear in Supp. 99-4 (Supp. 99-3). Amended by final rulemaking at 5 A.A.R. 4456, effective September 23, 1999 (Supp. 99-4).

R18-4-606. Review, Approval, Denial Process

- A. The Department shall review and evaluate technical capacity, based upon the requirements in R18-4-603 and Appendix A.
- B. The Department shall review and evaluate managerial capacity, based upon the requirements in R18-4-604 and Appendix A.
- C. The Department shall accept a financial determination made by the Arizona Corporation Commission (ACC) as meeting the financial capacity requirements contained in this Article for a new CWS or new NTNCWS under the jurisdiction of the ACC. The applicant shall submit documentation to the Department that verifies ACC approval of the public water system's financial capacity.
- D. The Department shall accept a financial determination as set forth in the certificate of assured water supply from the Arizona Department of Water Resources, Active Management Area Program (ADWR) as meeting the financial capacity requirements contained in this Article for a new CWS or new NTNCWS. The owner shall submit documentation to the Department that verifies ADWR approval of its financial capacity.
- E. If a new public water system does not fall under financial review jurisdiction of the ACC or ADWR, the new CWS or new NTNCWS shall submit to the Department for review a completed financial capacity portion of the elementary business plan. The Department shall review and evaluate financial capacity, based upon the requirements in R18-4-605 and Appendices A, C, and D.
- F. The Department shall notify an owner of a new public water system in writing of a deficiency in the elementary business plan or approve or deny the elementary business plan within 90 days of a receipt of a complete elementary business plan. The owner shall have 60 days from the date of a notice of defi-

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ciency to submit to the Department the information necessary to correct the deficiency in the elementary business plan. If the owner of the new public water system fails to send the requested information so that it is received by the Department within 60 days of the date of the notice of deficiency, the Department shall deny the elementary business plan and return it to the owner with a written explanation for the denial and information on the appeal process.

- G. If an owner modifies technical or managerial specifications at any time between the approval to construct and the approval of construction, the owner shall notify the Department of the need to modify the elementary business plan in the technical, managerial, and financial capacity documentation. The Department shall revoke approval of the elementary business plan if the owner fails to notify the Department within 30 days of a modification.

Historical Note

New Section adopted by final rulemaking effective September 23, 1999; the A.A.R. citation was not available at the time of publication and will appear in Supp. 99-4 (Supp. 99-3). Amended by final rulemaking at 5 A.A.R. 4456, effective September 23, 1999 (Supp. 99-4).

R18-4-607. Appeals

An owner may appeal denial of an elementary business plan under A.R.S. § 41-1092 et seq.

Historical Note

New Section adopted by final rulemaking effective September 23, 1999; the A.A.R. citation was not available at the time of publication and will appear in Supp. 99-4 (Supp. 99-3). Amended by final rulemaking at 5 A.A.R. 4456, effective September 23, 1999 (Supp. 99-4).

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Appendix A. Elementary Business Plan Checklist

Elementary Business Plan Checklist		Yes	No	N/A
Technical Capacity				
1.	Source Adequacy - Does the documentation demonstrate 50 gallons of water per person per day for 100 years or does the system have an Arizona Department of Water Resources Certificate of assured water supply?	_____	_____	_____
2.	Source Adequacy - Does the source approval information demonstrate that the source meets drinking water quality standards or have applicable drinking water technologies been described?	_____	_____	_____
3.	Infrastructure - Do the design criteria meet the requirements of R18-4-502 through R18-4-509?	_____	_____	_____
4.	Treatment - Do the design criteria include treatment technologies approved by ADEQ in 18 A.A.C. 4, Articles 2, 3, and 5?	_____	_____	_____
5.	Does the system have a certified operator of the appropriate grade and type?	_____	_____	_____
6.	Does the documentation include an elementary business plan containing technical and engineering needs projections for a time period covering day 1 to final build-out or for a five-year time period, which ever is greater?	_____	_____	_____
7.	Does the documentation include the proposed water system design specifications and proposed uses including commercial and domestic use phases?	_____	_____	_____
8.	Does the documentation include an elementary business plan containing the information on the components used in the design and construction of the system along with the components life span based upon manufacturer's specifications?	_____	_____	_____
9.	Does the documentation include an Operations and Maintenance Plan that contains standards that are nationally recognized on all site-specific components, such as American Water Works Association, National Sanitation Foundation, or Underwriter's Laboratory?	_____	_____	_____
10.	Does the documentation include an operation and maintenance plan with the manufacturer's specifications on all components used in the construction of the water system?	_____	_____	_____
11.	Does the documentation include an operations and maintenance plan and emergency operation plan to address site-specific component replacement or repair protocols based on manufacturer's recommendations or engineer's specifications?	_____	_____	_____
Managerial Capacity				
12.	Does the documentation include ownership type?	_____	_____	_____
	Select all that apply.			
	Sole Proprietor	_____	_____	_____
	Major Stockholders	_____	_____	_____
	Board of Directors	_____	_____	_____
	Cooperative	_____	_____	_____
	Government Agency or District	_____	_____	_____
	Corporation	_____	_____	_____
	Limited Liability Corporation	_____	_____	_____
	Partnership	_____	_____	_____
	Other _____	_____	_____	_____
13.	Does the documentation include name, address, and telephone number of owner?	_____	_____	_____
14.	Does the documentation include an organizational chart of owners, management, and staff with their position or job titles?	_____	_____	_____
15.	Does the documentation include staff job descriptions and responsibilities?	_____	_____	_____
16.	Does the documentation include a capital improvement plan up to the proposed full system build-out or for a five-year projection, whichever is greater?	_____	_____	_____
17.	Does the documentation identify the grade and type of certified operator that will be needed to operate the system according to site-specific components?	_____	_____	_____
18.	Does the documentation identify the intent to create a CWS or NTNCWS?	_____	_____	_____
19.	Does the documentation transfer the ownership of the water system as part of the build-out phase of the project?	_____	_____	_____
20.	Does the documentation identify the policies or mechanisms to ensure that all system-specific technical, managerial, and financial information of the water system is transferred to a new owner?	_____	_____	_____
21.	Does the documentation include the owner's signed disclosure statement agreeing to comply with the requirements of these Articles and a general disclosure statement agreeing to disclose all information relevant to the operation of the water system to any transferee of ownership? (See Appendix B).	_____	_____	_____

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Financial Capacity	Yes	No	N/A
22. Is the system regulated by the Arizona Corporation Commission (ACC) or ADWR? If Yes go to Question 23. If No go to Question 25.	_____	_____	_____
23. Has the system received an approval from the ACC on its fee structure, or ADWR on its financial capacity?	_____	_____	_____
24. Systems regulated by the Arizona Corporation Commission or Department of Water Resources shall provide information required in 22 and 23 for the financial capacity determination review by ADEQ.	_____	_____	_____
25. For New CWSs and NTNCWS NOT regulated by ACC, is all information listed in Appendices C and D included?	_____	_____	_____

Historical Note

Appendix A adopted by final rulemaking effective September 23, 1999; the A.A.R. citation was not available at the time of publication and will appear in Supp. 99-4 (Supp. 99-3). Amended by final rulemaking at 5 A.A.R. 4456, effective September 23, 1999 (Supp. 99-4).

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Appendix B. Drinking Water Capacity Development Statement of Responsibility

Drinking Water Capacity Development Statement of Responsibility

Applicant Information:	
Name: _____	
Mailing Address: _____	
Phone Number: _____	Fax Number: _____ E-mail: _____
Statement Information:	
1) Name of Water System: _____ PWS ID# _____	
2) Ownership Type (Please check all that apply):	
<input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Major Stockholders <input type="checkbox"/> Board of Directors <input type="checkbox"/> Cooperative <input type="checkbox"/> Government Agency <input type="checkbox"/> District <input type="checkbox"/> Public Entity <input type="checkbox"/> Corporation <input type="checkbox"/> Limited Liability Corporation <input type="checkbox"/> Other (please explain) _____	
3) Name of Owner(s): (Check one) See below Attach a separate sheet if more space is needed	
Owner 1: _____	
Owner 2: _____	
Owner 3: _____	
4) Agencies with rules applicable to the Water System: (Please check all that apply)	
<input type="checkbox"/> Arizona Department of Environmental Quality <input type="checkbox"/> Arizona Department of Water Resources <input type="checkbox"/> Arizona Department of Commerce <input type="checkbox"/> Arizona Department of Corrections <input type="checkbox"/> Arizona Land Department <input type="checkbox"/> Arizona Department of Transportation <input type="checkbox"/> Pima County Department of Environmental Quality <input type="checkbox"/> Other(s) please specify _____	<input type="checkbox"/> Arizona Corporation Commission <input type="checkbox"/> Arizona Department of Real Estate <input type="checkbox"/> Arizona Department of Agriculture <input type="checkbox"/> Office of the Fire Marshal <input type="checkbox"/> Arizona Department of Revenue <input type="checkbox"/> Maricopa County Environmental Services <input type="checkbox"/> Environmental Protection Agency Region IX
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5) Statement of Intent (Select one):

- ☐ It **IS** the intent of the owner or developer of this NEW CWS or NEW NTNCWS to transfer ownership of the water system. As part of the ownership transfer, it is understood that the owner or developer has a responsibility to disclose and transfer ALL information relevant to the construction and operation of the water system to the new owner.
- ☐ It is **NOT** the intent of the owner to transfer ownership of the NEW CWS or NTNCWS within one year of the completion of construction of the water system.

6) Date owner expects to begin operation:

Month _____ Day _____ Year _____

7) Drinking Water Sources used: (Select all that apply)

- ☐ Ground Water ☐ Purchased Ground Water
- ☐ Surface Water ☐ Purchased Surface Water

8) Table of Contents of Systems Elementary Business Plan (Please check one):

- ☐ The Table of Contents of the Elementary Business Plan is attached.
- ☐ The Table of Contents of the Elementary Business Plan is summarized below.

Summary _____

9) Signature of each current owner: Check if additional signature page is attached. ☐

I agree to comply with the requirements of 18 A.A.C. 4, Article 6.

Print Name: _____ Signature: _____ Date: _____

Print Name: _____ Signature: _____ Date: _____

Print Name: _____ Signature: _____ Date: _____

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Historical Note

Appendix B adopted by final rulemaking effective September 23, 1999; the A.A.R. citation was not available at the time of publication and will appear in Supp. 99-4 (Supp. 99-3). Amended by final rulemaking at 5 A.A.R. 4456, effective September 23, 1999 (Supp. 99-4).

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Appendix C. Financial Capacity for New CWSs and NTNCWSs, Worksheet 1

Financial Capacity for New CWSs and NTNCWSs
Worksheet 1

Owner: _____

Completed by: _____ Date: _____

5-Year Financial Projection	Year 1 Projection	Year 2 Projection	Year 3 Projection	Year 4 Projection	Year 5 Projection
Enter Year:					
1. Beginning Cash on Hand					
a. Unmetered Water Revenue					
b. Metered Water Revenue					
c. Other Water Revenue					
d. Total Water Revenues (1a thru 1c)					
e. Connection Fees					
f. Interest and Dividend Income					
g. Other Income					
h. Total Cash Revenues (1d thru 1g)					
i. Additional Revenue Needed					
j. Loans, Grants or other Cash Injection (please specify)					
2. Total Cash Balance (1h to 1j)					
3. Total Cash Available (1+2)					
4. Operating Expenses					
a. Salaries and wages					
b. Employee Pensions and Benefits					
c. Utilities					
d. Chemicals					
e. Materials and Supplies					
f. Laboratory					
g. Contractual Services					

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h. Insurance					
i. Miscellaneous					
j. Total Operations and Maintenance Expenses (4a thru 4i)					
k. Replacement Expenditures					
l. Total Operations and Maintenance expenditures plus Replacement expenditures (4j+4k)					
m. Loan Principal/Capital Lease Payments					
n. Loan Interest Payments					
o. Capital Purchases (specify):					
5. Total Cash Paid Out (4m thru 4o)					
6. Ending Cash Position (3 - 5)					
7. Number of Customer Accounts					
8. Average Annual User Charge per account (1d/7)					
9. Coverage Ratio (1h-4l)/(4m+4n)					
10. Operating Ratio (1d/4l)					
11. End of Year Operating Cash (6 - 12)					
12. End of Year Reserves					
a. Operating Reserves					
b. Debt Service Reserve					
c. Capital Improvement Reserve					
d. Replacement Reserve					
e. Other					
Total Reserves (12a thru 12e)					

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Appendix C. (Continued) Financial Capacity for New CWSs and NTNCWSs, Definitions for Worksheet 1

Arizona Financial Capacity For New
CWSs and NTNCWSs
Definitions for Worksheet 1

5-Year Financial Projection	Year 1 Projection	Year 2 Projection	Year 3 Projection	Year 4 Projection	Year 5 Projection
1. Beginning Cash on Hand	For the current year budget, use the actual cash balance. For all other years, cash on hand should equal item #12 from the previous period.				
a) Unmetered Water Revenue	All cash received or estimated for water supplied to residential, commercial, industrial and public customers where the customer charge is not based on quantity, but is based on other criteria such as diameter of service pipe, room, or foot of frontage.				
b) Metered Water Revenue	All cash received or estimated for water supplied to residential, commercial, industrial, and public customers where the charge is based on quantity of water delivered.				
c) Other water revenues	Other cash received or estimated from sales of water, sales for irrigation, sales for resale, inter-municipal sales, or ad valorem taxes.				
d) Total Water Revenues	Total 1(a) thru 1(c)				
e) Connection Fee	All cash received or estimated for connection of customer service during the year.				
f) Interest and Dividend Income	All cash received or estimated on interest income from securities, loans, notes, and similar instruments, whether the securities are carried as investments or included in sinking or reserve accounts.				
g) Other income	Other revenues collected or estimated during the period (such as disconnection or change in service fees, profit on materials billed to customers, servicing of customer lines, late payment fees, rents, sales of assets, or ad valorem taxes (infrastructure portion)).				
h) Total Cash Revenues	Add 1(d) thru 1(g)				
i) Additional Revenues Needed	Additional cash needed to cover cash needs.				
j) Loans, Grants or other Cash Injections	Includes loans or grants from financial institutions, inter-municipal loans, state or federal sources.				
2. Total Cash Balance	Add items 1(h) thru 1(j)				
3. Total Cash Available	Add items 1 and 2				
4. Operating Expenses	Use actual amounts paid when completing the prior year. Estimate the amounts for projected years based on prior year amounts, trends, and other known variables.				
a) Salaries and wages	Cash expenditures made or estimated for salaries, bonuses, and other considerations for work related to the operation and maintenance of the facility, including administration and compensation for officers and directors.				
b) Employee Pensions and Benefits	Paid vacations, paid sick leave, health insurance, unemployment insurance, pension plan, and other similar liabilities.				
c) Utilities	Amounts paid or estimated for all fuel or electrical power.				
d) Chemicals	Amounts paid or estimated for chemicals used in treatment and distribution.				
e) Materials and Supplies	Amounts paid or estimated for materials and supplies used for operation and maintenance of the new public water system other than those under contractual services.				

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f) Laboratory	Amounts paid or estimated for laboratory and associated services.
g) Contractual Services	Amounts paid or estimated for outside engineering, accounting, legal, managerial, and other services.
h) Insurance	Amounts paid or estimated for vehicle, liability, worker's compensation, and other insurance associated with the public water system.
i) Miscellaneous	Amounts paid or estimated for all expenses not included elsewhere (such as permit fees, training, and certification fees).
j) Total operation and maintenance expenditures	Add amounts in lines 4(a) thru 4(i).
k) Replacement expenditures	Amounts paid or estimated for replacement of equipment to maintain system integrity (capital improvement plan).
l) Total Operations and Maintenance expenditures plus Replacement expenditures	Add amounts in 4(j) and 4(k)
m) Loan Principal, Capital Lease or Loan payment	Include cash payments made or estimated for principal and interest on all loans, including vehicle loans and equipment on time payments, and capital lease payments.
n) Loan Interest payments	Include cash payments made or estimated for interest on all loans, including vehicle loans, and equipment on time payments, and capital lease payments.
o) Capital Purchases	Amount of cash outlays or estimates for items such as equipment, building, or vehicle purchases and leasehold improvements that were not a part of the initial design of the water system.
5) Total Cash Paid Out	Add amounts in 4(m) thru 4(o)
6) Total Cash Available Minus Expenditures Calculation	Take Amount in 1 and subtract Amount in 5. If this amount is positive, there is operating cash left over after all calculated expenditure obligations have been met. If the number is negative, there are more expenses than there are funds available to pay for the expenses to operate the water system.
7) Number of Customer Accounts	Use most recent system data or expected increases.
8) Average User Charge per Customer	Take amount listed in 1(d) and divide it by amount listed in 7.
9) Coverage Ratio	Take amount in 1(h) and subtract the amount in 4(l). Then divide that amount with the sum of 4(m) + 4(n). The equation looks like this: $\frac{1(h) - 4(l)}{4(m) + 4(n)}$ and measures the sufficiency of net operating profit to cover the debt service requirements of the system. A bond covenant might require the debt service to meet or exceed certain limits.
10) Operating Ratio	Take amount in 1(d) and divide it by the amount in 4(l). The equation looks like this: $\frac{1(d)}{4(l)}$. This figure measures whether operating revenues are sufficient to cover operation, maintenance, replacement expenses. An operating ratio of 1:0 is the minimum for a self-supporting facility. If there are debt service requirements, the operating ratio would have to be higher.
11) End of Year Operating Cash	All non-reserved cash. Add amounts from 6 thru 12.
12) End of Year Reserves	Do not include depreciation as a reserve unless there is actually a designated depreciation reserve containing cash set aside for future expansion.

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a) Operating Cash Reserve	Funds set aside to meet cash flow, operating, and seasonal fluctuations.
b) Debt Service Reserve	Funds specifically set aside to retire debt as it is scheduled.
c) Capital Improvement Reserve	Funds specifically set aside to meet long-term objectives for a major facility expansion, improvement, or the construction of a new facility.
d) Replacement Reserves	Funds specifically set aside for the future replacement of equipment needed to maintain the integrity of the facility over the useful life of the equipment.
e) Total End of Year Reserves	Add amounts 12 (a) thru 12 (d).

Historical Note

Appendix C adopted by final rulemaking effective September 23, 1999; the A.A.R. citation was not available at the time of publication and will appear in Supp. 99-4 (Supp. 99-3). Amended by final rulemaking at 5 A.A.R. 4456, effective September 23, 1999 (Supp. 99-4).

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Appendix D. Water System Financial Viability Tests**Water System Financial Viability Tests**

Test 1: Will the proposed water system collect sufficient revenues to meet all of its projected expenses?

Measurements:

- a. $\text{Total Revenues} - \text{Total Expenses} = \text{Net Income} > 0$
- b. $\text{Total Revenues} - \text{One-Time Revenues} - \text{Interest Income} - \text{Other Income} = \text{Operating Revenues}$
- c. $\text{Total Expenses} - \text{One-Time Expenditures} - \text{Debt Service} - \text{Capital Outlays} = \text{Operating Expenditures}$
- d. $\text{Operating Revenues} - \text{Operating Expenses} = \text{Net Revenues} > 0$
- e. $\text{Operating Ratio} = \text{Operating Expenses} \leq 1 \text{ Operating Revenues}$

Test 2: Will the proposed water system generate reserves?

The following measurements shall be > 0 at the time submitted:

- a. Operating Cash Reserve = \$ _____
- b. Replacement Reserve = \$ _____
- c. Working Capital = Current Assets - Current Liabilities

Test 3: Are the proposed rates reasonable compared to the median household income of the area to be served?

The following measurement shall be:

Average Annual Rates $<$ Median Household Income \times 2.5%.

- * The sources of median household income data include the most recent United States Census Bureau (USCB) data collected by the Department or generated by an impartial third party experienced in collecting income data and supplied to the Department by the applicant seeking viability determinations. Acceptable sources of income data, other than USCB data include feasibility studies, engineering reports, market studies, income surveys, or another source or collection methodology approved by the Department.

Historical Note

Appendix D adopted by final rulemaking effective September 23, 1999; the A.A.R. citation was not available at the time of publication and will appear in Supp. 99-4 (Supp. 99-3). Amended by final rulemaking at 5 A.A.R. 4456, effective September 23, 1999; Test 1(e) amended to correct a manifest clerical error (Supp. 99-4).

ARTICLE 7. REPEALED**R18-4-701. Repealed****Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2019, effective May 10, 2000 (Supp. 00-2). Section R18-4-701 repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-702. Repealed**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2019, effective May 10, 2000 (Supp. 00-2). Section R18-4-702 repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-703. Repealed**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2019, effective May 10, 2000 (Supp. 00-2). Amended by

final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 3046, effective May 1, 2002 (Supp. 02-3). Section R18-4-703 repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-704. Repealed**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2019, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 3046, effective May 1, 2002 (Supp. 02-3). Clarifying words "of Article 1" added to subsection (A)(1) (Supp. 04-1). Section R18-4-703 and Table 1 repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-705. Repealed

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Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2019, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section R18-4-705 repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-706. Repealed**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2019, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section R18-4-706 repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-707. Repealed**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2019, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section R18-4-707 repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-708. Repealed**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2019, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Section R18-4-708 repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-709. Repealed**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2019, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 3046, effective May 1, 2002 (Supp. 02-3). Section R18-4-709 repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-710. Repealed**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2019, effective May 10, 2000 (Supp. 00-2). Section R18-4-710 repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

Appendix A. Repealed**Historical Note**

New Appendix adopted by final rulemaking at 6 A.A.R. 2019, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Appendix A repealed by final rulemaking at 8 A.A.R. 3046, effective May 1, 2002 (Supp. 02-3).

Appendix B. Repealed**Historical Note**

New Appendix adopted by final rulemaking at 6 A.A.R. 2019, effective May 10, 2000 (Supp. 00-2). Former Appendix B renumbered to Appendix C; new Appendix B made by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Appendix B repealed by final rulemaking at 8 A.A.R. 3046, effective May 1, 2002 (Supp. 02-3).

Appendix C. Repealed**Historical Note**

New Appendix C renumbered from Appendix B by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1). Appendix C repealed by final rulemaking at 8 A.A.R. 3046, effective May 1, 2002 (Supp. 02-3).

ARTICLE 8. TECHNICAL ASSISTANCE**R18-4-801. Repealed****Historical Note**

New Section made by final rulemaking at 8 A.A.R. 262, effective December 27, 2001 (Supp. 01-4). Section R18-4-801 repealed by final rulemaking at 14 A.A.R. 2978, effective August 30, 2008 (Supp. 08-3).

R18-4-802. Technical Assistance Plan

The Department shall include a technical assistance plan in the capacity development report it publishes annually. The technical assistance plan shall include a description of the types of technical assistance the Department expects to provide, the sources and uses of technical assistance, and a master priority list.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 262, effective December 27, 2001 (Supp. 01-4).

R18-4-803. Master Priority List

- A.** Each year the Department shall develop a master priority list that ranks public water systems according to their need for technical assistance.
- B.** The Department shall rank public water systems on the master priority list based on consideration of the following criteria:
 1. Size of population served,
 2. Type of public water system,
 3. Type of ownership,
 4. Water source (surface water or ground water),
 5. Participation in the monitoring assistance program,
 6. History of major monitoring or reporting deficiencies,
 7. History of acute or non-acute MCL violations,
 8. History of operation or maintenance violations,
 9. Lack of a certified operator,
 10. Prior assistance from the Department or the Water Infrastructure Finance Authority within the last five years, and
 11. Any or other measurable objective criteria related to the technical, managerial, or financial capacity of a public water system.
- C.** If all other criteria are equal, the Department shall assign priority to public water systems with the most operation or maintenance violations.
- D.** The Department shall publish the master priority list annually in the Arizona Administrative Register and hold an oral proceeding to obtain public comment on the master priority list.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 262, effective December 27, 2001 (Supp. 01-4).

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R18-4-804. Technical Assistance Awards

- A.** The Department shall award technical assistance to the public water systems with the highest ranking on the master priority list, as funding permits.
- B.** The Department may provide technical assistance directly, or the Department may employ a consultant to provide the assistance.
- C.** If a public water system refuses technical assistance offered by the Department, or the Department determines that a public water system is not able to proceed with technical assistance

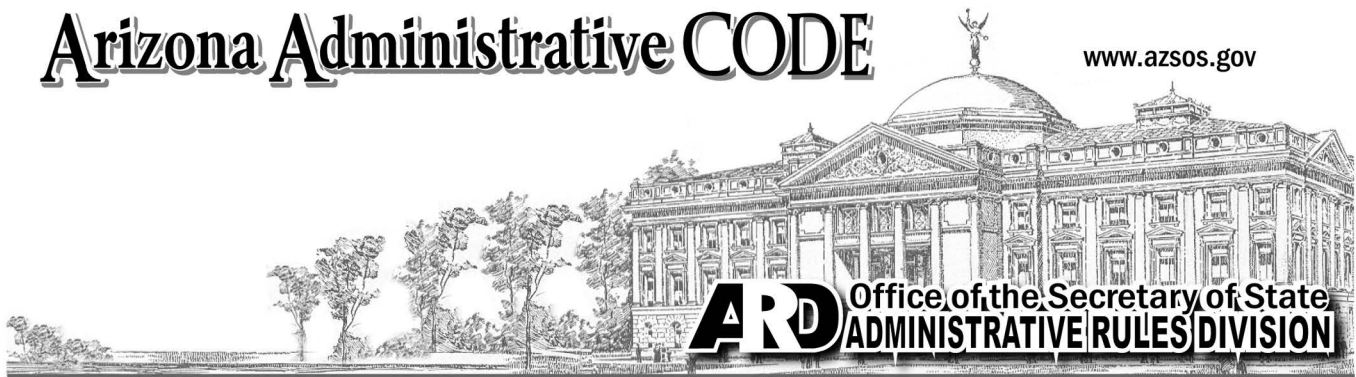
within the next fiscal year, the Department shall bypass the public water system on the master priority list. The Department shall replace a bypassed public water system with the public water system next in line to receive technical assistance in accordance with the priority criteria in R18-4-803(B).

Historical Note

New Section made by final rulemaking at 8 A.A.R. 262, effective December 27, 2001 (Supp. 01-4).

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CHAPTER 9. DEPARTMENT OF ENVIRONMENTAL QUALITY - WATER POLLUTION CONTROL

The table of contents on page one contains links to the referenced page numbers in this Chapter.
Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
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Questions about these rules? Contact:

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The release of this Chapter in Supp. 23-2 replaces Supp. 22-4, 1-177 pages.

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

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

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

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

ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

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

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

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

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

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

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division

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TITLE 18. ENVIRONMENTAL QUALITY**CHAPTER 9. DEPARTMENT OF ENVIRONMENTAL QUALITY - WATER POLLUTION CONTROL**

Authority: A.R.S. §§ 49-203(A)(6), 49-203(A)(9), 49-104(C)(1)

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Article 4, consisting of Sections R9-20-401 through R9-20-407, adopted effective May 24, 1985.

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ARTICLE 9. ARIZONA POLLUTANT DISCHARGE ELIMINATION SYSTEM

Editor's Note: The recodification at 7 A.A.R. 2522 described below erroneously moved Sections into 18 A.A.C. 9, Article 9. Those Sections were actually recodified to 18 A.A.C. 9, Article 10. See the Historical Notes for more information (Supp. 01-4).

Article 9, consisting of Sections R18-9-901 through R18-9-914 and Appendix A, recodified from 18 A.A.C. 13, Article 15 at 7 A.A.R. 2522, effective May 24, 2001 (Supp. 01-2).

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ARTICLE 1. AQUIFER PROTECTION PERMITS - GENERAL PROVISIONS**R18-9-101. Definitions**

In addition to the definitions established in A.R.S. § 49-201, the following terms apply to Articles 1, 2, 3, and 4 of this Chapter:

1. "Aggregate" means a clean graded hard rock, volcanic rock, or gravel of uniform size, between 3/4 inch and 2 1/2 inches in diameter, offering 30 percent or more void space, washed or prepared to be free of fine materials that will impair absorption surface performance, and has a hardness value of three or greater on the Moh's Scale of Hardness (can scratch a copper penny).
2. "Alert level" means a value or criterion established in an individual permit that serves as an early warning indicating a potential violation of a permit condition related to BADCT or the discharge of a pollutant to groundwater.
3. "AQL" means an aquifer quality limit and is a permit limitation set for aquifer water quality measured at the point of compliance that either represents an Aquifer Water Quality Standard or, if an Aquifer Water Quality Standard for a pollutant is exceeded in an aquifer at the time of permit issuance, represents the ambient water quality for that pollutant.
4. "Aquifer Protection Permit" means an individual permit or a general permit issued under A.R.S. §§ 49-203, 49-241 through 49-252, and Articles 1, 2, and 3 of this Chapter.
5. "Aquifer Water Quality Standard" means a standard established under A.R.S. §§ 49-221 and 49-223.
6. "AZPDES" means the Arizona Pollutant Discharge Elimination System, which is the state program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment and biosolids requirements under A.R.S. Title 49, Chapter 2, Article 3.1 and 18 A.A.C. 9, Articles 9 and 10.
7. "BADCT" means the best available demonstrated control technology, process, operating method, or other alternative to achieve the greatest degree of discharge reduction determined for a facility by the Director under A.R.S. § 49-243.
8. "Bedroom" means, for the purpose of determining design flow for an on-site wastewater treatment facility for a dwelling, any room that has:
 - a. A floor space of at least 70 square feet in area, excluding closets;
 - b. A ceiling height of at least 7 feet;
 - c. Electrical service and ventilation;
 - d. A closet or an area where a closet could be constructed;
 - e. At least one window capable of being opened and used for emergency egress; and
 - f. A method of entry and exit to the room that allows the room to be considered distinct from other rooms in the dwelling and to afford a level of privacy customarily expected for such a room.
9. "Book net worth" means the net difference between total assets and total liabilities.
10. "CCR" means coal combustion residuals which include fly ash, bottom ash, boiler slag, and flue gas desulfurization materials generated from burning coal for the purpose of generating electricity by electric utilities and independent power producers.
11. "CCR landfill" means an area of land or an excavation that receives CCR and which is not a municipal solid waste landfill, a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground or surface coal mine, or a cave. A CCR landfill also includes sand and gravel pits and quarries that receive CCR, CCR piles, and any practice that does not meet the definition of beneficial use of CCR.
12. "CCR surface impoundment" means a natural topographic depression, man-made excavation, or diked area, which is designed to hold an accumulation of CCR and liquids, and the unit treats, stores, or disposes of CCR.
13. "CCR unit" means any CCR landfill which receives CCR, any CCR surface impoundment designed to hold an accumulation of CCR and liquids, and the unit treats, stores or disposes of CCR. CCR unit includes a lateral expansion of a CCR unit, or a combination of more than one of these units that receives CCR.
14. "Cesspool" means a pit, collection structure, or subsurface fluid distribution system, which may or may not be partially lined, that receives discharged sewage. A cesspool is not an on-site wastewater treatment facility, such as a septic tank, vault, or other structure permitted under Article 3 of this Chapter.
15. "Chamber technology" means a method for dispersing treated wastewater into soil from an on-site wastewater treatment facility by one or more manufactured leaching chambers with an open bottom and louvered, load-bearing sidewalls that substitute for an aggregate-filled trench described in R18-9-E302.
16. "CMOM Plan" means a Capacity, Management, Operations, and Maintenance Plan, which is a written plan that describes the activities a permittee will engage in and actions a permittee will take to ensure that the capacity of the sewage collection system, when unobstructed, is sufficient to convey the peak wet weather flow through each reach of sewer, and provides for the management, operation, and maintenance of the permittee's sewage collection system.
17. "Design capacity" means the volume of a containment feature at a discharging facility that accommodates all permitted flows and meets all Aquifer Protection Permit conditions, including allowances for appropriate peaking and safety factors to ensure sustained, reliable operation.
18. "Design flow" means the daily flow rate a facility is designed to accommodate on a sustained basis while satisfying all Aquifer Protection Permit discharge limitations and treatment and operational requirements. The design flow either incorporates or is used with appropriate peaking and safety factors to ensure sustained, reliable operation.
19. "Direct reuse site" means an area where reclaimed water is applied or impounded.
20. "Disposal works" means the system for disposing treated wastewater generated by the treatment works of a sewage treatment facility or on-site wastewater treatment facility, by surface or subsurface methods. Disposal works do not include systems for activities regulated under 18 A.A.C. 9, Article 7.
21. "Drywell" means a well which is a bored, drilled or driven shaft or hole whose depth is greater than its width and is designed and constructed specifically for the disposal of storm water. Drywells do not include class 1, class 2, class 3 or class 4 injection wells as defined by the

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- Federal Underground Injection Control Program (P.L. 93-523, part C), as amended. A.R.S. § 49-331(3)*
22. “Dwelling” means any building, structure, or improvement intended for residential use or related activity, including a house, an apartment unit, a condominium unit, a townhouse, or a mobile or manufactured home that has been constructed or will be constructed on real property.
23. “Final permit determination” means a written notification to the applicant of the Director’s final decision whether to issue or deny an Individual Aquifer Protection Permit.
24. “Gray water” means wastewater that has been collected separately from a sewage flow and that originates from a clothes washer or a bathroom tub, shower or sink but that does not include wastewater from a kitchen sink, dishwasher or toilet. A.R.S. § 49-201(20).
25. “Groundwater Quality Protection Permit” means a permit issued by the Arizona Department of Health Services or the Department before September 27, 1989 that regulates the discharge of pollutants that may affect groundwater.
26. “Homeowner’s association” means a nonprofit corporation or unincorporated association of owners created pursuant to a declaration to own and operate portions of a planned community and which has the power under the declaration to assess association members to pay the costs and expenses incurred in the performance of the association’s obligations under the declaration.
27. “Injection well” means a well that receives a discharge through pressure injection or gravity flow.
28. “Intermediate stockpile” means in-process material not intended for long-term storage that is in transit from one process to another at a mining site. Intermediate stockpile does not include metallic ore concentrate stockpiles or feedstocks not originating at the mining site.
29. “Land treatment facility” means an operation designed to treat and improve the quality of waste, wastewater, or both, by placement wholly or in part on the land surface to perform part or all of the treatment. A land treatment facility includes a facility that performs biosolids drying, processing, or composting, but not land application performed in compliance with 18 A.A.C. 9, Article 10.
30. “Mining site” means a site assigned one or more of the following primary Standard Industrial Classification Codes: 10, 12, 14, 32, and 33, and includes noncontiguous properties owned or operated by the same person and connected by a right-of-way controlled by that person to which the public is not allowed access.
31. “Nitrogen Management Area” means an area designated by the Director for which the Director prescribes measures on an area-wide basis to control sources of nitrogen, including cumulative discharges from on-site wastewater treatment facilities, that threaten to cause or have caused an exceedance of the Aquifer Water Quality Standard for nitrate.
32. “Notice of Disposal” means a document submitted to the Arizona Department of Health Services or the Department before September 27, 1989, giving notification of a pollutant discharge that may affect groundwater.
33. “On-site wastewater treatment facility” means a conventional septic tank system or alternative system that is installed at a site to treat and dispose of wastewater of predominantly human origin that is generated at that site. A.R.S. § 49-201(29). An on-site wastewater treatment facility does not include a pre-fabricated, manufactured treatment works that typically uses an activated sludge unit process and has a design flow of 3000 gallons per day or more.
34. “Operational life” means the designed or planned period during which a facility remains operational while being subject to permit conditions, including closure requirements. Operational life does not include post-closure activities.
35. “Person” means an individual, employee, officer, managing body, trust, firm, joint stock company, consortium, public or private corporation, including a government corporation, partnership, association or state, a political subdivision of this state, a commission, the United States government or any federal facility, interstate body or other entity. A.R.S. § 49-201(33). For the purposes of permitting a sewage treatment facility under Article 2 of this Chapter, person does not include a homeowner’s association.
36. “Pilot project” means a short-term, limited-scale test designed to gain information regarding site conditions, project feasibility, or application of a new technology.
37. “Process solution” means a pregnant leach solution, barren solution, raffinate, or other solution uniquely associated with the mining or metals recovery process.
38. “Residential soil remediation level” means the applicable predetermined standard established in 18 A.A.C. 7, Article 2, Appendix A.
39. “Seasonal high water table” means the free surface representing the highest point of groundwater rise within an aquifer due to seasonal water table changes over the course of a year.
40. “Setback” means a minimum horizontal distance maintained between a feature of a discharging facility and a potential point of impact.
41. “Sewage” means untreated wastes from toilets, baths, sinks, lavatories, laundries, other plumbing fixtures, and waste pumped from septic tanks in places of human habitation, employment, or recreation. Sewage does not include gray water as defined in A.R.S. § 49-201(20), if the gray water is reused according to 18 A.A.C. 9, Article 7.
42. “Sewage collection system” means a system of pipelines, conduits, manholes, pumping stations, force mains, and all other structures, devices, and appurtenances that collect, contain, and convey sewage from its sources to the entry of a sewage treatment facility or on-site wastewater treatment facility serving sources other than a single-family dwelling.
43. “Sewage treatment facility” means a plant or system for sewage treatment and disposal, except for an on-site wastewater treatment facility, that consists of treatment works, disposal works and appurtenant pipelines, conduits, pumping stations, and related subsystems and devices. A sewage treatment facility does not include components of the sewage collection system or the reclaimed water distribution system.
44. “Surface impoundment” means a pit, pond, or lagoon with a surface dimension equal to or greater than its depth, and used for the storage, holding, settling, treatment, or discharge of liquid pollutants or pollutants containing free liquids.
45. “Tracer” means a substance, such as a dye or other chemical, used to change the characteristic of water or some other fluid to detect movement.

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46. "Tracer study" means a test conducted using a tracer to measure the flow velocity, hydraulic conductivity, flow direction, hydrodynamic dispersion, partitioning coefficient, or other property of a hydrologic system.
47. "Treatment works" means a plant, device, unit process, or other works, regardless of ownership, used for treating, stabilizing, or holding municipal or domestic sewage in a sewage treatment facility or on-site wastewater treatment facility.
48. "Typical sewage" means sewage conveyed to an on-site wastewater treatment facility in which the total suspended solids (TSS) content does not exceed 430 mg/l, the five-day biochemical oxygen demand (BOD₅) does not exceed 380 mg/l, the total nitrogen does not exceed 53 mg/l, and the content of oil and grease does not exceed 75 mg/l.
49. "*Underground storage facility*" means a constructed underground storage facility or a managed underground storage facility. A.R.S. § 45-802.01(21).
50. "Waters of the United States" means:
 - a. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;
 - b. All interstate waters, including interstate wetlands;
 - c. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any waters:
 - i. That are or could be used by interstate or foreign travelers for recreational or other purposes;
 - ii. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - iii. That are used or could be used for industrial purposes by industries in interstate commerce;
 - d. All impoundments of waters defined as waters of the United States under this definition;
 - e. Tributaries of waters identified in subsections (a) through (d);
 - f. The territorial sea; and
 - g. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in subsections (a) through (f).

Historical Note

Adopted effective September 27, 1989 (Supp. 89-3). Amended by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3). Amended by final expedited rulemaking at 25 A.A.R. 3060, effective immediately September 23, 2019, pursuant to A.R.S. § 41-1027(H) (Supp. 19-3). Amended by final rulemaking at 29 A.A.R. 1023 (May 12, 2023), effective June 19, 2023 (Supp. 23-2).

R18-9-102. Facilities to which Articles 1, 2, and 3 Do Not Apply

Articles 1, 2, and 3 do not apply to:

1. A drywell used solely to receive storm runoff and located so that no use, storage, loading, or treating of hazardous substances occurs in the drainage area;
2. A direct pesticide application in the commercial production of plants and animals subject to the Federal Insecticide, Fungicide, and Rodenticide Act (P.L. 92-516; 86 Stat. 975; 7 United States Code 135 et seq., as amended), or A.R.S. §§ 49-301 through 49-309 and applicable rules, or A.R.S. Title 3, Chapter 2, Article 6 and applicable rules.

Historical Note

Adopted effective September 27, 1989 (Supp. 89-3). Amended by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4).

R18-9-103. Class Exemptions

Class exemptions. In addition to the classes or categories of facilities listed in A.R.S. § 49-250(B), the following classes or categories of facilities are exempt from the Aquifer Protection Permit requirements in Articles 1, 2, and 3 of this Chapter:

1. Facilities that treat, store, or dispose of hazardous waste and have been issued a permit or have interim status, under the Resource Conservation and Recovery Act (P.L. 94580; 90 Stat. 2796; 42 U.S.C. 6901 et seq., as amended), or have been issued a permit according to the hazardous waste management rules adopted under 18 A.A.C. 8, Article 2;
2. Underground storage tanks that contain a regulated substance as defined in A.R.S. § 49-1001;
3. Facilities for the disposal of solid waste, as defined in A.R.S. § 49-701.01, that are located in unincorporated areas and receive solid waste from four or fewer households;
4. Land application of biosolids in compliance with 18 A.A.C. 9, Articles 9 and 10;
5. CCR Units regulated by 40 CFR 257, Subpart D or by a permit in effect under a Department program approved by the United States Environmental Protection Agency in accordance with 42 U.S.C. § 6945(d)(1);
6. Underground Injection Control Class V injection wells regulated under an area or individual permit per 18 A.A.C. 9, Article 6, Part I.

Historical Note

Adopted effective September 27, 1989 (Supp. 89-3). Section repealed; new Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Subsection 4 citation corrected to reflect recodification at 7 A.A.R. 2522 (Supp. 03-1). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3). Amended by final expedited rulemaking at 25 A.A.R. 3060, effective immediately September 23, 2019, pursuant to A.R.S. § 41-1027(H) (Supp. 19-3). Amended by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-104. Transition from Notices of Disposal and Groundwater Quality Protection Permitted Facilities

A person who owns, operates, or operated a facility on or after January 1, 1986 for which a Notice of Disposal was filed or a Groundwater Quality Protection Permit was issued shall, within 90 days from the date on the Director's notification, submit an application for an Aquifer Protection Permit or a closure plan as specified under A.R.S. § 49-252. The person shall obtain a permit for continued operation, closure of the facility, or clean closure approval.

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Failure to submit an application or closure plan as required terminates continuance of the Notice of Disposal or Groundwater Quality Protection Permit.

Historical Note

Adopted effective September 27, 1989 (Supp. 89-3).
Amended by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-105. Permit Continuance**A. Continuance.**

1. Groundwater Quality Protection Permits.
 - a. Subject to R18-9-104 and other provisions of this Section, a Groundwater Quality Protection Permit issued before September 27, 1989 is valid according to the terms of the permit until replaced by an Aquifer Protection Permit issued by the Department.
 - b. A person who owns or operates a facility to which a Groundwater Quality Protection Permit was issued is in compliance with Articles 1, 2, and 3 of this Chapter and A.R.S. Title 49, Chapter 2, Article 3, if the facility:
 - i. Meets the conditions of the Groundwater Quality Protection Permit; and
 - ii. Is not causing or contributing to the violation of any Aquifer Water Quality Standard at a point of compliance, determined by the criteria in A.R.S. § 49-244.
 2. Notice of Disposal. A person who owns or operates a facility for which a Notice of Disposal was filed before September 27, 1989 complies with Articles 1, 2, and 3 of this Chapter and A.R.S. Title 49, Chapter 2, Article 3 if the facility is not causing or contributing to the violation of an Aquifer Water Quality Standard at a point of compliance, determined by the criteria in A.R.S. § 49-244.
 3. Aquifer Protection Permit application submittal. A person who did not file a Notice of Disposal and does not possess a Groundwater Quality Protection Permit or an Aquifer Protection Permit for an existing facility, but submitted the information required in applicable rules before December 27, 1989, is in compliance with Articles 1, 2, and 3 of this Chapter only if the person submitted an Aquifer Protection Permit application to the Department before January 1, 2001.
- B. Applicability.** Subsection (A) applies until the Director:
1. Issues an Aquifer Protection Permit for the facility,
 2. Denies an Aquifer Protection Permit for the facility,
 3. Issues a letter of clean closure approval for the facility under A.R.S. § 49-252, or
 4. Determines that the person failed to submit an application under R18-9-104.

Historical Note

Adopted effective September 27, 1989 (Supp. 89-3).
Amended effective November 12, 1996 (Supp. 96-4).
Section repealed; new Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-106. Determination of Applicability

- A.** A person who engages or who intends to engage in an operation or an activity that may result in a discharge regulated under Articles 1, 2, and 3 of this Chapter may submit a

request, on a form provided by the Department, that the Department determine the applicability of A.R.S. §§ 49-241 through 49-252 and Articles 1, 2, and 3 of this Chapter to the operation or activity.

- B.** A person requesting a determination of applicability shall provide the following information and the applicable fee under 18 A.A.C. 14:
1. The name and location of the operation or activity;
 2. The name of any person who is engaging or who proposes to engage in the operation or activity;
 3. A description of the operation or activity;
 4. A description of the volume, chemical composition, and characteristics of materials stored, handled, used, or disposed of in the operation or activity; and
 5. Any other information required by the Director to make the determination of applicability.
- C.** Within 45 days after receipt of a request for a determination of applicability, the Director shall notify in writing the person making the request that the operation or activity:
1. Is not subject to the requirements of A.R.S. §§ 49-241 through 49-252 and Articles 1, 2, and 3 of this Chapter because the operation or facility does not discharge as described under A.R.S. § 49-241;
 2. Is not subject to the requirements of A.R.S. §§ 49-241 through 49-252 and Articles 1, 2, and 3 of this Chapter because the operation or activity is exempted by A.R.S. § 49-250 or R18-9-103;
 3. Is eligible for a general permit under A.R.S. §§ 49-245.01, 49-245.02 or 49-247 or Article 3 of this Chapter, specifying the particular general permit that would apply if the person meets the conditions of the permit; or
 4. Is subject to the permit requirements of A.R.S. §§ 49-241 through 49-252 and Articles 1, 2, and 3 of this Chapter.
- D.** If, after issuing a determination of applicability under this Section, the Director concludes that the determination or the information relied upon for a determination is inaccurate, the Director may modify or withdraw its determination upon written notice to the person who requested the determination of applicability.
- E.** If the Director determines that an operation or activity is subject to the requirements of A.R.S. §§ 49-241 through 49-252, the person who owns or operates the discharging facility shall, within 90 days from receiving the Director's written notification, submit an application for an Aquifer Protection Permit or a closure plan.

Historical Note

Adopted effective September 27, 1989 (Supp. 89-3).
Amended by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-107. Consolidation of Aquifer Protection Permits

- A.** The Director may consolidate any number of individual permits or the coverage for any facility authorized to discharge under a general permit into a single individual permit, if:
1. The facilities are part of the same project or operation and are located in a contiguous geographic area, or
 2. The facilities are part of an area under the jurisdiction of a single political subdivision.
- B.** All applicable individual permit requirements established in Articles 1 and 2 of this Chapter apply to the consolidation of Aquifer Protection Permits.

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Historical Note

Adopted effective September 27, 1989 (Supp. 89-3). Section repealed; new Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4).

Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-108. Public Notice**A. Individual permits.**

1. The Department shall provide the entities specified in subsection (A)(2), with monthly written notification, by regular mail or electronically, of the following:
 - a. Individual permit applications,
 - b. Temporary permit applications,
 - c. Preliminary and final decisions by the Director whether to issue or deny an individual or temporary permit,
 - d. Closure plans received under R18-9-A209(B),
 - e. Significant permit amendments and "other" permit amendments,
 - f. Permit revocations, and
 - g. Clean closure approvals.
2. Entities.
 - a. Each county department of health, environmental services department, or comparable department;
 - b. A federal, state, local agency, or council of government, that may be affected by the permit action; and
 - c. A person who requested, in writing, notification of the activities described in subsection (A).
3. The Department may post the information referenced in subsections (A)(1) and (2) on the Department web site: www.azdeq.gov.

B. General permits. Public notice requirements do not apply.**Historical Note**

Adopted effective September 27, 1989 (Supp. 89-3). Section repealed; new Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4).

Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-109. Public Participation**A. Notice of Preliminary Decision.**

1. The Department shall publish a Notice of Preliminary Decision regarding the issuance or denial of a significant permit amendment or a final permit determination in one or more newspapers of general circulation where the facility is located.
2. The Department shall accept written comments from the public before a significant permit amendment or a final permit determination is made.
3. The written public comment period begins on the publication date of the Notice of Preliminary Decision and extends for 30 calendar days.

B. Public hearing.

1. The Department shall provide notice and conduct a public hearing to address a Notice of Preliminary Decision regarding a significant permit amendment or final permit determination if:
 - a. Significant public interest in a public hearing exists, or
 - b. Significant issues or information has been brought to the attention of the Department that has not been considered previously in the permitting process.
2. If, after publication of the Notice of Preliminary Decision, the Department determines that a public hearing is

necessary, the Department shall schedule a public hearing and publish the Notice of Preliminary Decision at least once, in one or more newspapers of general circulation where the facility is located.

3. The Department shall accept written public comment until the close of the hearing record as specified by the person presiding at the public hearing.

C. The Department shall respond in writing to all comments submitted during the formal public comment period.**D. At the same time the Department notifies a permittee of a significant permit amendment or an applicant of the final permit determination, the Department shall send, through regular mail or electronically, a notice of the amendment or determination and the summary of response to comments to any person who submitted comments or attended a public hearing on the significant permit amendment or final permit determination.****E. General permits. Public participation requirements do not apply.****Historical Note**

Adopted effective September 27, 1989 (Supp. 89-3). Section repealed; new Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4).

Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-110. Inspections, Violations, and Enforcement**A. The Department shall conduct an inspection of a permitted facility as specified under A.R.S. § 41-1009.****B. A person who owns or operates a facility contrary to a provision of Articles 1, 2, and 3 of this Chapter, violates a condition of an Aquifer Protection Permit, or violates a condition of a Groundwater Quality Protection Permit continued under R189105(A)(1) is subject to the enforcement actions established under A.R.S. Title 49, Chapter 2, Article 4.****Historical Note**

Adopted effective September 27, 1989 (Supp. 89-3). Section repealed; new Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4).

Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3). Amended by final rulemaking at 29 A.A.R. 1023 (May 12, 2023), effective June 19, 2023 (Supp. 23-2).

R18-9-111. Repealed**Historical Note**

Adopted effective September 27, 1989 (Supp. 89-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4).

R18-9-112. Repealed**Historical Note**

Adopted effective September 27, 1989 (Supp. 89-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4).

R18-9-113. Repealed**Historical Note**

Adopted effective September 27, 1989 (Supp. 89-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4).

R18-9-114. Repealed

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Historical Note

Adopted effective September 27, 1989 (Supp. 89-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4).

R18-9-115. Repealed**Historical Note**

Adopted effective September 27, 1989 (Supp. 89-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4).

R18-9-116. Repealed**Historical Note**

Adopted effective September 27, 1989 (Supp. 89-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4).

R18-9-117. Repealed**Historical Note**

Adopted effective September 27, 1989 (Supp. 89-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4).

R18-9-118. Repealed**Historical Note**

Adopted effective September 27, 1989 (Supp. 89-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4).

R18-9-119. Repealed**Historical Note**

Adopted effective September 27, 1989 (Supp. 89-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4).

R18-9-120. Repealed**Historical Note**

Adopted effective September 27, 1989 (Supp. 89-3).
Repealed effective July 14, 1998 (Supp. 98-3).

R18-9-121. Repealed**Historical Note**

Adopted effective September 27, 1989 (Supp. 89-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4).

R18-9-122. Repealed**Historical Note**

Adopted effective September 27, 1989 (Supp. 89-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4).

R18-9-123. Repealed**Historical Note**

Adopted effective September 27, 1989 (Supp. 89-3).
Repealed effective November 15, 1996 (Supp. 96-4).

R18-9-124. Repealed**Historical Note**

Adopted effective September 27, 1989 (Supp. 89-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4).

R18-9-125. Repealed**Historical Note**

Adopted effective September 27, 1989 (Supp. 89-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4).

R18-9-126. Repealed**Historical Note**

Adopted effective September 27, 1989 (Supp. 89-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4).

R18-9-127. Repealed**Historical Note**

Adopted effective September 27, 1989 (Supp. 89-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4).

R18-9-128. Repealed**Historical Note**

Adopted effective September 27, 1989 (Supp. 89-3).
Repealed effective November 12, 1996 (Supp. 96-4).

R18-9-129. Repealed**Historical Note**

Adopted effective September 27, 1989 (Supp. 89-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4).

R18-9-130. Repealed**Historical Note**

Adopted effective September 27, 1989 (Supp. 89-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4).

Appendix I. Repealed**Historical Note**

Appendix I repealed by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4).

ARTICLE 2. AQUIFER PROTECTION PERMITS - INDIVIDUAL PERMITS**PART A. APPLICATION AND GENERAL PROVISIONS****R18-9-A201. Individual Permit Application**

- A.** An individual permit application covers one or more of the following categories:
1. Drywell,
 2. Industrial,
 3. Mining,
 4. Wastewater,
 5. Solid waste disposal, or
 6. Land treatment facility.
- B.** An applicant for an individual permit shall provide the Department with:
1. The following information on an application form:
 - a. The name and mailing address of the applicant;
 - b. The name and mailing address of the owner of the facility;
 - c. The name and mailing address of the operator of the facility;
 - d. The legal description, including latitude and longitude, of the location of the facility;
 - e. The expected operational life of the facility; and

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- f. The permit number for any other federal or state environmental permit issued to the applicant for that facility or site.
 2. A copy of the certificate of disclosure required by A.R.S. § 49-109;
 3. Evidence that the facility complies with applicable municipal or county zoning ordinances, codes, and regulations;
 4. Two copies of the technical information required in R18-9-A202(A);
 5. Cost estimates for facility construction, operation, maintenance, closure, and post-closure as follows.
 - a. The applicant shall ensure that the cost estimates are derived by an engineer, controller, or accountant using competitive bids, construction plan take-off's, specifications, operating history for similar facilities, or other appropriate sources, as applicable.
 - b. The following cost estimates that are representative of regional fair market costs:
 - i. The cost of closure estimate under R18-9-A209(B)(2), consistent with the closure plan or strategy submitted under R18-9-A202(A)(10);
 - ii. The estimated cost of post-closure monitoring and maintenance under R18-9-A209(C), consistent with the post-closure plan or strategy submitted under R18-9-A202(A)(10); and
 - iii. For a sewage treatment facility or utility subject to Title 40 of the Arizona Revised Statutes, the operation and maintenance costs of those elements of the facility used to make the demonstration under A.R.S. § 49-243(B);
 6. For a sewage treatment facility:
 - a. Documentation that the sewage treatment facility or expansion conforms with the Certified Areawide Water Quality Management Plan and the Facility Plan, and
 - b. The additional information required in R18-9-B202 and R18-9-B203;
 7. Certification in writing that the information submitted in the application is true and accurate to the best of the applicant's knowledge; and
 8. The applicable fee established in 18 A.A.C. 14.
- C.** Special provision for an underground storage facility as defined in A.R.S. § 45-802.01(21). A person applying for an individual permit for an underground storage facility shall submit the information described in R18-9-A201 through R18-9-A203, except for the BADCT information specified in R18-9-A202(A)(5).
1. Upon receipt of the application, the Department shall process the application in coordination with the underground storage facility permit process administered by the Department of Water Resources.
 2. The Department shall advise the Department of Water Resources of each permit application received.
- D.** Pre-application conference. Upon request of the applicant, the Department shall schedule and hold a pre-application conference with the applicant to discuss any requirements in Articles 1 and 2 of this Chapter.
- E.** Draft permit. The Department shall provide the applicant with a draft of the individual permit before publication of the Notice of Preliminary Decision specified in R18-9-109.
- F.** Permit duration. Except for a temporary permit, an individual permit is valid for the operational life of the facility and any period during which the facility is subject to a post-closure plan under R18-9-A209(C).
- G.** Permit issuance or denial.
1. The Director shall issue an individual permit, based upon the information obtained by or made available to the Department, if the Director determines that the applicant will comply with A.R.S. §§ 49-241 through 49-252 and Articles 1 and 2 of this Chapter.
 2. The Director shall provide the applicant with written notification of the final decision to issue or deny the permit within the overall licensing time-frame requirements under 18 A.A.C. 1, Article 5, Table 10 and the following:
 - a. The applicant's right to appeal the final permit determination, including the number of days the applicant has to file a protest and the name and telephone number of the Department contact person who can answer questions regarding the appeals process;
 - b. If the permit is denied under R18-9-A213(B), the reason for the denial with reference to the statute or rule on which the denial is based; and
 - c. The applicant's right to request an informal settlement conference under A.R.S. §§ 41-1092.03(A) and 41-1092.06.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-A202. Technical Requirements

- A.** Except as specified in R18-9-A201(C)(1), an applicant shall, as required under R18-9-A201(B)(4), submit the following technical information as attachments to the individual permit application:
1. A topographic map, or other appropriate map approved by the Department, of the facility location and contiguous land area showing the known use of adjacent properties, all known water well locations found within one-half mile of the facility, and a description of well construction details and well uses, if available;
 2. A facility site plan showing all known property lines, structures, water wells, injection wells, drywells and their uses, topography, and the location of points of discharge. The facility site plan shall include all known borings. If the Department determines that borings are numerous, the applicant shall satisfy this requirement with a narrative description of the number and location of the borings;
 3. The facility design documents indicating proposed or as-built design details and proposed or as-built configuration of basins, ponds, waste storage areas, drainage diversion features, or other engineered elements of the facility affecting discharge. When formal as-built plan submittals are not available, the applicant shall provide documentation sufficient to allow evaluation of those elements of the facility affecting discharge, following the demonstration requirements of A.R.S. § 49-243(B). An applicant seeking an Aquifer Protection Permit for a sewage treatment facility satisfies the requirements of this subsection by submitting the documents required in R18-9-B202 and R18-9-B203;
 4. A summary of the known past facility discharge activities and the proposed facility discharge activities indicating all of the following:

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- a. The chemical, biological, and physical characteristics of the discharge;
- b. The rate, volume, and frequency of the discharge for each facility; and
- c. The location of the discharge and a map outlining the pollutant management area described in A.R.S. § 49-244(1);
5. A description of the BADCT employed in the facility, including:
 - a. A statement of the technology, processes, operating methods, or other alternatives proposed to meet the requirements of A.R.S. § 49-243(B), (G), or (P), as applicable. The statement shall describe:
 - i. The alternative discharge control measures considered,
 - ii. The technical and economic advantages and disadvantages of each alternative, and
 - iii. The justification for selection or rejection of each alternative;
 - b. An evaluation of each alternative discharge control technology relative to the amount of discharge reduction achievable, site-specific hydrologic and geologic characteristics, other environmental impacts, and water conservation or augmentation;
 - c. For a new facility, an industry-wide evaluation of the economic impact of implementation of each alternative discharge control technology;
 - d. For an existing facility, a statement reflecting the consideration of factors listed in A.R.S. § 49-243(B)(1)(a) through (h);
 - e. A sewage treatment facility meeting the BADCT requirements under Article 2, Part B of this Chapter satisfies the requirements under subsections (A)(5)(a) through (d).
6. Proposed points of compliance for the facility based on A.R.S. § 49-244. An applicant shall demonstrate that:
 - a. The facility will not cause or contribute to a violation of an Aquifer Water Quality Standard at the proposed point of compliance; or
 - b. If an Aquifer Water Quality Standard for a pollutant is exceeded in an aquifer at the time of permit issuance, no additional degradation of the aquifer relative to that pollutant and determined at the proposed point of compliance will occur as a result of the discharge from the proposed facility. In this case, the applicant shall submit an Ambient Groundwater Monitoring Report that includes:
 - i. Data from eight or more rounds of ambient groundwater samples collected to represent groundwater quality at the proposed points of compliance, and
 - ii. An AQL proposal for each pollutant that exceeds an Aquifer Water Quality Standard;
7. A contingency plan that meets the requirements of R18-9-A204;
8. A hydrogeologic study that defines the discharge impact area for the expected duration of the facility. The Department may allow the applicant to submit an abbreviated hydrogeologic study or, if warranted, no hydrogeologic study, based upon the quantity and characteristics of the pollutants discharged, the methods of disposal, and the site conditions. The applicant may include information from a previous study of the affected area to meet a requirement of the hydrogeologic study, if the previous study accurately represents current hydrogeologic conditions.
- a. The hydrogeologic study shall demonstrate:
 - i. That the facility will not cause or contribute to a violation of an Aquifer Water Quality Standard at the applicable point of compliance; or
 - ii. If an Aquifer Water Quality Standard for a pollutant is exceeded in an aquifer at the time of permit issuance, that no additional degradation of the aquifer relative to that pollutant and determined at the applicable point of compliance will occur as a result of the discharge from the proposed facility;
- b. Based on the quantity and characteristics of pollutants discharged, methods of disposal, and site conditions, the Department may require the applicant to provide:
 - i. A description of the surface and subsurface geology, including a description of all borings;
 - ii. The location of any perennial, intermittent, or ephemeral surface water bodies;
 - iii. The characteristics of the aquifer and geologic units with limited permeability, including depth, hydraulic conductivity, and transmissivity;
 - iv. The rate, volume, and direction of surface water and groundwater flow, including hydrographs, if available, and equipotential maps;
 - v. The precise location or estimate of the location of the 100-year flood plain and an assessment of the 100-year flood surface flow and potential impacts on the facility;
 - vi. Documentation of the existing quality of the water in the aquifers underlying the site, including, where available, the method of analysis, quality assurance, and quality control procedures associated with the documentation;
 - vii. Documentation of the extent and degree of any known soil contamination at the site;
 - viii. An assessment of the potential of the discharge to cause the leaching of pollutants from surface soils or vadose materials;
 - ix. For an underground water storage facility, an assessment of the potential of the discharge to cause the leaching of pollutants from surface soils or vadose materials or cause the migration of contaminated groundwater;
 - x. Any changes in the water quality expected because of the discharge;
 - xi. A description of any expected changes in the elevation or flow directions of the groundwater expected to be caused by the facility;
 - xii. A map of the facility's discharge impact area; or
 - xiii. The criteria and methodologies used to determine the discharge impact area.
9. A detailed proposal indicating the alert levels, discharge limitations, monitoring requirements, compliance schedules, and temporary cessation or plans that the applicant will use to satisfy the requirements of A.R.S. Title 49, Chapter 2, Article 3, and Articles 1 and 2 of this Chapter;
10. Closure and post-closure strategies or plans; and
11. Any other relevant information required by the Department to determine whether to issue a permit.

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- B.** An applicant shall demonstrate the ability to maintain the technical capability necessary to carry out the terms of the individual permit, including a demonstration that a certified operator will operate the facility if a certified operator is required under 18 A.A.C. 5. The applicant shall make the demonstration by submitting the following information for each person principally responsible for designing, constructing, or operating the facility:
1. Pertinent licenses or certifications held by the person;
 2. Professional training relevant to the design, construction, or operation of the facility; and
 3. Work experience relevant to the design, construction, or operation of the facility.
- d.** Any other details that demonstrate how the applicant is financially capable of meeting the costs described in R18-9-A201(B)(5); and
4. For a facility subject to R18-9-A201(B)(5)(b)(iii) and not owned by a state or federal agency, county, city, town, or other local governmental entity, submit evidence of financial arrangements to cover the operation and maintenance costs described in R18-9-A201(B)(5).
- C.** Financial assurance mechanisms. The applicant may use any of the following mechanisms to cover the financial assurance obligation under R18-9-A201(B)(5):
1. Financial test for self-assurance. If an applicant uses a financial test for self-assurance, the applicant shall not consolidate the financial statement with a parent or sibling company. The applicant shall make the demonstration in either subsection (C)(1)(a) or (b) and submit the information required in subsection (C)(1)(c):
 - a. The applicant may demonstrate:
 - i. One of the following:
 - (1) A ratio of total liabilities to net worth less than 2.0 and a ratio of current assets to current liabilities greater than 1.5;
 - (2) A ratio of total liabilities to net worth less than 2.0 and a ratio of the sum of net annual income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; or
 - (3) A ratio of the sum of net annual income plus depreciation, depletion, and amortization to total liabilities greater than 0.1 and a ratio of current assets to current liabilities greater than 1.5;
 - ii. The net working capital and tangible net worth of the applicant each are at least six times the closure cost estimate; and
 - iii. The applicant has assets in the U.S. of at least 90 percent of total assets or six times the closure and post-closure cost estimate; or
 - b. The applicant may demonstrate:
 - i. The applicant's senior unsecured debt has a current investment-grade rating as issued by Moody's Investor Service, Inc.; Standard and Poor's Corporation; or Fitch Ratings;
 - ii. The tangible net worth of the applicant is at least six times the closure cost estimate; and
 - iii. The applicant has assets in the U.S. of at least 90 percent of total assets or six times the closure and post-closure cost estimate; and
 - c. The applicant shall submit:
 - i. A letter signed by the applicant's chief financial officer that identifies the criterion specified in subsection (C)(1)(a) or (b) and used by the applicant to satisfy the financial assurance requirements of this Section, an explanation of how the applicant meets the criterion, and certification of the letter's accuracy, and
 - ii. A statement from an independent certified public accountant verifying that the demonstration submitted under subsection (C)(1)(c)(i) is accurate based on a review of the applicant's financial statements for the latest completed fiscal year or more recent financial data and no adjustment to the financial statement is necessary.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-A203. Financial Requirements**A. Definitions.**

1. "Book net worth" means the net difference between total assets and total liabilities.
2. "Face amount" means the total amount the insurer is obligated to pay under the policy.
3. "Net working capital" means current assets minus current liabilities.
4. "Substantial business relationship" means a pattern of recent or ongoing business transactions to the extent that a guaranty contract issued incident to that relationship is valid and enforceable.
5. "Tangible net worth" means an owner or operator's book net worth, plus subordinated debts, less goodwill, patent rights, royalties, and assets and receivables due from affiliates or shareholders.

B. Financial demonstration. A person applying for an individual permit shall demonstrate financial capability to construct, operate, close, and ensure proper post-closure care of the facility in compliance with A.R.S. Title 49, Chapter 2, Article 3; Articles 1 and 2 of this Chapter; and the conditions of the individual permit. The applicant shall:

1. Submit a letter signed by the chief financial officer stating that the applicant is financially capable of meeting the costs described in R18-9-A201(B)(5);
2. For a state or federal agency, county, city, town, or other local governmental entity, submit a statement specifying the details of the financial arrangements used to meet the estimated closure and post-closure costs submitted under R18-9-A201(B)(5), including any other details that demonstrate how the applicant is financially capable of meeting the costs described in R18-9-A201(B)(5);
3. For other than a state or federal agency, county, city, town, or other local governmental entity, submit the information required for at least one of the financial assurance mechanisms listed in subsection (C) that covers the closure and post-closure costs submitted under R18-9-A201(B)(5), including:
 - a. The selected financial mechanism or mechanisms;
 - b. The amount covered by each financial mechanism;
 - c. The institution or company that is responsible for each financial mechanism used in the demonstration; and

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2. Performance surety bond. The applicant may use a performance surety bond if the following conditions are met:
 - a. The company providing the performance bond is listed as an acceptable surety on federal bonds in Circular 570 of the U.S. Department of the Treasury;
 - b. The bond provides for performance of all the covered items listed in R18-9-A201(B)(5) by the surety, or by payment into a standby trust fund of an amount equal to the penal amount if the permittee fails to perform the required activities;
 - c. The penal amount of the bond is at least equal to the amount of the cost estimate developed in R18-9-A201(B)(5) if the bond is the only method used to satisfy the requirements of this Section or a pro-rata amount if used with another financial assurance mechanism;
 - d. The surety bond names the Arizona Department of Environmental Quality as beneficiary;
 - e. The original surety bond is submitted to the Director;
 - f. Under the terms of the bond, the surety is liable on the bond obligation when the permittee fails to perform as guaranteed by the bond; and
 - g. The surety payments under the terms of the bond are deposited directly into the Standby Trust Fund.
3. Certificate of deposit. The applicant may use a certificate of deposit if the following conditions are met:
 - a. The applicant submits to the Director one or more certificates of deposit made payable to or assigned to the Department to cover the applicant's financial assurance obligation or a pro-rata amount if used with another financial assurance mechanism;
 - b. The certificate of deposit is insured by the Federal Deposit Insurance Corporation and is automatically renewable;
 - c. The bank assigns the certificate of deposit to the Arizona Department of Environmental Quality;
 - d. Only the Department has access to the certificate of deposit; and
 - e. Interest accrues to the permittee during the period the applicant gives the certificate as financial assurance, unless the interest is required to satisfy the requirements in R18-9-A201(B)(5).
4. Trust fund. The applicant may use a trust fund if the following conditions are met:
 - a. The trust fund names the Arizona Department of Environmental Quality as beneficiary, and
 - b. The trust is initially funded in an amount at least equal to:
 - i. The cost estimate of the closure plan or strategy submitted under R18-9-A201(B)(5),
 - ii. The amount specified in a compliance schedule approved in the permit, or
 - iii. A pro-rata amount if used with another financial assurance mechanism.
5. Letter of credit. The applicant may use a letter of credit if the following conditions are met:
 - a. The financial institution issuing the letter is regulated and examined by a federal or state agency;
 - b. The letter of credit is irrevocable and issued for at least one year in an amount equal to the cost estimate submitted under R18-9-A201(B)(5) or a pro-rata amount if used with another financial assurance mechanism. The letter of credit provides that the expiration date is automatically extended for a period of at least one year unless the issuing institution has canceled the letter of credit by sending notice of cancellation by certified mail to the permittee and to the Director 90 days in advance of cancellation or expiration. The permittee shall provide alternate financial assurance within 60 days of receiving the notice of expiration or cancellation;
 - c. The financial institution names the Arizona Department of Environmental Quality as beneficiary for the letter of credit; and
 - d. The letter is prepared by the financial institution and identifies the letter of credit issue date, expiration date, dollar sum of the credit, the name and address of the Department as the beneficiary, and the name and address of the applicant as the permittee.
6. Insurance policy. The applicant may use an insurance policy if the following conditions are met:
 - a. The insurance is effective before signature of the permit or substitution of insurance for other extant financial assurance instruments posted with the Director;
 - b. The insurer is authorized to transact the business of insurance in the state and has an AM BEST Rating of at least a B+ or the equivalent;
 - c. The permittee submits a copy of the insurance policy to the Department;
 - d. The insurance policy guarantees that funds are available to pay costs as submitted under R18-9-A201(B)(5) without a deductible. The policy also guarantees that once cleanup steps begin that the insurer will pay out funds to the Director or other entity designated by the Director up to an amount equal to the face amount of the policy;
 - e. The policy guarantees that while closure and post-closure activities are conducted the insurer will pay out funds to the Director or other entity designated by the Director up to an amount equal to the face amount of the policy;
 - f. The insurance policy is issued for a face amount at least equal to the current cost estimate submitted to the Director for performance of all items listed in R18-9-A201(B)(5) or a pro-rata amount if used with another financial assurance mechanism. Actual payments by the insurer will not change the face amount, although the insurer's future liability is reduced by the amount of the payments, during the policy period;
 - g. The insurance policy names the Arizona Department of Environmental Quality as additional insured;
 - h. The policy contains a provision allowing assignment of the policy to a successor permittee. The transfer of the policy is conditional upon consent of the insurer and the Department; and
 - i. The insurance policy provides that the insurer does not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy, at a minimum, provides the insured with a renewal option at the face amount of the expiring policy. If the permittee fails to pay the premium, the insurer may cancel the policy by sending notice of cancellation by certified mail to the permittee and to the Director 90 days in advance of the cancellation. If the insurer cancels the policy, the

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permittee shall provide alternate financial assurance within 60 days of receiving the notice of cancellation.

7. Cash deposit. The applicant may use a cash deposit if the cash is deposited with the Department to cover the financial assurance obligation under R18-9-A201(B)(5).
 8. Guarantees.
 - a. The applicant may use guarantees to cover the financial assurance obligation under R18-9-A201(B)(5) if the following conditions are met:
 - i. The applicant submits to the Department an affidavit certifying that the guarantee arrangement is valid under all applicable federal and state laws. If the applicant is a corporation, the applicant shall include a certified copy of the corporate resolution authorizing the corporation to enter into an agreement to guarantee the permittee's financial assurance obligation;
 - ii. The applicant submits to the Department documentation that explains the substantial business relationship between the guarantor and the permittee;
 - iii. The applicant demonstrates that the guarantor meets conditions of the financial mechanism listed in subsection (C)(1). For purposes of applying the criteria in subsection (C)(1) to a guarantor, substitute "guarantor" for the term "applicant" as used in subsection (C)(1);
 - iv. The guarantee is governed by and complies with state law;
 - v. The guarantee continues in full force until released by the Director or replaced by another financial assurance mechanism listed under subsection (C);
 - vi. The guarantee provides that, if the permittee fails to perform closure or post-closure care of a facility covered by the guarantee, the guarantor shall perform or pay a third party to perform closure or post-closure care, as required by the permit, or establish a fully funded trust fund as specified under subsection (C)(4) in the name of the owner or operator; and
 - vii. The guarantor names the Arizona Department of Environmental Quality as beneficiary of the guarantee.
 - b. Guarantee reporting. The guarantor shall notify or submit a report to the Department within 30 days of:
 - i. An increase in financial responsibility during the fiscal year that affects the guarantor's ability to meet the financial demonstration;
 - ii. Receiving an adverse auditor's notice, opinion, or qualification; or
 - iii. Receiving a Department notification requesting an update of the guarantor's financial condition.
 9. An applicant may use a financial assurance mechanism not listed in subsection (C)(1) through (8) if approved by the Director.
- D.** Loss of coverage. If the Director believes that a permittee will lose financial capability under subsection (C), the permittee shall, within 30 days from the date of receipt of the Director's request, submit evidence that the financial demonstration under subsection (B) is being met or provide an alternative financial assurance mechanism.
- E.** Financial assurance mechanism substitution. A permittee may substitute one financial assurance mechanism for another if the substitution is approved by the Director through an amendment under subsection (F).
 - F.** Permit amendment. The permittee shall apply for an amendment to the individual permit if the permittee changes a financial assurance mechanism or if the permittee's revision of the closure strategy results in an increase in the estimated cost under R18-9-A201(B)(5). If a permittee seeks to amend a permit under R18-9-A211(B), the permittee shall submit a financial capability demonstration for all facilities covered by the amended individual permit with the permit amendment request.
 - G.** Previous financial demonstration. If an applicant shows that the financial assurance demonstration required under this Section is covered within a financial demonstration already made to a governmental agency and the Department has access to that information, the applicant is not required to resubmit the information. The applicant shall certify that the current financial condition is equal to or better than the condition reflected in the financial demonstration provided to the other governmental agency. This provision does not apply to a demonstration required under subsection (F).
 - H.** Recordkeeping. A permittee shall maintain the financial capability for the duration of the permit and report as specified in the permit.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-A204. Contingency Plan

- A.** An individual permit shall specify a contingency plan that defines the actions to be taken if a discharge results in any of the following:
 1. A violation of an Aquifer Water Quality Standard or an AQL,
 2. A violation of a discharge limitation,
 3. A violation of any other permit condition,
 4. An alert level is exceeded, or
 5. An imminent and substantial endangerment to the public health or the environment.
- B.** The contingency plan may include one or more of the following actions if a discharge results in any of the conditions described in subsection (A):
 1. Verification sampling;
 2. Notification to downstream or downgradient users who may be directly affected by the discharge;
 3. Further monitoring that may include increased frequency, additional constituents, or additional monitoring locations;
 4. Inspection, testing, operation, or maintenance of discharge control features at the facility;
 5. Evaluation of the effectiveness of discharge control technology at the facility that may include technology upgrades;
 6. Evaluation of pretreatment for sewage treatment facilities;
 7. Preparation of a hydrogeologic study to assess the extent of soil, surface water, or aquifer impact;
 8. Corrective action that includes any of the following measures:
 - a. Control of the source of an unauthorized discharge,

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- b. Soil cleanup,
 - c. Cleanup of affected surface waters,
 - d. Cleanup of affected parts of the aquifer, or
 - e. Mitigation measures to limit the impact of pollutants on existing uses of the aquifer.
 - C. A permittee shall not take a corrective action proposed under subsection (B)(8) unless the action is approved by the Department.
 - 1. Emergency response provisions and corrective actions specifically identified in the contingency plan submitted with a permit application are subject to approval by the Department during the application review process.
 - 2. The permittee may propose to the Department a corrective action other than those already identified in the contingency plan if a discharge results in any of the conditions identified in subsection (A).
 - 3. The Department shall approve the proposed corrective action if the corrective action provides a plan and expedient time-frame to return the facility to compliance with the facility's permit conditions, A.R.S. Title 49, Chapter 2, and Articles 1 and 2 of this Chapter.
 - 4. The Director may incorporate corrective actions into an Aquifer Protection Permit.
 - D. A contingency plan shall contain emergency response provisions to address an imminent and substantial endangerment to public health or the environment including:
 - 1. Twenty-four hour emergency response measures;
 - 2. The name of an emergency response coordinator responsible for implementing the contingency plan;
 - 3. Immediate notification to the Department regarding any emergency response measure taken;
 - 4. A list of people to contact, including names, addresses, and telephone numbers if an imminent and substantial endangerment to public health or the environment arises; and
 - 5. A general description of the procedures, personnel, and equipment proposed to mitigate unauthorized discharges.
 - E. A permittee may amend a contingency plan required by the Federal Water Pollution Control Act (P.L. 92-500; 86 Stat. 816; 33 U.S.C. 1251, et seq., as amended), or the Resource Conservation and Recovery Act of 1976 (P.L. 94-580; 90 Stat. 2796; 42 U.S.C. 6901 et seq., as amended), to meet the requirements of this Section and submit it to the Department for approval instead of a separate aquifer protection contingency plan.
 - F. A permittee shall maintain at least one copy of the contingency plan required by the individual permit at the location where day-to-day decisions regarding the operation of the facility are made. A permittee shall advise all employees responsible for the operation of the facility of the location of the contingency plan.
 - G. A permittee shall promptly revise the contingency plan upon any change to the information contained in the plan.
- Historical Note**
- New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).
- R18-9-A205. Alert Levels, Discharge Limitations, and AQLs**
- A. Alert levels.
 - 1. If the Department prescribes an alert level in an individual permit, the Department shall base the alert level on the site-specific conditions described by the applicant in the application submitted under R18-9-A201(A)(2) or other information available to the Department.
 - 2. The Department may specify an alert level based on a pollutant that indicates the potential appearance of another pollutant.
 - 3. The Department may specify the measurement of an alert level at a location appropriate for the discharge activity, considering the physical, chemical, and biological characteristics of the discharge, the particular treatment process, and the site-specific conditions.
 - B. Discharge limitations. If the Department prescribes discharge limitations in an individual permit, the Department shall base the discharge limitations on the considerations described in A.R.S. § 49-243.
 - C. AQLs. The Department may prescribe an AQL in an individual permit to ensure that the facility continues to meet the criteria under A.R.S. § 49-243(B)(2) or (3).
 - 1. If the concentration of a pollutant in the aquifer does not exceed the Aquifer Water Quality Standard, the Department shall set the AQL at the Aquifer Water Quality Standard.
 - 2. If the concentration of a pollutant in the aquifer exceeds the Aquifer Water Quality Standard, the Department shall set the AQL higher than the Aquifer Water Quality Standard.
- Historical Note**
- New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).
- R18-9-A206. Monitoring Requirements**
- A. Monitoring.
 - 1. The Department shall determine whether monitoring is required to assure compliance with Aquifer Protection Permit conditions and with the applicable Aquifer Water Quality Standards established under A.R.S. §§ 49-221, 49-223, 49-241 through 49-244, and 49-250 through 49-252.
 - 2. If monitoring is required, the Director shall specify to the permittee:
 - a. The type and method of monitoring;
 - b. The frequency of monitoring;
 - c. Any requirements for the installation, use, or maintenance of monitoring equipment; and
 - d. The intervals at which the permittee reports the monitoring results to the Department.
 - B. Recordkeeping.
 - 1. A permittee shall make a monitoring record for each sample taken as required by the individual permit consisting of all of the following:
 - a. The date, time, and exact place of a sampling and the name of each individual who performed the sampling;
 - b. The procedures used to collect the sample;
 - c. The date sample analysis was completed;
 - d. The name of each individual or laboratory performing the analysis;
 - e. The analytical techniques or methods used to perform the sampling and analysis;
 - f. The chain of custody records; and
 - g. Any field notes relating to the information described in subsections (B)(1)(a) through (f).

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2. A permittee shall make a monitoring record for each measurement made, as required by the individual permit, consisting of all of the following:
 - a. The date, time, and exact place of the measurement and the name of each individual who performed the measurement;
 - b. The procedures used to make the measurement; and
 - c. Any field notes relating to the information described in subsections (B)(2)(a) and (b).
3. A permittee shall maintain monitoring records for at least 10 years after the date of the sample or measurement, unless the Department specifies a shorter time period in the permit.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-A207. Reporting Requirements

- A. A permittee shall notify the Department within five days after becoming aware of a violation of a permit condition or that an alert level was exceeded. The permittee shall inform the Department whether the contingency plan described in R18-9-A204 was implemented.
- B. In addition to the requirements in subsection (A), a permittee shall submit a written report to the Department within 30 days after the permittee becomes aware of a violation of a permit condition. The report shall contain:
 1. A description of the violation and its cause;
 2. The period of violation, including exact date and time, if known, and the anticipated time period the violation is expected to continue;
 3. Any action taken or planned to mitigate the effects of the violation or to eliminate or prevent recurrence of the violation;
 4. Any monitoring activity or other information that indicates that a pollutant is expected to cause a violation of an Aquifer Water Quality Standard; and
 5. Any malfunction or failure of a pollution control device or other equipment or process.
- C. A permittee shall notify the Department within five days after the occurrence of any of the following:
 1. The permittee's filing of bankruptcy, or
 2. The entry of any order or judgment not issued by the Director against the permittee for the enforcement of any federal or state environmental protection statute or rule.
- D. The Director shall specify the format for submitting results from monitoring conducted under R18-9-A206.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-A208. Compliance Schedule

- A. A permittee shall follow the compliance schedule established in the individual permit.
 1. If a compliance schedule provides that an action is required more than one year after the date of permit issuance, the schedule shall establish interim requirements and dates for their achievement.
 2. If the time necessary for completion of an interim requirement is more than one year and is not readily

divisible into stages for completion, the permit shall contain interim dates for submission of reports on progress toward completion of the interim requirements and shall indicate a projected completion date.

3. Unless otherwise specified in the permit, within 30 days after the applicable date specified in a compliance schedule, a permittee shall submit to the Department a report documenting that the required action was taken within the time specified.
4. After reviewing the compliance schedule activity the Director may amend the Aquifer Protection Permit, based on changed circumstances relating to the required action.
- B. The Department shall consider all of the following factors when setting the compliance schedule requirements:
 1. The character and impact of the discharge,
 2. The nature of construction or activity required by the permit,
 3. The number of persons affected or potentially affected by the discharge,
 4. The current state of treatment technology, and
 5. The age of the facility.
- C. For a new facility, the Department shall not defer to a compliance schedule any requirement necessary to satisfy the criteria under A.R.S. § 49-243(B).

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-A209. Temporary Cessation, Closure, Post-closure

- A. Temporary cessation.
 1. A permittee shall notify the Department before a cessation of operations at the facility of at least 60 days duration.
 2. The permittee shall implement any condition specified in the individual permit for the temporary cessation.
 3. If the permit does not specify any temporary cessation condition, the permittee shall, prior to implementation, submit the proposed temporary cessation plan for Department approval.
- B. Closure.
 1. Before providing notice under subsection (B)(2), a person may request that the Director review a site investigation plan for a facility under subsection (B)(3)(a) or the results of a site investigation at a facility to determine compliance with this subsection and A.R.S. § 49-252.
 2. A person shall notify the Department of the person's intent to cease operations without resuming an activity for which the facility was designed or operated.
 3. The person shall submit a closure plan for Director approval within 90 days following the notification of intent to cease operations with the applicable fee established in 18 A.A.C. 14. A complete closure plan shall include:
 - a. A site investigation plan that includes a summary of relevant site studies already conducted and a proposed scope of work for any additional site investigation necessary to identify:
 - i. The lateral and vertical extent of contamination in soils and groundwater, using applicable standards;
 - ii. The approximate quantity and chemical, biological, and physical characteristics of each

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- waste, contaminated water, or contaminated soil proposed for removal from the facility;
 - iii. The approximate quantity and chemical, biological, and physical characteristics of each waste, contaminated water, or contaminated soil that will remain at the facility; and
 - iv. Information regarding site conditions related to pollutant fate and transport that may influence the scope of sampling necessary to characterize the site for closure;
 - b. A summary describing the results of a site investigation and any other information used to identify:
 - i. The lateral and vertical extent of soil and groundwater contamination, using applicable standards, and the analytical results that support the determination;
 - ii. The approximate quantity and chemical, biological, and physical characteristics of each material scheduled for removal;
 - iii. The destination of the materials and documentation that the destination is approved to accept the materials;
 - iv. The approximate quantity and chemical, biological, and physical characteristics of each material that remains at the facility; and
 - v. Any other relevant information the Department determines is necessary;
 - c. A closure design that identifies:
 - i. The method used, if any, to treat any material remaining at the facility;
 - ii. The method used to control the discharge of pollutants from the facility;
 - iii. Any limitation on future land or water uses created as a result of the facility's operations or closure activities and a Declaration of Environmental Use Restriction according to A.R.S. § 49-152, if necessary; and
 - iv. The methods used to secure the facility;
 - d. An estimate of the cost of closure;
 - e. A schedule for implementation of the closure plan and submission of a post-closure plan if clean closure is not achieved; and
 - f. For an implemented closure plan, a summary report of the results of site investigation performed during closure activities, including confirmation and verification sampling.
4. Within 60 days of receipt of a complete closure plan, the Department shall determine whether the closure plan achieves clean closure.
- a. If the implemented complete closure plan achieves clean closure, the Director shall:
 - i. If the facility is not covered by an Aquifer Protection Permit, send the person a letter of approval; or
 - ii. If the facility is covered by an Aquifer Protection Permit, send the person a Permit Release Notice issued under subsection (C)(2)(c).
 - b. If the implemented complete closure plan did not achieve clean closure, the person shall submit a post-closure plan under subsection (C) and the following documents within 90 days from the date on the Department's notice or as specified under A.R.S. § 49-252(E):
 - i. An application for an individual permit, or
 - ii. A request to amend a current individual permit to address closure activities and post-closure monitoring and maintenance at the facility.
- C. Post-closure. A person shall describe post-closure monitoring and maintenance activities in an application for a permit or an amendment to an individual permit and submit it to the Department for approval.
- 1. The application shall include:
 - a. The duration of post-closure care;
 - b. The monitoring procedures proposed by the permittee, including monitoring frequency, type, and location;
 - c. A description of the operating and maintenance procedures proposed for maintaining aquifer quality protection devices, such as liners, treatment systems, pump-back systems, surface water and stormwater management systems, and monitoring wells;
 - d. A schedule and description of physical inspections proposed at the facility following closure;
 - e. An estimate of the cost of post-closure maintenance and monitoring;
 - f. A description of limitations on future land or water uses, or both, at the facility site as a result of facility operations; and
 - g. The applicable fee established in 18 A.A.C. 14.
 - 2. The Director shall include the post-closure plan submitted under subsection (C)(1) in the individual permit or permit amendment.
 - a. The permittee shall provide the Department written notice that a closure plan or a post-closure plan was fully implemented within 30 calendar days of implementation of the plan. The notice shall include a summary report confirming the closure design and describing the results of sampling performed during closure activities and post-closure activities, if any, to demonstrate the level of cleanup achieved.
 - b. The Director may, upon receipt of the notice, inspect the facility to ensure that the closure plan has been fully implemented.
 - c. The Director shall issue a Permit Release Notice if the permittee satisfies all closure and post-closure requirements.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-A210. Temporary Individual Permit

- A. A person may apply for a temporary individual permit for either of the following:
 - 1. A pilot project to develop data for an Aquifer Protection Permit application for the full-scale project, or
 - 2. A facility with a discharge lasting no more than six months.
- B. The applicant shall submit a preliminary application containing the information required in R18-9-A201(B)(1).
- C. The Department shall, based on the preliminary application and in consultation with the applicant, determine and provide the applicant notice of any additional information in R18-9-A201(B) that is necessary to complete the application.
- D. Public participation.

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1. If the Director issues a temporary individual permit, the Director shall postpone the public participation requirements under R18-9-109.
 2. The Director shall not postpone notification of the opportunity for public participation for more than 30 days from the date on the temporary individual permit.
 3. The Director may amend or revoke the temporary individual permit after consideration of public comments.
 4. The Director shall not issue a public notice or hold a public hearing if a temporary individual permit is renewed without change.
 5. The Director shall follow the public participation requirements under R18-9-109 when making a significant amendment to a temporary individual permit.
- E. A temporary individual permit expires after one year unless it is renewed. The Director may renew a temporary individual permit no more than one time.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-A211. Permit Amendments

- A. The Director may amend an individual permit based upon a request or upon the Director's initiative.
1. A permittee shall submit a request for permit amendment in writing on a form provided by the Department with the applicable fee established in 18 A.A.C. 14, explaining the facts and reasons justifying the request.
 2. The Department shall process amendment requests following the licensing time-frames established under 18 A.A.C. 1, Article 5, Table 10.
 3. An amended permit supersedes the previous permit upon the effective date of the amendment.
- B. Significant permit amendment. The Director shall make a significant amendment to an individual permit if:
1. Part or all of an existing facility becomes a new facility under A.R.S. § 49-201;
 2. A physical change in a permitted facility or a change in its method of operation results in:
 - a. An increase of 10 percent or more in the permitted volume of pollutants discharged, except a sewage treatment facility;
 - b. An increase in design flow of a sewage treatment facility as follows:

Permitted Design Flow	Increase in Design Flow
500,000 gallons per day or less	10%
Greater than 500,000 gallons per day but less than or equal to five million gallons per day	6%
Greater than five million gallons per day but less than or equal to 50 million gallons per day	4%
Greater than 50 million gallons per day	2%

- c. Discharge of an additional pollutant not allowed by a facility's original individual permit. The Director may consider the addition of a pollutant with a chemical composition substantially similar to a pollutant the permit currently allows by making an

- d. For any pollutant not addressed in a facility's individual permit, any increase that brings the level of the pollutant to within 80 percent or more of a numeric Aquifer Water Quality Standard at the point of compliance; or
 - e. An increase in the concentration in the discharge of a pollutant listed under A.R.S. § 49-243(I);
 3. Based upon available information, the facility can no longer demonstrate that its discharge will comply with A.R.S. § 49-243(B)(2) or (3);
 4. The permittee requests and the Department agrees to less stringent monitoring that reduces the frequency in monitoring or reporting or reduces the number of pollutants monitored, and the permittee demonstrates that the changes will not affect the permittee's ability to remain in compliance with Articles 1 and 2 of this Chapter;
 5. It is necessary to change the designation of a point of compliance;
 6. It is necessary to update BADCT for a facility that was issued an individual permit and was not constructed within five years of permit issuance;
 7. The permittee requests and the Department agrees to less stringent discharge limitations when the permittee demonstrates that the changes will not affect the permittee's ability to remain in compliance with Articles 1 and 2 of this Chapter;
 8. It is necessary to make an addition to or a substantial change in closure requirements or to provide for post-closure maintenance and monitoring; or
 9. Material and substantial alterations or additions to a permitted facility, including a change in disposal method, justify a change in permit conditions.
- C. Minor permit amendment. The Director shall make a minor amendment to an individual permit to:
1. Correct a typographical error;
 2. Change nontechnical administrative information, excluding a permit transfer;
 3. Correct minor technical errors, such as errors in calculation, locational information, citations of law, and citations of construction specifications;
 4. Increase the frequency of monitoring or reporting, or to revise a laboratory method;
 5. Make a discharge limitation more stringent;
 6. Make a change in a recordkeeping retention requirement; or
 7. Insert calculated alert levels, AQLs, or other permit limits into a permit based on monitoring subsequent to permit issuance, if a requirement to establish the levels or limits and the method for calculation of the levels or limits was established in the original permit.
- D. "Other" permit amendment.
1. The Director may make an "other" amendment to an individual permit if the amendment is not a significant or minor permit amendment prescribed in this Section, based on an evaluation of the information relevant to the amendment.
 2. Examples of an "other" amendment to an individual permit include:
 - a. A change in a construction requirement, treatment method, or operational practice, if the alteration complies with the requirements of Articles 1 and 2

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of this Chapter and provides equal or better performance;

- b. A change in an interim or final compliance date in a compliance schedule, if the Director determines just cause exists for changing the date;
 - c. A change in the permittee's financial assurance mechanism under R18-9-A203(C);
 - d. A permit transfer under R18-9-A212;
 - e. The replacement of monitoring equipment, including a well, if the replacement results in equal or greater monitoring effectiveness;
 - f. Any increase in the volume of pollutants discharged that is less than that described in subsection (B)(2)(a) or (b);
 - g. An adjustment of the permit to conform to rule or statutory provisions;
 - h. A calculation of an alert level, AQL, or other permit limit based on monitoring subsequent to permit issuance;
 - i. An addition of a point of compliance monitor well;
 - j. A combination of two or more permits at the same site as specified under R18-9-107;
 - k. An adjustment or incorporation of monitoring requirements to ensure Reclaimed Water Quality Standards developed under 18 A.A.C. 11, Article 3 are met; or
 - l. A change in a contingency plan resulting in equal or more efficient responsiveness.
- E.** The public notice and public participation requirements of R18-9-108 and R18-9-109 apply to a significant amendment. The public notice requirements apply to an "other" amendment. A minor amendment does not require a public notice or public participation.
- F.** The Director shall not amend or reissue a permit to allow use of a discharge control technology that provides a lesser degree of pollutant discharge reduction than the BADCT established in the individual Aquifer Protection Permit previously issued for a facility, unless:
- 1. The industrial classification of the facility has changed so that a new assessment of BADCT is appropriate;
 - 2. The pollutant load has decreased or the pollutant composition has changed significantly to warrant a new assessment of the BADCT;
 - 3. The Director approves a corrective or contingency action that necessitates a change in the treatment technology; or
 - 4. The approved discharge control technology is not operating properly due to circumstances beyond the control of the owner or operator.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-A212. Permit Transfer

- A.** The person subject to the continuance requirements under R18-9-105(A)(1), (2), or (3) shall notify the Department by certified mail within 15 days following a change of ownership. The notice shall include:
- 1. The name of the person transferring the facility;
 - 2. The name of the new owner or operator;
 - 3. The name and location of the facility;
 - 4. The written agreement between the person transferring the facility and the new owner or operator indicating a

specific date for transfer of all permit responsibility, coverage, and liability;

- 5. A signed declaration by the new owner or operator that the new owner or operator has reviewed the permit and agrees to the terms of the permit, including fee obligations under A.R.S. § 49-242; and
 - 6. The applicable fee established in 18 A.A.C. 14.
- B.** A permittee may request that the Department transfer an individual permit to a new owner or operator.
- 1. The new owner or operator shall:
 - a. Notify the Department by certified mail within 15 days after the change of ownership and include a written agreement between the previous and new owner indicating a specific date for transfer of all permit responsibility, coverage, and liability;
 - b. Submit the applicable fee established in 18 A.A.C. 14;
 - c. Demonstrate the technical and financial capability necessary to fully carry out the terms of the permit according to R18-9-A202 and R18-9-A203;
 - d. Submit a signed statement that the new owner or operator has reviewed the permit and agrees to the terms of the permit; and
 - e. Provide the Department with a copy of the Certificate of Disclosure if required by A.R.S. § 49-109.
 - 2. If the Director amends the individual permit for the transfer, the new permittee is responsible for all conditions of the permit.
- C.** A permittee shall comply with all permit conditions until the Director transfers the permit, regardless of whether the permittee has sold or disposed of the facility.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-A213. Permit Suspension, Revocation, Denial, or Termination

- A.** The Director may, after notice and opportunity for hearing, suspend or revoke an individual permit or a continuance under R18-9-105(A)(1), (2), or (3) for any of the following:
- 1. A permittee failed to comply with any applicable provision of A.R.S. Title 49, Chapter 2, Article 3; Articles 1 and 2 of this Chapter; or any permit condition;
 - 2. A permittee misrepresented or omitted a fact, information, or data related to an Aquifer Protection Permit application or permit condition;
 - 3. The Director determines that a permitted activity is causing or will cause a violation of an Aquifer Water Quality Standard at a point of compliance;
 - 4. A permitted discharge is causing or will cause imminent and substantial endangerment to public health or the environment;
 - 5. A permittee failed to maintain the financial capability under R18-9-A203(B); or
 - 6. A permittee failed to construct a facility within five years of permit issuance and:
 - a. It is necessary to update BADCT for the facility; and
 - b. The Department has not issued an amended permit under R18-9-A211(B)(6).
- B.** The Director may deny an individual permit if the Director determines upon completion of the application process that the applicant has:

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1. Failed or refused to correct a deficiency in the permit application;
 2. Failed to demonstrate that the facility and the operation will comply with the requirements of A.R.S. §§ 49-241 through 49-252 and Articles 1 and 2 of this Chapter. The Director shall base this determination on:
 - a. The information submitted in the Aquifer Protection Permit application,
 - b. Any information submitted to the Department following a public hearing, or
 - c. Any relevant information that is developed or acquired by the Department; or
 3. Provided false or misleading information.
- C.** The Director shall terminate an individual permit if each facility covered under the individual permit:
1. Has closed and the Director issued a Permit Release Notice under R18-9-A209(C)(2)(c) or R18-9-A209(B)(3)(a)(ii) for the closed facility, or
 2. Is covered under another Aquifer Protection Permit.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-A214. Requested Coverage Under a General Permit

- A.** If a person who applied for or was issued an individual permit qualifies to operate a facility under a general permit established in Article 3 of this Chapter, the person may request that the individual permit be terminated and replaced by the general permit. The person shall submit the Notice of Intent to Discharge under R18-9-A301(B) with the appropriate fee established in 18 A.A.C. 14.
- B.** The individual permit is valid and enforceable with respect to a discharge from each facility until the Director determines that the discharge from each facility is covered under a general permit.
- C.** The owner or operator operating under a general permit shall comply with all applicable general permit requirements in Article 3 of this Chapter.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

PART B. BADCT FOR SEWAGE TREATMENT FACILITIES**R18-9-B201. General Considerations and Prohibitions**

- A.** Applicability. The requirements in this Article apply to all sewage treatment facilities, including expansions of existing sewage treatment facilities, that treat wastewater containing sewage, unless the discharge is authorized by a general permit under Article 3 of this Chapter.
- B.** The Director may specify alert levels, discharge limitations, design specifications, and operation and maintenance requirements in the permit that are based upon information provided by the applicant and that meet the requirements under A.R.S. § 49-243(B)(1).
- C.** The permittee shall ensure that a sewage treatment facility is operated by a person certified under 18 A.A.C. 5, Article 1, for the grade of the facility.
- D.** Operation and maintenance.
1. The owner or operator shall maintain, at the sewage treatment facility, an operation and maintenance manual for the facility and shall update the manual as needed.
 2. The owner or operator shall use the operation and maintenance manual to guide facility operations to ensure compliance with the terms of the Aquifer Protection Permit and to prevent any environmental nuisance described under A.R.S. § 49-141(A).
 3. The Director may specify adherence to any operation or maintenance requirement as an Aquifer Protection Permit condition to ensure that the terms of the Aquifer Protection Permit are met.
 4. The owner or operator shall make the operation and maintenance manual available to the Department upon request.
- E.** A person shall not create or maintain a connection between any part of a sewage treatment facility and a potable water supply so that sewage or wastewater contaminates a potable or public water supply.
- F.** A person shall not bypass or release sewage or partially treated sewage that has not completed the treatment process from a sewage treatment facility.
- G.** Reclaimed water dispensed to a direct reuse site from a sewage treatment facility is regulated under Reclaimed Water Quality Standards in 18 A.A.C. 11, Article 3.
- H.** The preparation, transport, or land application of any biosolids generated by a sewage treatment facility is regulated under 18 A.A.C. 9, Article 10.
- I.** The owner or operator of a sewage treatment facility that is a new facility or undergoing a major modification shall provide setbacks established in the following table. Setbacks are measured from the treatment and disposal components within the sewage treatment facility to the nearest property line of an adjacent dwelling, workplace, or private property. If an owner or operator cannot meet a setback for a facility undergoing a major modification that incorporates full noise, odor, and aesthetic controls, the owner or operator shall not further encroach into setback distances existing before the major modification except as allowed in subsection (I)(2).

Sewage Treatment Facility Design Flow (gallons per day)	No Noise, Odor, or Aesthetic Controls (feet)	Full Noise, Odor, and Aesthetic Controls (feet)
3000 to less than 24,000	250	25
24,000 to less than 100,000	350	50
100,000 to less than 500,000	500	100
500,000 to less than 1,000,000	750	250
1,000,000 or greater	1000	350

1. Full noise, odor, and aesthetic controls means that:
 - a. Noise due to the sewage treatment facility does not exceed 50 decibels at the facility property boundary on the A network of a sound level meter or a level established in a local noise ordinance,
 - b. All odor-producing components of the sewage treatment facility are fully enclosed,
 - c. Odor scrubbers or other odor-control devices are installed on all vents, and
 - d. Fencing aesthetically matched to the area surrounding the facility.
2. The owner or operator of a sewage treatment facility undergoing a major modification may decrease setbacks if:
 - a. Allowed by local ordinance; or
 - b. Setback waivers are obtained from affected property owners in which the property owner acknowledges awareness of the established setbacks, basic design

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of the sewage treatment facility, and the potential for noise and odor.

- J. The owner or operator of a sewage treatment facility shall not operate the facility so that it emits an offensive odor on a persistent basis beyond the setback distances specified in subsection (I).

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-B202. Design Report

- A. A person applying for an individual permit shall submit a design report signed, dated, and sealed by an Arizona-registered professional engineer. The design report shall include the following information:
1. Wastewater characterization, including quantity, quality, seasonality, and impact of increased flows as the facility reaches design flow;
 2. The proposed method of disposal, including solids management;
 3. A description of the treatment unit processes and containment structures, including diagrams and calculations that demonstrate that the design meets BADCT requirements and will achieve treatment levels specified in R18-9-B204 through R18-9-B206, as applicable, for all flow conditions indicated in subsection (A)(9). If soil aquifer treatment or other aspects of site conditions are used to meet BADCT requirements, the applicant shall document performance of the site in the design report or the hydro-geologic report;
 4. A description of planned normal operation;
 5. A description of key maintenance activities and a description of contingency and emergency operation for the facility;
 6. A description of construction management controls;
 7. A description of the facility startup plan, including pre-operational testing, expected treated wastewater characteristics and monitoring requirements during startup, expected time-frame for meeting performance requirements specified in R18-9-B204, and any other special startup condition that may merit consideration in the individual permit;
 8. A site diagram depicting compliance with the setback requirements established in R18-9-B201(I) for the facility at design flow, and for each phase if the applicant proposes expansion of the facility in phases;
 9. The following flow information in gallons per day for the proposed sewage treatment facility. If the application proposes expansion of the facility in phases, the following flow information for each phase:
 - a. The design flow of the sewage treatment facility. The design flow is the average daily flow over a calendar year calculated as the sum of all influent flows to the facility based on Table 1, Unit Design Flows, unless a different basis for determining influent flows is approved by the Department;
 - b. The maximum day. The maximum day is the greatest daily total flow that occurs over a 24-hour period within an annual cycle of flow variations;
 - c. The maximum month. The maximum month is the average daily flow of the month with the greatest total flow within the annual cycle of flow variations;

- d. The peak hour. The peak hour is the greatest total flow during one hour, expressed in gallons per day, within the annual cycle of flow variations;
 - e. The minimum day. The minimum day is the least daily total flow that occurs over a 24-hour period within the annual cycle of flow variations;
 - f. The minimum month. The minimum month is the average daily flow of the month with the least total flow within the annual cycle of flow variations; and
 - g. The minimum hour. The minimum hour is the least total flow during one hour, expressed in gallons per day, within the annual cycle of flow variations; and
10. Specifications for pipe, standby power source, and water and sewer line separation.

- B. The Department may inspect an applicant's facility without notice to ensure that construction conforms to the design report.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-B203. Engineering Plans and Specifications

- A. A person applying for an individual permit for a sewage treatment facility with a design flow under one million gallons per day, shall submit engineering plans and specifications to the Department. The Director may waive this requirement if the Director previously approved engineering plans and specifications submitted by the same owner or operator for a sewage treatment facility with a design flow of more than one million gallons per day.
- B. A person applying for an individual permit for a sewage treatment facility with a design flow of one million gallons per day or greater shall submit engineering plans and specifications if, upon review of the design report required in R18-9-B202, the Department finds that:
1. The design report fails to provide sufficient detail to determine adequacy of the proposed sewage treatment facility design;
 2. The described design is innovative and does not reflect treatment technologies generally accepted within the industry;
 3. The Department's calculations of removal efficiencies based on the design report show that the treatment facility cannot achieve treatment performance requirements;
 4. The design report does not demonstrate:
 - a. Protection from physical damage due to a 100-year flood,
 - b. Ability to continuously operate during a 25-year flood, or
 - c. Provision for a standby power source;
 5. The design report shows inconsistency in sizing or compatibility between two or more unit process components of the sewage treatment facility;
 6. The designer of the facility has:
 - a. Designed a sewage treatment facility of at least a similar size on less than three previous occasions,
 - b. Designed a sewage treatment facility that has been the subject of a Director enforcement action due to the facility design, or
 - c. Been found by the Board of Technical Registration to have violated a provision in A.R.S. Title 32, Chapter 1;

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7. The permittee seeks to expand its sewage treatment facility and the Department believes that the facility will require upgrades to the design not described and evaluated in the design report to meet the treatment performance requirements; or
 8. The construction does not conform to the design report if the sewage treatment facility has already been constructed.
- C. The Department shall review engineering plans and specifications upon request by an applicant seeking a permit for a sewage treatment facility, regardless of its flow.
- D. The Department may inspect an applicant's facility without notice to ensure that construction generally conforms to engineering plans and specifications, as applicable.
- E. Before discharging under a permit, the permittee shall submit an Engineer's Certificate of Completion signed, dated, and sealed by an Arizona-registered professional engineer in a format approved by the Department, that confirms that the facility is constructed according to the Department-approved design report or plans and specifications, as applicable.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-B204. Treatment Performance Requirements for a New Facility

- A. Definition. "Week" means a seven-day period starting on Sunday and ending on the following Saturday.
- B. An owner or operator of a new sewage treatment facility shall ensure that the facility meets the following performance requirements upon release of the treated wastewater at the outfall:
1. Secondary treatment levels.
 - a. Five-day biochemical oxygen demand (BOD₅) less than 30 mg/l (30-day average) and 45 mg/l (seven-day average), or carbonaceous biochemical oxygen demand (CBOD₅) less than 25 mg/l (30-day average) or 40 mg/l (seven-day average);
 - b. Total suspended solids (TSS) less than 30 mg/l (30-day average) and 45 mg/l (seven-day average);
 - c. pH maintained between 6.0 and 9.0 standard units; and
 - d. A removal efficiency of 85 percent for BOD₅, CBOD₅, and TSS;
 2. Secondary treatment by waste stabilization ponds is not considered BADCT unless an applicant demonstrates to the Department that site-specific hydrologic and geologic characteristics and other environmental factors are sufficient to justify secondary treatment by waste stabilization ponds;
 3. Total nitrogen in the treated wastewater is less than 10 mg/l (five-month rolling geometric mean). If an applicant demonstrates, using appropriate monitoring that soil aquifer treatment will produce a total nitrogen concentration less than 10 mg/l in wastewater that percolates to groundwater, the Department may approve soil aquifer treatment for removal of total nitrogen as an alternative to meeting the performance requirement of 10 mg/l at the outfall;
 4. Pathogen removal.
 - a. For a sewage treatment facility with a design flow of less than 250,000 gallons per day at a site where the depth to the seasonally high groundwater table is greater than 20 feet and there is no karstic or fractured bedrock at the surface:
 - i. The concentration of fecal coliform organisms in four of the wastewater samples collected during the week is less than 200 cfu/100 ml or the concentration of *E. coli* bacteria in four of the wastewater samples collected during the week is less than 126 cfu/100 ml, based on a sampling frequency of seven daily samples per week;
 - ii. The single sample maximum concentration of fecal coliform organisms in a wastewater sample is not greater than 800 cfu/100 ml or the single sample maximum concentration of *E. coli* bacteria in a wastewater sample is not greater than 504 cfu/100 ml; and
 - iii. An owner or operator of a facility may request a reduction in the monitoring frequency required in subsection (B)(4)(a)(i) if equipment is installed to continuously monitor an alternative indicator parameter and the owner or operator demonstrates that the continuous monitoring will ensure reliable production of wastewater that meets the numeric concentration levels in subsections (B)(4)(a)(i) and (ii) at the discharge point;
 - b. For any other sewage treatment facility:
 - i. No fecal coliform organisms or no *E. coli* bacteria are detected in four of the wastewater samples collected during the week, based on a sampling frequency of seven daily samples per week;
 - ii. The single sample maximum concentration of fecal coliform organisms in a wastewater sample is not greater than 23 cfu/100 ml or the single sample maximum concentration of *E. coli* is not greater than 15 cfu/100 ml;
 - iii. An owner or operator may request a reduction in the monitoring frequency required in subsection (B)(4)(b)(i) if equipment is installed to continuously monitor an alternative indicator parameter and the owner or operator demonstrates that the continuous monitoring will ensure reliable production of wastewater that meets the numeric concentration levels in subsections (B)(4)(b)(i) or (ii) at the discharge point;
 - c. An owner or operator may use unit treatment processes, such as chlorination-dechlorination, ultraviolet, and ozone to achieve the pathogen removal performance requirements specified in subsections (B)(4)(a) and (b);
 - d. The Department may approve soil aquifer treatment for the removal of fecal coliform or *E. coli* bacteria as an alternative to meeting the performance requirement in subsection (B)(4)(a) or (b), if the soil aquifer treatment process will produce a fecal coliform or *E. coli* bacteria concentration less than that required under subsection (B)(4)(a) or (b), in wastewater that percolates to groundwater;
 5. Unless governed by A.R.S. § 49-243(I), the performance requirement for each constituent regulated under R18-11-

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406(B) through (E) is the numeric Aquifer Water Quality Standard;

6. The performance requirement for a constituent regulated under A.R.S. § 49-243(I) is removal to the greatest extent practical regardless of cost.
 - a. An operator shall minimize trihalomethane compounds generated as disinfection byproducts using chlorination, dechlorination, ultraviolet, or ozone as the disinfection system or using a technology demonstrated to have equivalent or better performance for removing or preventing trihalomethane compounds.
 - b. For other pollutants regulated by A.R.S. § 49-243(I), an operator shall use one of the following methods to achieve industrial pretreatment:
 - i. Regulate industrial sources of influent to the sewage treatment facility by setting limits on pollutant concentrations, monitoring for pollutants, and enforcing the limits to reduce, eliminate, or alter the nature of a pollutant before release into a sewage collection system;
 - ii. Meet the pretreatment requirements of A.R.S. § 49-255.02; or
 - iii. For sewage treatment facilities without significant industrial input, conduct periodic monitoring to detect industrial discharge; and
 7. A maximum seepage rate less than 550 gallons per day per acre for all containment structures within the treatment works. A sewage treatment facility that consists solely of containment structures with no other form of discharge complies with Article 2 Part B by operating below the maximum 550 gallon per day per acre seepage rate.
- C. The Director shall incorporate treated wastewater discharge limitations and associated monitoring specified in this Section into the individual permit to ensure compliance with the BADCT requirements.
- D. An applicant shall formally request in writing and justify an alternative that allows less stringent performance than that established in this Section, based on the criteria specified in A.R.S. § 49-243(B)(1).
- E. If the request specified in subsection (D) involves treatment or disposal works that are a demonstration, experimental, or pilot project, the Director may issue an individual permit that places greater reliance on monitoring to ensure operational capability.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-B205. Treatment Performance Requirements for an Existing Facility

For a sewage treatment facility that is an existing facility defined in A.R.S. § 49-201(16), the BADCT shall conform with the following:

1. The designer shall identify one or more design improvements that brings the facility closer to or within the treatment performance requirements specified in R18-9-B204, considering the factors listed in A.R.S. § 49-243(B)(1)(a) and (B)(1)(c) through (h);
2. The designer may eliminate from consideration alternatives identified in subsection (1) that are more expensive than the number of gallons of design flow times \$1.00 per gallon; and

3. The designer shall select a design that incorporates one or more of the considered alternatives by giving preference to measures that will provide the greatest improvement toward meeting the treatment performance requirements specified in R18-9-B204.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-B206. Treatment Performance Requirements for Expansion of a Facility

For an expansion of a sewage treatment facility, the BADCT shall conform with the following:

1. New facility BADCT requirements in R18-9-B204 apply to the following expansions:
 - a. An increase in design flow by an amount equal to or greater than the increases specified in R18-9-A211(B)(2)(b); or
 - b. An addition of a physically separate process or major piece of production equipment, building, or structure that causes a separate discharge to the extent that the treatment performance requirements for the pollutants addressed in R18-9-B204 can practicably be achieved by the addition.
2. BADCT requirements for existing facilities established in R18-9-B205 apply to an expansion not covered under subsection (1).

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended to correct a manifest typographical error in subsection (1) (Supp. 01-1). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

ARTICLE 3. AQUIFER PROTECTION PERMITS - GENERAL PERMITS**PART A. GENERAL PROVISIONS****R18-9-A301. Discharging Under a General Permit**

- A. Discharging requirements.
1. Type 1 General Permit. A person may discharge under a Type 1 General Permit without submitting a Notice of Intent to Discharge if the discharge is authorized by and meets:
 - a. The applicable requirements of Article 3, Part A of this Chapter; and
 - b. The specific terms of the Type 1 General Permit established in Article 3, Part B of this Chapter.
 2. Type 2 General Permit. A person may discharge under a Type 2 General Permit if:
 - a. The discharge is authorized by and meets the applicable requirements of Article 3, Part A of this Chapter and the specific terms of the Type 2 General Permit established in Article 3, Part C of this Chapter;
 - b. The person files a Notice of Intent to Discharge under subsection (B); and
 - c. The person submits the applicable fee established in 18 A.A.C. 14.
 3. Type 3 General Permit. A person may discharge under a Type 3 General Permit if:
 - a. The discharge is authorized by and meets the applicable requirements of Article 3, Part A of this Chap-

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- ter and the specific terms of the Type 3 General Permit established in Article 3, Part D of this Chapter;
- b. The person files a Notice of Intent to Discharge under subsection (B);
 - c. The person satisfies any deficiency requests from the Department regarding the administrative completeness review and substantive review and receives a written Discharge Authorization from the Director; and
 - d. The person submits the applicable fee established in 18 A.A.C. 14.
4. Type 4 General Permit. A person may discharge under a Type 4 General Permit if:
 - a. The discharge is authorized by and meets the applicable requirements of Article 3, Part A of this Chapter and the specific terms of the Type 4 General Permit established in Article 3, Part E of this Chapter;
 - b. The person files a Notice of Intent to Discharge under subsection (B);
 - c. The person satisfies any deficiency requests from the Department regarding the administrative completeness review and substantive review, including any deficiency relating to the construction of the facility;
 - d. The person receives a written Discharge Authorization from the Director before the facility discharges; and
 - e. The person submits the applicable fee established in 18 A.A.C. 14 or according to A.R.S. §§ 49-107 and 49-112.
- B. Notice of Intent to Discharge.**
1. A person seeking a Discharge Authorization under a general permit under subsections (A)(2), (3), or (4) shall submit, by certified mail, in person, or by another method approved by the Department, a Notice of Intent to Discharge on a form provided by the Department.
 2. The Notice of Intent to Discharge shall include:
 - a. The name, address, and telephone number of the applicant;
 - b. The name, address, and telephone number of a contact person familiar with the operation of the facility;
 - c. The name, position, address, and telephone number of the owner or operator of the facility who has overall responsibility for compliance with the permit;
 - d. The legal description of the discharge areas, including the latitude and longitude coordinates;
 - e. A narrative description of the facility or project, including expected dates of operation, rate, and volume of discharge;
 - f. The additional requirements, if any, specified in the general permit for which the authorization is being sought;
 - g. A listing of any other federal or state environmental permits issued for or needed by the facility, including any individual permit, Groundwater Quality Protection Permit, or Notice of Disposal that may have previously authorized the discharge; and
 - h. A signature on the Notice of Intent to Discharge certifying that the applicant agrees to comply with all applicable requirements of this Article, including specific terms of the general permit.
3. Receipt of a completed Notice of Intent to Discharge by the Department begins the administrative completeness review for a Type 3 or Type 4 General Permit.
- C. Type 3 General Permit authorization review.**
1. Inspection. The Department may inspect the facility to determine that the applicable terms of the general permit have been met.
 2. Discharge Authorization issuance.
 - a. If the Department determines, based on its review and an inspection, if conducted, that the facility conforms to the requirements of the general permit and the applicable requirements of this Article, the Director shall issue a Discharge Authorization.
 - b. The Discharge Authorization authorizes the person to discharge under terms of the general permit and applicable requirements of this Article.
 3. Discharge Authorization denial. If the Department determines, based on its review and an inspection, if conducted, that the facility does not conform to the requirements of the general permit or other applicable requirements of this Article, the Director shall notify the person of the decision not to issue the Discharge Authorization and the person shall not discharge under the general permit. The notification shall inform the person of:
 - a. The reason for the denial with reference to the statute or rule on which the denial is based;
 - b. The person's right to appeal the denial, including the number of days the applicant has to file a protest challenging the denial and the name and telephone number of the Department contact person who can answer questions regarding the appeals process; and
 - c. The person's right to request an informal settlement conference under A.R.S. §§ 41-1092.03(A) and 41-1092.06.
- D. Type 4 General Permit review.**
1. Pre-construction phase and facility construction. A person shall not begin facility construction until the Director issues a Construction Authorization.
 - a. Inspection. The Department may inspect the facility site before construction to determine that the applicable terms of the general permit will be met.
 - b. Review. If the Department determines, based on an inspection or its review of design plans, specifications, or other required documents that the facility does not conform to the requirements of the general permit or other applicable requirements of this Article, the Department shall make a written request for additional information to determine whether the facility will meet the requirements of the general permit.
 - c. Construction Authorization. If the Department determines, based on the review described in subsection (D)(1)(b) and any additional information submitted in response to a written request, that the facility design conforms with the requirements of the general permit and other applicable requirements of this Article, the Director shall issue a Construction Authorization to the person seeking to discharge. A Construction Authorization for an on-site wastewater treatment facility shall contain:
 - i. The design flow of the facility,
 - ii. The characteristics of the wastewater sources contributing to the facility,
 - iii. The general permits that apply, and

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- iv. A list of the documents that are the basis for the authorization.
 - d. Construction Authorization denial. If the Department determines, based on the review described in subsection (D)(1)(b) and any additional information submitted in response to a written request, that the facility design does not conform to the requirements of the general permit or other applicable requirements of this Article, the Director shall notify the person of the decision not to issue a Construction Authorization. The notification shall include the information listed in subsections (D)(2)(d).
 - e. Construction.
 - i. A person shall complete construction within two years of receiving a Construction Authorization.
 - ii. Construction shall conform with the plans and documents approved by the Department in the Construction Authorization. A change in location, configuration, dimension, depth, material, or installation procedure does not require approval by the Department if the change continues to conform with the specific standard in this Article used as the basis for the original design.
 - iii. The person shall record all changes made during construction, including any changes approved under R18-9-A312(G) on the site plan as specified in R18-9-A309(C)(1) or on documents as specified in R18-9-A309(C)(2) or R18-9-E301(E), as applicable.
 - f. Completion of construction.
 - i. After completing construction of the facility, the person seeking to discharge shall submit any applicable documents specified in R18-9-A309(C) with the Request for Discharge Authorization form for an on-site wastewater treatment facility and the Engineer's Certificate of Completion specified in R18-9-E301(E) for a sewage collection system. Receipt of the documents by the Department initiates the post-construction review phase.
 - ii. If the Department does not receive the documentation specified in subsection (D)(1)(f)(i) by the end of the two-year construction period, the Notice of Intent to Discharge expires, and the person shall not continue construction or discharge.
 - iii. If the Notice of Intent to Discharge expires, the person shall submit a new Notice of Intent to Discharge under subsection (B) and the applicable fee under subsection (A)(4)(e) to begin or continue construction.
2. Post-construction phase.
- a. Inspection. The Department may inspect the facility before issuing a Discharge Authorization to determine whether:
 - i. The construction conforms with the design authorized by the Department under subsection (D)(1)(c) and any changes recorded on the site plan as specified in R18-9-A309(C)(1) or other documents as specified in R18-9-A309(C)(2), or R18-9-E301(E), as applicable; and
 - ii. Terms of the general permit and applicable terms of this Article are met.
 - b. Deficiencies. If the Department identifies deficiencies based on an inspection of the constructed facility or during the review of documents submitted with the request for the Discharge Authorization, the Director shall provide a written explanation of the deficiencies to the person.
 - c. Discharge Authorization issuance.
 - i. Upon satisfactory completion of construction and documents required under R18-9-A309(C)(1) R18-9-A309(C)(2), or R18-9-E301(E), as applicable, the Director shall issue a Discharge Authorization.
 - ii. The Discharge Authorization allows a person to discharge under terms of the general permit and applicable requirements of this Article and the stated terms of the Construction Authorization.
 - d. Discharge Authorization denial. If, after receiving evidence of correction submitted by the person seeking to discharge, the Department determines that the deficiencies are not satisfactorily corrected, the Director shall notify the person seeking to discharge of the Director's decision not to issue the Discharge Authorization and the person shall not discharge under the general permit. The notification shall inform the person of:
 - i. The reason for the denial with reference to the statute or rule on which the denial is based;
 - ii. The person's right to appeal the denial, including the number of days the applicant has to file a protest challenging the denial and the name and telephone number of the Department contact person who can answer questions regarding the appeals process; and
 - iii. The person's right to request an informal settlement conference under A.R.S. §§ 41-1092.03(A) and 41-1092.06.
- Historical Note**
- New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).
- R18-9-A302. Point of Compliance**
- The point of compliance is the point at which compliance with Aquifer Water Quality Standards is determined.
- 1. Except as provided in this Section or as stated in a specific general permit, the applicable point of compliance at a facility operating under a general permit is a vertical plane downgradient of the facility that extends through the uppermost aquifers underlying that facility.
 - 2. The point of compliance is the limit of the pollutant management area.
 - a. The pollutant management area is the horizontal plane of the area on which pollutants are or will be placed.
 - b. If a facility operating under a general permit is located within a larger pollutant management area established under an individual permit issued to the same person, the point of compliance is the applicable point of compliance established in the individual permit.

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Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4).

R18-9-A303. Renewal of a Discharge Authorization

- A. Unless a Discharge Authorization under a general permit is transferred, revoked, or expired, a person may discharge under the general permit for the authorization period as specified by the permit type, including any closure activities required by a specific general permit.
- B. An authorization to discharge under a Type 1 or Type 4 General Permit is valid for the operational life of the facility.
- C. A permittee authorized under a Type 2 or Type 3 General Permit shall submit an application for renewal on a form provided by the Department with the applicable fee established in 18 A.A.C. 14 at least 30 days before the end of the renewal period.
 - 1. The following are the renewal periods for Type 2 and Type 3 General Permit Discharge Authorizations:
 - a. 2.01 General Permit, five years;
 - b. 2.02 General Permit, seven years;
 - c. 2.03 General Permit, two years;
 - d. 2.04 General Permit, five years;
 - e. 2.05 General Permit, five years;
 - f. 2.06 General Permit, five years; and
 - g. Type 3 General Permits, five years.
 - 2. The renewal period for coverage under a Type 2 General Permit begins on the date the Department receives the Notice of Intent to Discharge.
 - 3. The renewal period for coverage under a Type 3 General Permit begins on the date the Director issues the written Discharge Authorization.
- D. If the Discharge Authorization is not renewed within the renewal period specified in subsection (C)(1), the Discharge Authorization expires.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3). Amended by final rulemaking at 29 A.A.R. 1023 (May 12, 2023), effective June 19, 2023 (Supp. 23-2).

R18-9-A304. Notice of Transfer

- A. Transfer of authorization under a Type 1 General Permit.
 - 1. A permittee transferring ownership of a facility covered by a Type 1.01 through 1.08, or 1.10 through 1.12 General Permit is not required to notify the Department of the transfer.
 - 2. A permittee transferring ownership of an on-site wastewater treatment facility operating under a Type 1.09 General Permit shall follow the requirements under R18-9-A316.
 - 3. A permittee transferring ownership of a sewage treatment facility operating under a Type 1.09 General Permit shall submit a Notice of Transfer to the Department by certified mail within 15 days after the date that ownership changes.
- B. Transfer of authorization under a Type 2, 3, or 4.01 General Permit.
 - 1. If a change of ownership occurs for a facility covered by a Type 2, 3, or 4.01 General Permit facility, the permittee shall provide a Notice of Transfer to the Department or to the health or environmental agency delegated by the Director to administer Type 4.01 General Permits, by cer-

tified mail within 15 days after the date that ownership changes. The Notice of Transfer, on a form approved by the Department, shall include:

- a. Any information that has changed from the original Notice of Intent to Discharge,
 - b. Any other transfer requirements specified for the general permit, and
 - c. The applicable fee established in 18 A.A.C. 14.
- 2. The Department may require a permittee covered by a Type 2, 3, or Type 4.01 General Permit to submit a new Notice of Intent to Discharge and to obtain a new authorization under R18-9-A301(A)(2), (3) and (4), as applicable, if the volume or characteristics of the discharge have changed from the original application.
 - C. Transfer of a Type 4.02 through 4.23 General Permit. A permittee transferring ownership of an on-site wastewater treatment facility operating under one or more Type 4.02 through 4.23 General Permits shall follow the requirements under R18-9-A316.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-A305. Facility Expansion

- A. A permittee may expand a facility covered by a Type 2 General Permit if, before the expansion, the permittee provides the Department with the following information by certified mail:
 - 1. An updated Notice of Intent to Discharge,
 - 2. A certification signed by the facility owner stating that the expansion continues to meet all the conditions of the applicable general permit, and
 - 3. The applicable fee established under 18 A.A.C. 14.
- B. A permittee may expand a facility covered by a Type 3 or Type 4 General Permit if the permittee submits a new Notice of Intent to Discharge and the Department issues a new Discharge Authorization.
 - 1. The person submitting the Notice of Intent to Discharge for the expansion may reference the previous Notice of Intent to Discharge if the previous information is identical, but shall provide full and detailed information for any changed items.
 - 2. The Notice of Intent to Discharge shall include:
 - a. Any applicable fee established under 18 A.A.C. 14, and
 - b. A certification signed by the facility owner stating that the expansion continues to meet all of the requirements relating to the applicable general permit.
 - 3. Upon receiving the Notice of Intent to Discharge, the Department shall follow the applicable review and authorization procedures described in R18-9-A301(A)(3) or (4).

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-A306. Closure

- A. To satisfy the requirements under A.R.S. § 49-252, a permittee shall close a facility authorized to discharge under a general permit as follows:

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1. If the discharge is authorized under a Type 1.01 through 1.08, 1.10, 1.11, 2.05, 2.06, or 4.01 General Permit, closure notification is unnecessary and clean closure is met when:
 - a. The permittee removes material that may contribute to a continued discharge; and
 - b. The permittee eliminates, to the greatest degree practical, any reasonable probability of further discharge from the facility and of exceeding any Aquifer Water Quality Standard at the applicable point of compliance;
 2. For a discharge authorized under a Type 2.02, 3.02, 3.05 through 3.07, or 4.23 General Permit, the facility meets clean closure requirements if the permittee provides notice and submits sufficient information for the Department to determine that:
 - a. Any material that may contribute to a continued discharge is removed;
 - b. The permittee has eliminated to the greatest degree practicable any reasonable probability of further discharge from the facility and of exceeding any Aquifer Water Quality Standard at the applicable point of compliance; and
 - c. Closure requirements, if any, established in the general permit are met;
 3. If the discharge is authorized under a Type 1.12, 2.01, 2.03, 2.04, 3.01, 3.03, or 3.04 General Permit, the permittee shall comply with the closure requirements in the general permit;
 4. If the discharge is from an on-site wastewater treatment facility authorized under a Type 1.09 or 4.02 through 4.22 General Permit, the permittee shall comply with the closure requirements in R18-9-A309(D); and
 5. If the discharge is from a sewage treatment facility authorized under a Type 1.09 General Permit, the permittee shall comply with the closure requirements under subsection (A)(1).
- B.** For a facility operating under a general permit and located at a site where an individual area-wide permit has been issued, a permittee may defer some or all closure activities required by this subsection if the Director approves the deferral in writing. The permittee shall complete closure activities no later than the date that closure activities identified in the individual area-wide permit are performed.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-A307. Revocation of Coverage Under a General Permit

- A.** After notice and opportunity for a hearing, the Director may revoke coverage under a general permit and require the permittee to obtain an individual permit for any of the following:
1. The permittee fails to comply with the terms of the general permit as described in this Article, or
 2. The discharge activity conducted under the terms of the general permit causes or contributes to the violation of an Aquifer Water Quality Standard at the applicable point of compliance.
- B.** The Director may revoke coverage under a general permit for any or all facilities within a specific geographic area, if, due to geologic or hydrologic conditions, the cumulative discharge of the facilities has violated or will violate an Aquifer Water

Quality Standard established under A.R.S. §§ 49-221 and 49-223. Unless the public health or safety is jeopardized, the Director may allow continuation of a discharge until the Department:

1. Issues a single individual permit,
 2. Authorizes a discharge under another general permit, or
 3. Consolidates the discharges authorized under the general permits by following R18-9-107.
- C.** If an individual permit is issued to replace general permit coverage, the coverage under the general permit allowing the discharge is automatically revoked upon issuance of the individual permit and notification under subsection (E) is not required.
- D.** If the Director revokes coverage under a general permit, the facility shall not discharge unless allowed under subsection (B) or under an individual permit.
- E.** If coverage under the general permit is revoked under subsections (A) or (B), the Director shall notify the permittee by certified mail of the decision. The notification shall include:
1. A brief statement of the reason for the decision;
 2. The effective revocation date of the general permit coverage;
 3. A statement of whether the discharge shall cease or whether the discharge may continue under the terms of revocation in subsection (B);
 4. Whether the Director requires a person to obtain an individual permit, and if so:
 - a. An individual permit application form, and
 - b. Identification of a deadline between 90 and 180 days after receipt of the notification for filing the application;
 5. The applicant's right to appeal the revocation, the number of days the applicant has to file an appeal, and the name and telephone number of the Department contact person who can answer questions regarding the appeals process; and
 6. The applicant's right to request an informal settlement conference under A.R.S. §§ 41-1092.03(A) and 41-1092.06.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-A308. Repealed**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Repealed by final rulemaking at 29 A.A.R. 1023 (May 12, 2023), effective June 19, 2023 (Supp. 23-2).

R18-9-A309. General Provisions for On-site Wastewater Treatment Facilities

- A.** General requirements and prohibitions.
1. No person shall discharge sewage or wastewater that contains sewage from an on-site wastewater treatment facility except under an Aquifer Protection Permit issued by the Director.
 2. A person shall not install, allow to be installed, or maintain a connection between any part of an on-site wastewater treatment facility and a drinking water system or supply so that sewage or wastewater contaminates the drinking water.

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3. A person shall not bypass or release sewage or partially treated sewage that has not completed the treatment process from an on-site wastewater treatment facility.
4. A person shall not use a cesspool for sewage disposal.
5. A person constructing a new on-site wastewater treatment facility or replacing the treatment works or disposal works of an existing on-site wastewater treatment facility shall connect to a sewage collection system if either (a) or (b) apply:
 - a. One of the following applies:
 - i. A provision of a Nitrogen Management Area designation under R18-9-A317(C) requires connection;
 - ii. A county, municipal, or sanitary district ordinance requires connection; or
 - iii. The on-site wastewater treatment facility is located within an area identified for connection to a sewage collection system by a Certified Area-wide Water Quality Management Plan adopted under 18 A.A.C. 5 or a master plan adopted by a majority of the elected officials of a board or council for a county, municipality, or sanitary district; or
 - b. A sewer service line extension is available at the property boundary and both of the following apply:
 - i. The service connection fee is not more than \$6000 for a dwelling or \$10 times the daily design flow in gallons for a source other than a dwelling, and
 - ii. The cost of constructing the building sewer from the wastewater source to the service connection is not more than \$3000 for a dwelling or \$5 times the daily design flow in gallons for a source other than a dwelling.
6. The Department shall prohibit installation of an on-site wastewater treatment facility if the installation will create an unsanitary condition or environmental nuisance or cause or contribute to a violation of an Aquifer Water Quality Standard.
7. A person shall design and operate the permitted on-site wastewater treatment facility so that:
 - a. Flows to the facility consist of typical sewage and do not include any motor oil, gasoline, paint, varnish, solvent, pesticide, fertilizer, or other material not generally associated with toilet flushing, food preparation, laundry, or personal hygiene;
 - b. Flows to the facility from commercial operations do not contain hazardous wastes as defined under A.R.S. § 49921(5) or hazardous substances;
 - c. If the sewage contains a component of nonresidential flow such as food preparation, laundry service, or other source, the sewage is adequately pretreated by an interceptor that complies with R18-9-A315 or another device authorized by a general permit or approved by the Department under R18-9-A312(G);
 - d. Except as provided in subsection (A)(7)(c), a sewage flow that does not meet the numerical levels for typical sewage is adequately pretreated to meet the numerical levels before entry into an on-site wastewater treatment facility authorized by this Article;
 - e. Flow to the facility does not exceed the design flow specified in the Discharge Authorization;
 - f. The facility does not create an unsanitary condition or environmental nuisance, or cause or contribute to a violation of either a Aquifer Water Quality Standard or a Surface Water Quality Standard; and
- g. Activities at the site do not adversely affect the operation of the facility.
8. A person shall control the discharge of total nitrogen from an on-site wastewater treatment facility as follows:
 - a. For an on-site wastewater treatment facility operating under the 1.09 General Permit or proposed for construction in a Notice of Intent to Discharge under a Type 4 General Permit and the facility is located within a Nitrogen Management Area, the provisions of R18-9-A317(D) apply;
 - b. For an on-site wastewater treatment facility proposed for construction in a Notice of Intent to Discharge under R18-9-E323, the provisions of R18-9-E323(A)(4) apply;
 - c. For a subdivision proposed under 18 A.A.C. 5, Article 4, for which on-site wastewater treatment facilities are used for sewage disposal, the permittee shall demonstrate in the geological report required in R18-5-408(E)(1) that total nitrogen loading from the on-site wastewater treatment facilities to groundwater is controlled by providing one of the following:
 - i. For a subdivision platted for a single family dwelling on each lot, calculations that demonstrate that the number of lots within the subdivision does not exceed the number of acres contained within the boundaries of the subdivision;
 - ii. For a subdivision platted for dwellings that do not meet the criteria specified in subsection (A)(8)(c)(i), calculations that demonstrate that the nitrogen loading over the total area of the subdivision is not more than 0.088 pounds (39.9 grams) of total nitrogen per day per acre calculated at a horizontal plane immediately beneath the active treatment of the disposal fields, based on a total nitrogen contribution to raw sewage of 0.0333 pounds (15.0 grams) of total nitrogen per day per person; or
 - iii. An analysis by another means of demonstration showing that the nitrogen loading to the aquifer due to on-site wastewater treatment facilities within the subdivision does not cause or contribute to a violation of the Aquifer Water Quality Standard for nitrate at the applicable point of compliance.
9. Repairs and Routine Work.
 - a. A Notice of Intent to Discharge is not required for repair or routine work that maintains a facility.
 - b. A Notice of Intent to Discharge is required for the following non-routine work or repairs:
 - i. Converting a facility from operation under gravity to one requiring a pump or other mechanical device for treatment or disposal;
 - ii. Modifying or replacing a treatment works or disposal works, as defined in R18-9-101; or
 - iii. Modifying a facility in any manner that is inconsistent with the originally approved design and installation of the facility.
 - c. A permittee shall comply with any local ordinance that provides independent permitting requirements for repair or routine work.

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- d. A person, as defined in R18-9-101, shall not modify the facility so as to create an unsanitary condition or environmental nuisance or cause or contribute to an exceedance of a water quality standard.
 10. Cumulative flows. When there is more than one on-site wastewater treatment facility on a property or on a site under common ownership or subject to a larger plan of sale or development, the Director shall determine whether an individual permit is required or whether the applicant qualifies for coverage to discharge under a general permit based on the sum of the design flows from the proposed installation and existing on-site wastewater treatment facilities on the property or site.
 - a. If the sum of the design flows is less than 3000 gallons per day, the Department will process the application under R18-9-E302 through R18-9-E322, as applicable.
 - b. If the sum of the design flows is equal to or more than 3000 gallons per day but less than 24,000 gallons per day, the Department will process the application under R18-9-E323.
 - c. If the sum of the design flows is equal to or more than 24,000 gallons per day, the project does not qualify for coverage under a Type 4 General Permit and the applicant shall submit an application for an individual permit under Article 2 of this Chapter.
 11. The use of a gray water system does not change the design, capacity, or reserve area requirements for an on-site wastewater treatment facility regulated under R18-9-E302 through R18-9-E323. The design of an on-site facility shall ensure the on-site facility can treat and dispose of the combined black water and gray water flows generated at the site. Black water includes wastewater flows from a kitchen sink. Kitchen sink wastewater flows are not gray water. Kitchen sink wastewater flows are not gray water even if a holding tank receiving kitchen sink wastewater, such as a recreational vehicle holding tank, is labeled as holding gray water. Gray water, as defined in R18-9-101, may be utilized in accordance with Article 7 of this Chapter.
 12. To obtain coverage under a Type 4 General Permit, an applicant must, in the following order:
 - a. Submit a Notice of Intent to Discharge according to requirements in R18-9-A301(B), R18-9-A309(B), and according to permit-specific requirements in Part E of Article 3,
 - b. Receive a Construction Authorization from the Director pursuant to R18-9-A301(D)(1)),
 - c. Submit a Request for Discharge Authorization according to requirements in R18-9-A301(D)(1)(f), R18-9-A309(C), and according to permit-specific requirements in Part E of Article 3, and
 - d. Receive a Discharge Authorization from the Director pursuant to R18-9-A301(D)(2) and R18-9-A309(C).
- B. Notice of Intent to Discharge under a Type 4 General Permit.** In addition to the Notice of Intent to Discharge requirements specified in R18-9-A301(B), an applicant shall submit the following information in a format approved by the Department:
1. A site investigation report that summarizes the results of the site investigation conducted under R18-9-A310(B), including:
 - a. Results from any soil evaluation, percolation test, or seepage pit performance test;
 - b. Any surface limiting condition identified in R18-9-A310(C)(2); and
 - c. Any subsurface limiting condition identified in R18-9-A310(D)(2);
 2. A site plan that includes:
 - a. The parcel and lot number, if applicable, the property address or other appropriate legal description, the property size in acres, and the boundaries of the property;
 - b. A plan of the site drawn to scale, dimensioned, and with a north arrow that shows:
 - i. Proposed and existing on-site wastewater treatment facilities; dwellings and other buildings; driveways, swimming pools, tennis courts, wells, ponds, and any other paved, concrete, or water feature; down slopes and cut banks with a slope greater than 15 percent; retaining walls; and any other constructed feature that affects proper location, design, construction, or operation of the facility;
 - ii. Any feature less than 200 feet from the on-site wastewater treatment facility excavation and reserve area that constrains the location of the on-site wastewater treatment facility because of setback limitations specified in R18-9-A312(C);
 - iii. Topography, delineated with an appropriate contour interval, showing original and post-installation grades;
 - iv. Drainage patterns, and as applicable, drainage controls and erosion protection for the facility;
 - v. Location and identification of the treatment and disposal works and wastewater pipelines, the reserve disposal area, and location and identification of all sites of percolation testing and soil evaluation performed under R18-9-A310; and
 - vi. Location of any public sewer if 400 feet or less from the property line;
 3. The design flow of the on-site wastewater treatment facility, consisting of gray water and black water flows, expressed in gallons per day based on Table 1, Unit Design Flows, the expected strength of the wastewater if the strength exceeds the levels for typical sewage, and:
 - a. For a single family dwelling, a list of the number of bedrooms and plumbing fixtures and corresponding unit flows used to calculate the design flow of the facility; and
 - b. For a dwelling other than for a single family, a list of each wastewater source and corresponding unit flows used to calculate the design flow of the facility;
 4. A list of materials, components, and equipment for constructing the on-site wastewater treatment facility;
 5. Drawings, reports, and other information that are clear, reproducible, and in a size and format specified by the Department;
 6. If pretreatment is necessary for a facility to comply with the requirements of this Chapter, including R18-9-A309(A)(7), then a design report approved by the on-site wastewater treatment facility manufacturer or manufacturers that specifies component capacities, control settings, and supplemental installation and operation practices necessary to produce typical sewage numerical

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levels before entry into an on-site wastewater treatment facility; and

7. For a facility that includes treatment or disposal works permitted under R18-9-E303 through R18-9-E323:

- a. Construction quality drawings that show the following:

- i. Systems, subsystems, and key components, including manufacturer's name, model number, and associated construction notes and inspection milestones, as applicable;
- ii. A title block, including facility owner, revision date, space for addition of the Department's application number, and page numbers;
- iii. A plan and profile with the elevations of wastewater pipelines, and treatment and disposal components, including calculations justifying the absorption area, to allow Department verification of hydraulic and performance characteristics;
- iv. Cross sections showing wastewater pipelines, construction details and elevations of treatment and disposal components, original and finished grades of the land surface, seasonal high water table if less than 10 feet below the bottom of a disposal works or 60 feet below the bottom of a seepage pit, and a soil elevation evaluation to allow Department verification of installation design and performance; and

- b. A draft operation and maintenance manual for the on-site wastewater treatment facility consisting of the tasks and schedules for operating and maintaining performance over a 20-year operational life;

C. Additional requirements for a Request for Discharge Authorization and for the issuance of a Discharge Authorization under a Type 4 General Permit.

1. If the entire on-site wastewater treatment facility, including treatment works and disposal works, will be permitted under R18-9-E302, the Director shall issue the Discharge Authorization if, as a part of the Request for Discharge Authorization:

- a. The site plan accurately reflects the final location and configuration of the components of the treatment and disposal works, and
- b. The applicant or the applicant's agent certifies on the Request for Discharge Authorization form that the septic tank passed the watertightness test required by R18-9-A314(5)(d).

2. If the on-site wastewater treatment facility is proposed under R18-9-E303 through R18-9-E323, either separately or in any combination with each other or with R18-9-E302, the Director shall issue the Discharge Authorization if the following documents are submitted to the Department as part of the Request for Discharge Authorization:

- a. As-built plans showing changes from construction quality drawings submitted under subsection (B)(6)(a);
- b. A final list of equipment and materials showing changes from the list submitted under subsection (B)(4);
- c. A final operation and maintenance manual for the on-site wastewater treatment facility consisting of the tasks and schedules for operating and maintaining performance over a 20-year operational life;

- d. A certification that a service contract for ensuring that the facility is operated and maintained to meet the performance and other requirements of the applicable general permits exists for at least one year following the beginning of the operation of the on-site wastewater treatment facility, including the name of the service provider, if the on-site wastewater treatment facility is permitted under:

- i. R18-9-E304;
- ii. R18-9-E308 through R18-9-E315;
- iii. R18-9-E316, if the facility includes a pump; or
- iv. R18-9-E318 through R18-9-E322;

- e. Other documents, if required by the separate general permits in 18 A.A.C. 9, Article 3, Part E;

- f. A Certificate of Completion signed by the current engineer or designer of record assuring that installation of the facility conforms to the design approved under the Construction Authorization under R18-9-A301(D)(1)(c); and a regulatory representative, such as an inspector, may not act as an applicant's agent, nor authorize backfill before the current engineer or designer of record has verified proper installation of the system;

- g. The name of the installation contractor and the Registrar of Contractor's license number issued to the installation contractor; and

- h. A certification that any septic tank installed as a component of the on-site wastewater treatment facility passed the watertightness test required by R18-9-A314(5)(d).

3. The Director shall specify in the Discharge Authorization:

- a. The permitted design flow of the facility,
- b. The characteristics of the wastewater sources contributing to the facility, and
- c. A list of the documents submitted to and reviewed by the Department satisfying subsection (C)(2).

D. Closure requirements. A person who permanently discontinues use of an on-site wastewater treatment facility or a cesspool, or is ordered by the Director to close an abandoned facility shall:

1. Remove all sewage from the facility and dispose of the sewage in a lawful manner;
2. Disconnect and remove electrical and mechanical components;
3. Remove or collapse the top of any tank or containment structure.
 - a. Punch a hole in the bottom of the tank or containment structure if the bottom is below the seasonal high groundwater table;
 - b. Fill the tank or containment structure or any cavity resulting from its removal with earth, sand, gravel, concrete, or other approved material; and
 - c. Regrade the surface to provide drainage away from the closed area;
4. Cut and plug both ends of the abandoned sewer drain pipe between the building and the on-site wastewater treatment facility not more than 5 feet outside the building foundation if practical, or cut and plug as close to each end as possible; and
5. Notify the Department within 30 days of closure.

E. Proprietary and other reviewed products.

1. The Department shall maintain a list of proprietary and other reviewed products that may be used for on-site

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wastewater treatment facilities to comply with the requirements of this Article. The list shall include appropriate information on the applicability and limitations of each product.

2. The list of proprietary and other reviewed products may include manufactured systems, subsystems, or components within the treatment works and disposal works if the products significantly contribute to the treatment performance of the system or provide the means to overcome site limitations. The Department will not list septic tanks, effluent filters or components that do not significantly affect treatment performance or provide the means to overcome site limitations.
 3. A person may request that the Department add a product to the list of proprietary and other reviewed products. The request may include a proposed reference design for review. The Department shall ensure that performance values in the list reflect the treatment performance for defined wastewater characteristics. The Department shall assess fees under 18 A.A.C. 14 for product review.
- F. Recordkeeping. A permittee authorized to discharge under one or more Type 4 General Permits shall maintain the Discharge Authorization and associated documents for the life of the facility.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3). Amended by final rulemaking at 29 A.A.R. 1023 (May 12, 2023), effective June 19, 2023 (Supp. 23-2).

R18-9-A310. Site Investigation for Type 4 On-site Wastewater Treatment Facilities

- A. Definition. For purposes of this Section, "clean water" means water free of colloidal material or additives that could affect chemical or physical properties if the water is used for percolation or seepage pit performance testing.
- B. Site investigation. An applicant shall ensure that an investigator qualified under subsection (H) conducts a site investigation consisting of a surface characterization under subsection (C) and a subsurface characterization under subsection (D). The applicant shall submit the results in a format prescribed by the Department. The site investigation shall provide sufficient data to:
1. Select appropriate primary and reserve disposal areas for an on-site wastewater treatment facility considering all surface and subsurface limiting conditions in subsections (C)(2) and (D)(2); and;
 2. Effectively design and install the selected facility to serve the anticipated development at the site, whether or not limiting conditions exist.
- C. Surface characterization.
1. Surface characterization method. The investigator shall characterize the surface of the site where an on-site wastewater treatment facility is proposed for installation using one of the following methods:
 - a. The "Standard Practice for Surface Site Characterization for On-site Septic Systems, D5879-95 (2003)," published by the American Society for Testing and Materials. This material is incorporated by reference and does not include any later amendments or editions of the incorporated material. Copies of the incorporated material are available for

inspection at the Arizona Department of Environmental Quality, 1110 W. Washington, Phoenix, AZ 85007 or may be obtained from the American Society for Testing and Materials International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959; or

- b. Another method of surface characterization that can, with accuracy and reliability, identify and delineate the surface limiting conditions specified in subsection (C)(2).
2. Surface limiting conditions. The investigator shall determine whether, and if so, where any of the following surface limiting conditions exist:
- a. The surface slope is greater than 15 percent at the intended location of the on-site wastewater treatment facility;
 - b. Minimum setback distances are not within the limits specified in R18-9-A312(C);
 - c. Surface drainage characteristics at the intended location of the on-site wastewater treatment facility will adversely affect the ability of the facility to function properly;
 - d. A 100-year flood hazard zone, as indicated on the applicable flood insurance rate map, is located within the property on which the on-site wastewater treatment facility will be installed, and the flood hazard zone may adversely affect the ability of the facility to function properly;
 - e. An outcropping of rock that cannot be excavated exists in the intended location of the on-site wastewater treatment facility or will impair the function of soil receiving the discharge; and
 - f. Fill material deposits exist in the intended location of the on-site wastewater treatment facility.
- D. Subsurface characterization.
1. Subsurface characterization method. The investigator shall characterize the subsurface of the site where an on-site wastewater treatment facility is proposed for installation using one or more of the following methods:
 - a. The following ASTM standard practice, which is incorporated by reference and does not include any later amendments or editions of the incorporated material. Copies of the incorporated material are available for inspection at the Arizona Department of Environmental Quality, 1110 W. Washington, Phoenix, AZ 85007 or may be obtained from the American Society for Testing and Materials International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959: "Standard Practice for Subsurface Site Characterization of Test Pits for On-site Septic Systems, D5921-96(2003)e1 (2003)," published by the American Society for Testing and Materials;
 - b. Percolation testing as specified in subsection (F);
 - c. Seepage pit performance testing as specified in subsection (G); or
 - d. Another method of subsurface characterization, approved by the Department, that ensures compliance with water quality standards through proper system location, selection, design, installation, and operation.
 2. Subsurface limiting conditions. The investigator shall determine whether any of the following limiting conditions exist in the primary and reserve areas of the on-site wastewater treatment facility within a minimum of 12

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feet of the land surface or to an impervious soil or rock layer if encountered at a shallower depth:

- a. The soil absorption rate determined under R18-9-A312(D)(2) is:
 - i. More than 1.20 gallons per day per square foot, or
 - ii. Less than 0.20 gallons per day per square foot;
 - b. The vertical separation distance from the bottom of the lowest point of the disposal works to the seasonal high water table is less than the minimum vertical separation specified in R18-9-A312(E)(1);
 - c. Seasonal saturation occurs within surface soils that could affect the performance of the on-site wastewater treatment facility;
 - d. One of the following subsurface conditions that may cause or contribute to the surfacing of wastewater:
 - i. An impervious soil or rock layer,
 - ii. A zone of saturation that substantially limits downward percolation from the disposal works,
 - iii. Soil with more than 50 percent rock fragments;
 - e. One of the following subsurface conditions that promotes accelerated downward movement of insufficiently treated wastewater:
 - i. Fractures or joints in rock that are open, continuous, or interconnected;
 - ii. Karst voids or channels; or
 - iii. Highly permeable materials such as deposits of cobbles or boulders; or
 - f. A subsurface condition that may convey wastewater to a water of the state and cause or contribute to an exceedance of a water quality standard established in 18 A.A.C. 11, Articles 1 and 4.
3. Applicability of subsurface characterization methods. The investigator shall:
- a. For a seepage pit constructed under R18-9-E302, test seepage pit performance using the procedure specified in subsection (G);
 - b. For an on-site wastewater treatment facility other than a seepage pit, characterize soil by using the ASTM method specified in subsection (D)(1)(a) if any of the following site conditions exists:
 - i. The natural surface slope at the intended location of the on-site wastewater treatment facility is greater than 15 percent;
 - ii. Bedrock or similar consolidated rock formation that cannot be excavated with a shovel outcrops on the property or occurs less than 12 feet below the land surface;
 - iii. The native soil at the surface or encountered in a boring, trench, or hole consists of more than 35 percent rock fragments;
 - iv. The seasonal high water table occurs within 12 feet of the natural land surface as encountered in trenches or borings, or evidenced by well records or hydrologic reports;
 - v. Seasonal saturation at the natural land surface occurs as indicated by soil mottling, vegetation adapted to near-surface saturated soils, or springs, seeps, or surface water near enough to the intended location of the on-site wastewater treatment facility to have a connection with potential seasonal saturation at the land surface; or
 - vi. A percolation test yields results outside the limits specified in subsection (D)(2)(a) and (b).
 - c. Percolation testing. The investigator may perform percolation testing as specified in subsection (F):
 - i. To augment another method of subsurface characterization if useful to locate or design an on-site wastewater treatment facility, or
 - ii. As the sole method of subsurface characterization if a subsurface characterization by an ASTM method is not required under subsection (D)(3)(b).
- E. If an ASTM method is used for subsurface characterization, the investigator shall conduct subsurface characterization tests at the site to provide adequate, credible, and representative information to ensure proper location, selection, design, and installation of the on-site wastewater treatment facility. The investigator shall:
1. Select at least two test locations in the primary area and one test location in the reserve area to conduct the tests;
 2. Perform the characterization at each test location at appropriate depths to:
 - a. Establish the wastewater absorption capacity of the soil under R18-9-A312(D), and
 - b. Aid in determining that a sufficient zone of unsaturated flow is provided below the disposal works to achieve necessary wastewater treatment; and
 3. Submit with the site investigation report:
 - a. A log of soil formations for each test location with information on soil type, texture, and classification; percentage of rock; structure; consistence; and mottles;
 - b. A determination of depth to groundwater below the land surface by test trenches or borings, published groundwater data, subdivision reports, or relevant well data; and
 - c. A determination of the water absorption characteristics of the soil, under R18-9-A312(D)(2)(b), sufficient to allow location and design of the on-site wastewater treatment facility.
- F. Percolation testing method for subsurface characterization.
1. Planning and preparation. The investigator shall:
 - a. Select at least two locations in the primary area and at least one location in the reserve area for percolation testing, to provide adequate and credible information to ensure proper location, selection, design, and installation of a properly working on-site wastewater treatment facility;
 - b. Perform percolation testing at each location at intervals in the soil profile sufficient to:
 - i. Establish the wastewater absorption capability of the soil under R18-9-A312(D), and
 - ii. Aid in determining that a sufficient zone of unsaturated flow is provided below the disposal works to achieve necessary wastewater treatment. The investigator shall perform percolation tests at multiple depths if there is an indication of an obvious change in soil characteristics that affect the location, selection, design, installation, or disposal performance of the on-site wastewater treatment facility;
 - c. Excavate percolation test holes in undisturbed soil at least 12 inches deep with dimensions of 12 inches by 12 inches, if square, or a diameter of 15 inches, if

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- round. The investigator shall not alter the structure of the soil during the excavation;
- d. Place percolation test holes away from site or soil features that yield unrepresentative or misleading data pertaining to the location, selection, design, installation, or performance of the on-site wastewater treatment facility;
 - e. Scarify smeared soil surfaces within the percolation test holes and remove any loosened materials from the bottom of the hole; and
 - f. Use buckets with holes in the sides to support the sidewalls of the percolation test hole, if necessary. The investigator shall fill any voids between the walls of the hole and the bucket with pea gravel to reduce the impact of the enlarged hole.
2. Presoaking procedure. The investigator shall:
 - a. Fill the percolation test hole with clean water to a depth of 12 inches above the bottom of the hole;
 - b. Observe the decline of the water level in the hole and record time in minutes for the water to completely drain away;
 - c. Repeat the steps specified in subsection (F)(2)(a) and (b) if the water drains away in less than 60 minutes.
 - i. If the water drains away the second time in less than 60 minutes, the investigator shall repeat the steps specified in subsections (F)(2)(a) and (b).
 - ii. If the water drains away a third time in less than 60 minutes, the investigator shall perform the percolation test by following subsection (F)(3); and
 - d. Add clean water to the hole after 60 minutes and maintain the water at a minimum depth of 9 inches for at least four more hours if it takes 60 minutes or longer for the water to drain away. The investigator shall protect the hole from precipitation and runoff, and perform the percolation test specified in subsection (F)(3) between 16 and 24 hours after presoaking.
 3. Conducting the test. The investigator shall:
 - a. Conduct the percolation test before soil hydraulic conditions established by the presoaking procedure substantially change. The investigator shall remove loose materials in the percolation test hole to ensure that the specified dimensions of the hole are maintained and the infiltration surfaces are undisturbed native soil;
 - b. Fill the test hole to a depth of six inches above the bottom with clean water;
 - c. Observe the decline of the water level in the test hole and record the time in minutes for the water level to fall exactly 1 inch from a fixed reference point. The investigator shall:
 - i. Immediately refill the hole with clean water to a depth of 6 inches above the bottom, and determine and record the time in minutes for the water level to fall exactly 1 inch,
 - ii. Refill the hole again with clean water to a depth of 6 inches above the bottom and determine and record the time in minutes for the water to fall exactly 1 inch, and
 - iii. Ensure that the method for measuring water level depth is accurate and does not significantly affect the percolation rate of the test hole;
 - d. If the percolation rate stabilizes for three consecutive measurements by varying no more than 10 percent, use the highest percolation rate value of the three measurements. If three consecutive measurements indicate that the percolation rate results are not stabilizing or the percolation rate is between 60 and 120 minutes per inch, the investigator shall use an alternate method based on a graphical solution of the test data to approximate the stabilized percolation rate;
 - e. Record the percolation rate results in minutes per inch; and
 - f. Submit the following information with the site investigation report:
 - i. A log of the soil formations encountered for all percolation tests including information on texture, structure, consistence, percentage of rock fragments, and mottles, if present;
 - ii. Whether and which test hole was reinforced with a bucket;
 - iii. The locations, depths, and bottom elevations of the percolation test holes on the site investigation map;
 - iv. A determination of depth to groundwater below the land surface by test trenches or borings, published groundwater data, subdivision reports, or relevant well data; and
 - v. A determination of the water absorption characteristics of the soil, under R18-9-A312(D)(2)(a), sufficient to allow location and design of the on-site wastewater treatment facility.
 - G. Seepage pit performance testing method for subsurface characterization. The investigator shall test seepage pits described in R18-9-E302 as follows:
 1. Planning and Preparation. The investigator shall:
 - a. Identify the disposal areas at the site and drill a test hole at least 18 inches in diameter to the depth of the proposed seepage pit, at least 30 feet deep, and
 - b. Scarify soil surfaces within the test hole and remove loosened materials from the bottom of the hole.
 2. Presoaking procedure. The investigator shall:
 - a. Fill the bottom 6 inches of the test hole with gravel, if necessary, to prevent scouring;
 - b. Fill the test hole with clean water up to 3 feet below the land surface;
 - c. Observe the decline of the water level in the hole and determine the time in hours and minutes for the water to completely drain away;
 - d. Repeat the procedure if the water drains away in less than four hours; If the water drains away the second time in less than four hours, the investigator shall conduct the seepage pit performance test by following subsection (G)(3);
 - e. Add water to the hole and maintain the water at a depth that leaves at least the top 3 feet of hole exposed to air for at least four more hours if the water drains away in four or more hours; and
 - f. Not remove the water from the hole before the seepage pit performance test if there is standing water in the hole after at least 16 hours of presoaking.
 3. Conducting the test. The investigator shall:

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- a. Fill the test hole with clean water up to 3 feet below land surface;
 - b. Observe the decline of the water level in the hole and determine and record the vertical distance to the water level from a fixed reference point every 10 minutes. The investigator shall ensure that the method for measuring water level depth is accurate and does not significantly affect the rate of fall of the water level in the test hole;
 - c. Measure the decline of the water level continually until three consecutive 10-minute measurements indicate that the infiltration rates are within 10 percent. If measurements indicate that infiltration is not approaching a steady rate or if the rate is close to a numerical limit specified in R18-9-A312(E)(1), the investigator shall use, as an alternate method based on a graphical solution of the test data to approximate the final stabilized infiltration rate;
 - d. Percolation test rate. Calculate the stabilized infiltration rate for a seepage pit determined by the test hole procedure specified in subsection (G)(1)(a) using the formula $P = (15 / DS) \times IS$ to determine an equivalent percolation test rate. Once "P" is determined, the investigator shall use R18-9-A312(D)(2)(a) to establish the design SAR for wastewater treated under R18-9-E302 and to calculate the required minimum sidewall area for the seepage pit using the equation specified in R18-9-E302(C)(5)(k).
 - i. "P" is the percolation test rate (minutes per inch) tabulated in the first column of the table in R18-9-A312(D)(2)(a),
 - ii. "DS" is the diameter of the seepage pit test hole in inches, and
 - iii. "IS" is the seepage pit stabilized infiltration rate (minutes per inch) determined by the procedure specified in R18-9-A310(G)(3)(c);
 - e. Submit the following information with the site investigation report:
 - i. The results of the seepage pit performance testing including data, calculations, and findings on a form provided by the Department;
 - ii. The log of the test hole indicating lithologic characteristics and points of change;
 - iii. The location of the test hole on the site investigation map;
 - iv. A determination of depth to groundwater below the land surface by borings, published groundwater data, subdivision reports, or relevant well data.
 - f. Fill the test hole so that groundwater quality and public safety are not compromised if the seepage pit is drilled elsewhere or if a seepage pit cannot be sited at the location because of unfavorable test results.
- H. Qualifications.** An investigator shall not perform a site investigation under this Section unless the investigator has knowledge and competence in the subject area and is licensed in good standing or otherwise qualified in one of the following categories:
1. Arizona-registered professional engineer,
 2. Arizona-registered geologist,
 3. Arizona-registered sanitarian,
 4. A certificate of training from a course recognized by the Department as sufficiently covering the information specified in this Section, or
 5. Qualifies under another category designated in writing by the Department.
- Historical Note**
- New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3). Amended by final rulemaking at 29 A.A.R. 1023 (May 12, 2023), effective June 19, 2023 (Supp. 23-2).
- R18-9-A311. Facility Selection for Type 4 On-site Wastewater Treatment Facilities**
- A.** A person shall select, design, and install an on-site wastewater treatment facility that is appropriate for the site's geographic location, setback limitations, slope, topography, drainage and soil characteristics, wastewater infiltration capability, depth to the seasonal high water table, and any surface or subsurface limiting condition.
1. A person may use on-site treatment and disposal technologies covered by a Type 4 General Permit alone or in combination with another Type 4 General Permit to overcome site limitations.
 2. An applicant may submit a single Notice of Intent to Discharge for an on-site wastewater treatment facility consisting of components or technologies covered by multiple general permits if the information submittal requirements of all the general permits are met.
 3. The Director shall issue a single Construction Authorization under R18-9-A301(D)(1) and a single Discharge Authorization under R18-9-A301(D)(2) for an on-site wastewater treatment facility that consists of components or technologies covered by multiple general permits.
 4. If either a septic tank or disposal method, or both, as identified in R18-9-E302, is appropriately used in combination with an alternative technology listed under R18-9-E303 through R18-9-E322, the applicant shall apply the design requirements specified in R18-9-E302, except that the specific requirements for R18-9-E303 through R18-9-E323, as applicable, supersede requirements in R18-9-E302 if the rules conflict. If additional modifications are necessary and appropriate to ensure adequate treatment, the applicant may request review under R18-9-A312(G) to allow the Department to approve the application.
- B.** A person may install a septic tank and disposal works system described in R18-9-E302 as the sole method of wastewater treatment and disposal at a site if the site investigation conducted under R18-9-A310 indicates that no limiting condition identified under R18-9-A310(C) or R18-9-A310(D) exists at the site.
1. A person may install a seepage pit only in valley-fill sediments in a basin-and-range alluvial basin and only if the seepage pit performance test results meet the criteria specified in R18-9-A312(E).
 2. The person shall specify in the Notice of Intent to Discharge that no limiting conditions described in R18-9-A310(C) and (D) were identified at the site.
- C.** If any surface or subsurface limiting condition is identified in the site investigation report, an applicant may propose installation of a septic tank and disposal works system described in R18-9-E302 as the sole method of wastewater treatment and disposal at a facility only if:

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1. The applicant submits information under R18-9-A312(G) that describes:
 - a. How the design of the septic tank and disposal works system specified in R18-9-E302 was modified to overcome limiting conditions;
 - b. How the modified design meets the criteria of R18-9-A312(G)(3); and
 - c. A site-specific SAR under R18-9-A312(D)(2)(a) or (b), as applicable; and
 2. None of the following surface or subsurface limiting conditions are identified at the site:
 - a. An outcropping of rock that cannot be excavated or will impair the function of soil receiving the discharge exists in the intended location of the on-site wastewater treatment facility, as described in R18-9-A310(C)(2)(e);
 - b. The vertical separation distance from the bottom of the lowest point of the disposal works to the seasonal high water table is less than the minimum vertical separation distance, as described in R18-9-A310(D)(2)(b); or
 - c. A subsurface condition that promotes accelerated downward movement of insufficiently treated wastewater as described in R18-9-A310(D)(2)(e).
- D.** If a site can accommodate a septic tank and disposal system described in R18-9-E302, the applicant shall not install a treatment works or disposal works described in R18-9-E303 through R18-9-E322 unless the applicant submits a statement to the Department with the Notice of Intent to Discharge acknowledging the following:
1. The applicant is aware that although a septic tank and disposal works system described in R18-9-E302 is appropriate for the site, the applicant desires to install a treatment works or disposal works authorized under R18-9-E303 through R18-9-E322; and
 2. The applicant is aware that a treatment works or disposal works authorized under R18-9-E303 through R18-9-E322 may result in higher capital, operation, and maintenance costs than a septic tank and disposal works system described in R18-9-E302.
- Historical Note**
- New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3). Amended by final rulemaking at 29 A.A.R. 1023 (May 12, 2023), effective June 19, 2023 (Supp. 23-2).
- R18-9-A312. Facility Design for Type 4 On-site Wastewater Treatment Facilities**
- A.** General design requirements. An applicant shall ensure that the person designing an on-site wastewater treatment facility:
1. Signs the design documents submitted as part of the Notice of Intent to Discharge to obtain a Construction Authorization, including plans, specifications, drawings, reports, and calculations; and
 2. Locates and designs the on-site wastewater treatment facility project using good design judgment and relies on appropriate design methods and calculations.
- B.** Design considerations and flow determination. An applicant shall ensure that the person designing the on-site wastewater treatment facility shall:
1. Design the facility to satisfy a 20-year operational life;
 2. Design the facility based on the provisions of one or more of the general permits in R18-9-E302 through R18-9-E322 for facilities with a design flow of less than 3000 gallons per day, and R18-9-E323 for facilities with a design flow of 3000 gallons per day to less than 24,000 gallons per day;
 3. Design the facility based on the facility's design flow and wastewater characteristics as specified in R18-9-A309(A)(7), (10) and (11) and R18-9-A309(B)(3);
 4. For on-site wastewater treatment facilities permitted under R18-9-E303 through R18-9-E323, apply the following design requirements, as applicable:
 - a. Include the power source and power components in construction drawings if electricity or another type of power is necessary for facility operation;
 - b. If a hydraulic analysis is required under subsection (E), perform the analysis based on the location and dimensions of the bottom and sidewall surfaces of the disposal works that are identified in the design documentation;
 - c. Design components, piping, ports, seals, and appurtenances to withstand installation loads, internal and external operational loads, and buoyant forces. Design ports for resistance against movement, and cap or cover openings for protection from damage and entry by rodents, mosquitoes, flies, or other organisms capable of transporting a disease-causing organism;
 - d. Design tanks, liners, ports, seals, piping to and within the facility, and appurtenances for watertightness under all operational conditions;
 - e. Provide adequate storage capacity above high operating level to:
 - i. Accommodate a 24-hour power or pump outage, and
 - ii. Contain wastewater that is incompletely treated or cannot be released by the disposal works to the native soil;
 - f. If a fixed media process is used, provide in the construction drawings the media material, installation specification, media configuration, and wastewater loading rate of the media at the daily design flow;
 - g. Provide a fail-safe wastewater control or operational process, if required by the general permit to prevent discharge of inadequately treated wastewater; and
 - h. Reference design. If using a reference design on file with the Department, indicate the reference design within the information submitted with the Notice of Intent to Discharge.
- C.** Setbacks. The following setbacks apply unless the Department:
1. Specifies alternative setbacks under Article 3, Part E of this Chapter;
 2. Approves a different setback under the procedure specified in subsection (G); or
 3. Establishes a more stringent setback on a site- or area-specific basis to ensure compliance with water quality standards.

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Features Requiring Setbacks	Setback For An On-Site Wastewater Treatment Facility, Including Reserve Area (In Feet)	Special Provisions
1. Building	10	Includes porches, decks (including pool decks), and steps (covered or uncovered), breezeways, roofed patios, carports, covered walks, and similar structures and appurtenances.
2. Property line shared with any adjoining lot or parcel not served by a common drinking water system* or an existing water well	50	A person may reduce the setback to a minimum of 5 feet from the property line if: a. The owners of any affected undeveloped adjacent properties agree, as evidenced by an appropriately recorded document, to limit the location of any new well on their property to at least 100 feet from the proposed treatment works and primary and reserve disposal works; and b. The arrangements and documentation are approved by the Department.
3. All other property lines	5	None
4. Public or private water supply well	100	None
5. Perennial or intermittent stream	100	Measured horizontally from the high water line of the peak streamflow from a 10-year, 24-hour rainfall event.
6. Lake, reservoir, or canal	100	Measured horizontally from the high water line from a 10-year, 24-hour rainfall event at the lake or reservoir and measured horizontally from the edge of the canal.
7. Drinking water intake from a surface water source (includes an open water body, downslope spring or a well tapping stream-side saturated alluvium)	200	Measured horizontally from the on-site wastewater treatment facility to the structure or mechanism for withdrawing raw water such as a pipe inlet, grate, pump, intake or diversion box, spring box, well, or similar structure.
8. Wash or drainage easement with a drainage area of more than 20 acres	50	Measured horizontally from the nearest edge of the defined natural channel bank or drainage easement boundary. A person may reduce the setback to 25 feet if natural or constructed erosion protection is approved by the appropriate flood plain administrator.
9. Water main or branch water line	10	None
10. Domestic service water line (including domestic water holding tanks)	5	Measured horizontally between the water line and the wastewater pipe, except that the following are allowed: a. A water line may cross above a wastewater pipe if the crossing angle is between 45 and 90 degrees and the vertical separation distance is 1 foot or more. b. A water line may parallel a wastewater pipe with a horizontal separation distance of 1 foot to 5 feet if the bottom of the water line is 1 foot or more above the top of the wastewater pipe and is in a separate trench or on a bench in the same trench.

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11. Downslopes or cut banks greater than 15 percent, culverts, and ditches from:		
a. Treatment works components	10	Measured horizontally from the bottom of the treatment works component to the closest point of daylighting on the surface.
b. Trench, bed, chamber technology, or gravelless trench with:		Measured horizontally from the bottom of the lowest point of the disposal pipe or drip lines, as applicable, to the closest point of daylighting on the surface.
i. No limiting subsurface condition specified in R18-9-A310(D)(2),	20	
ii. A limiting subsurface condition.		
c. Subsurface drip lines.	50	
	3	Measured horizontally from the bottom of the lowest point of the disposal pipe or drip lines, as applicable, to the closest point of daylighting on the surface.
12. Driveway	5	Measured horizontally to the nearest edge of an on-site wastewater treatment facility excavation. A person may place a properly reinforced and protected wastewater treatment facility, except for disposal works, at any location relative to a driveway if access openings, risers, and covers carry the design load and are protected from inflow.
13. Swimming pool excavation	5	Except if soil loading or stability concerns indicate the need for a greater separation distance.
14. Easement (except drainage easement)	5	None
15. Earth fissures	100	None
* A "common drinking water system" means a system that currently serves or is under legal obligation to serve the property and may include a drinking water utility, a well-sharing agreement, or other viable water supply agreement.		

D. Soil absorption rate (SAR) and disposal works sizing.

1. An applicant shall determine the soil absorption area by dividing the design flow by the applicable soil absorption rate. If soil characterization and percolation test methods yield different SAR values or if multiple applications of the same approach yield different values, the designer of the disposal works shall use the lowest SAR value unless a higher SAR value is proposed and justified to the

Department's satisfaction in the Notice of Intent to Discharge.

2. The SAR used to calculate disposal works size for systems described in R18-9-E302 is as follows:
 - a. The SAR by percolation testing as described in R18-9-A310(F) or (G), as applicable, is determined as follows:

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Percolation Rate from Percolation Test (minutes per inch)	SAR, Trench, Chamber, and Pit (gal/day/ft ²)	SAR, Bed (gal/day/ft ²)
Less than 1.00	A site-specific SAR is required	A site-specific SAR is required
1.00 to less than 3.00	1.20	0.93
3.00	1.10	0.73
4.00	1.00	0.67
5.00	0.90	0.60
7.00	0.75	0.50
10.0	0.63	0.42
15.0	0.50	0.33
20.0	0.44	0.29
25.0	0.40	0.27
30.0	0.36	0.24
35.0	0.33	0.22
40.0	0.31	0.21
45.0	0.29	0.20
50.0	0.28	0.19
55.0	0.27	0.18
55.0+ to 60.0	0.25	0.17
60.0+ to 120	0.20	0.13
Greater than 120	A site-specific SAR is required	A site-specific SAR is required

- b. The SAR using the soil evaluation method described in R18-9-A310(E) is determined by answering the questions in the following table. The questions are read in sequence starting with "A." The first "yes" answer determines the SAR. A seepage pit is

required to determine percolation rate under the procedure described in R18-9-A310(G) and would only use this table to augment the percolation test results, if appropriate.

Sequence of Soil Characteristics Questions	SAR, Trench, Chamber, and Pit gal/day/ft ²	SAR, Bed gal/day/ft ²
A. Is the horizon gravelly coarse sand or coarser?	A site-specific SAR is required	A site-specific SAR is required
B. Is the structure of the horizon moderate or strongly platy?	A site-specific SAR is required	A site-specific SAR is required
C. Is the texture of the horizon sandy clay loam, clay loam, silty clay loam, or finer and the soil structure weak platy?	A site-specific SAR is required	A site-specific SAR is required
D. Is the moist consistence stronger than firm or any cemented class?	A site-specific SAR is required	A site-specific SAR is required
E. Is the texture sandy clay, clay, or silty clay of high clay content and the structure massive or weak?	A site-specific SAR is required	A site-specific SAR is required
F. Is the texture sandy clay loam, clay loam, silty clay loam, or silt loam and the structure massive?	A site-specific SAR is required	A site-specific SAR is required
G. Is the texture of the horizon loam or sandy loam and the structure massive?	0.20	0.13
H. Is the texture sandy clay, clay, or silty clay of low clay content and the structure moderate or strong?	0.20	0.13

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I. Is the texture sandy clay loam, clay loam, or silty clay loam and the structure weak?	0.20	0.13
J. Is the texture sandy clay loam, clay loam, or silty clay loam and the structure moderate or strong?	0.40	0.27
K. Is the texture sandy loam, loam, or silty loam and the structure weak?	0.40	0.27
L. Is the texture sandy loam, loam, or silt loam and the structure moderate or strong?	0.60	0.40
M. Is the texture fine sand, very fine sand, loamy fine sand, or loamy very fine sand?	0.40	0.27
N. Is the texture loamy sand or sand?	0.80	0.53
O. Is the texture coarse sand?	1.20	A site-specific SAR is required

- c. If the percolation rate determined under R18-9-A310(F) or (G), whichever is applicable, is a value that lies between two consecutive percolation rate values listed in subsection (2)(a), the applicant must use the higher of the two listed percolation rates to obtain the most conservative SAR.
3. For an on-site wastewater treatment facility described in a general permit other than R18-9-E302, the SAR is dependent on the ability of the facility to reduce the level of TSS and BOD₅ and is calculated using the following formula:

$$SAR_a = \left[\left(\frac{11.39}{\sqrt[3]{TSS + BOD_5}} - 1.87 \right) SAR^{1.13} + 1 \right] SAR$$

- a. "SAR_a" is the adjusted soil absorption rate for disposal works design in gallons per day per square foot,
- b. "TSS" is the total suspended solids in wastewater delivered to the disposal works in milligrams per liter,
- c. "BOD₅" is the five-day biochemical oxygen demand of wastewater delivered to the disposal works in milligrams per liter, and
- d. "SAR" is the soil absorption rate for septic tank effluent determined by the subsurface characterization method described in R18-9-A310.

4. An applicant shall ensure that the facility is designed so that the area of the intended installation is large enough to allow for construction of the facility and for future replacement or repair and is at least as large as the following:
- a. For a dwelling, a primary area for the disposal works sized according to subsection (D)(1) and a reserve area of 100 percent of the primary area, excluding the footprint of the treatment works. A reserve area is not required for a lot in a subdivision approved before 1974 if the lot conforms to its original approved configuration;
- b. For other than a dwelling, a primary area for the disposal works sized according to subsection (D)(1) and a reserve area of 100 percent of the primary area, excluding the footprint of the treatment works.
5. An applicant shall ensure that the subsurface disposal works is designed to achieve the design flow established in R18-9-A309(B)(3) through proper hydraulic function, including conditions of seasonally cold and wet weather.
- E. Vertical separation distances.
1. Minimum vertical separation to the seasonal high water table for a disposal works described in R18-9-E302 receiving septic tank effluent. For a disposal works described in R18-9-E302 receiving septic tank effluent at a facility where the septic tank and disposal system described in R18-9-E302 is the sole method of treatment and disposal of wastewater, the minimum vertical separation distance between the lowest point in the disposal works and the seasonal high water table is dependent on the soil absorption rate and is determined as follows:

Soil Absorption Rate (gallons per day per square foot)			Minimum Vertical Separation Between The Bottom Of The Disposal Works And The Seasonal High Water Table (feet)	
Trench and Chamber	Bed	Seepage Pit	Trench, Chamber, and Bed	Seepage Pit
1.20+	0.93+	1.20+	Not allowed for septic tank effluent	Not Allowed
0.63+ to 1.20	0.42 to 0.93	0.63+ to 1.20	10	60
0.20 to 0.63	0.13 to 0.42	0.36 to 0.63	5	60
Less than 0.20	Less than 0.13	Less than 0.36	Not allowed for septic tank effluent	Not Allowed

2. Minimum vertical separation to the seasonal high water table for treatment and disposal works technologies

described in R18-9-E303 through R18-9-E322. If the minimum vertical separation distance to the seasonal high

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water table for a disposal works receiving septic tank effluent specified in subsection (E)(1) is not met, the applicant shall comply with the following:

- a. Employ one or more technologies described in R18-9-E303 through R18-9-E322 to achieve a reduced concentration of harmful microorganisms, expressed as total coliform in colony forming units per 100 milliliters (cfu/100 ml) delivered to native soil at the

bottom of the disposal works. The applicant shall use the following table to select works that achieve a reduced total coliform concentration corresponding to the available vertical separation distance between the bottom of the disposal works and the seasonal high water table:

Available Vertical Separation Distance Between the Bottom of The Disposal Works and the Seasonal High Water Table (feet)		Maximum Allowable Total Coliform Concentration, 95 th Percentile, Delivered to Natural Soil by the Disposal Works (Log ₁₀ of coliform concentration in cfu per 100 milliliters)
For SAR*, 0.20 to 0.63	For SAR*, 0.63+ to 1.20	
5	10	8**
4	8	7
3.5	7	6
3	6	5
2.5	5	4
2	4	3
1.5	3	2
1	2	1
0	0	0***

* Soil absorption rate from percolation testing or soil characterization, in gallons per square foot per day.

** Nominal value for a standard septic tank and disposal field (10⁸ colony forming units per 100 ml).

*** Nominally free of coliform bacteria.

- b. Include a hydraulic analysis with the Notice of Intent to Discharge, based on the dimensions of the absorption surfaces specified in R18-9-A312(B)(4)(b), showing that the soil is sufficiently permeable to conduct wastewater downward and laterally without surfacing for the site conditions at the disposal works.
3. Vertical separation from a subsurface limiting condition described in R18-9-A310(D)(2)(d) that may cause or contribute to surfacing of wastewater. If a subsurface limiting condition described in R18-9-A310(D)(2)(d) exists at the location of the disposal works, the applicant shall ensure that the design for the on-site wastewater treatment facility meets one of the following:
 - a. A zone of acceptable native soil with the following characteristics exists between the bottom of the disposal works and the top of the subsurface limiting condition:
 - i. The zone of soil is at least 4 feet thick, and
 - ii. The zone of soil is sufficiently permeable to conduct wastewater released from the disposal works vertically downward and laterally without causing surfacing of the wastewater as documented by a hydraulic analysis submitted with the Notice of Intent to Discharge that is based on the dimensions of the absorption surfaces specified in R18-9-A312(B)(4)(b);
 - b. The subsurface limiting condition is thin enough to allow placement of a disposal works into acceptable native soil beneath the subsurface limiting condition if the following criteria are met:
 - i. The bottom of the subsurface limiting condition is not deeper than 10 feet below the land surface, and
 - ii. The vertical separation distance from the bottom of the disposal works to the seasonal high water table complies with subsection (E)(1) or (2), as applicable; or
- c. If the disposal works is placed above the subsurface limiting condition and the depth to the subsurface limiting condition is less than 4 feet below the bottom of the disposal works, the design for the on-site wastewater treatment facility shall comply with all of the following:
 - i. Employ one or more technologies described in R18-9-E303 through R18-9-E322 to achieve a reduced concentration of harmful microorganisms, expressed as total coliform in colony forming units per 100 milliliters (cfu/100 ml), delivered to acceptable native soil at the bottom of the disposal works, as follows:

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Available Vertical Separation Distance from the Bottom of the Disposal Works to the Subsurface Limiting Condition (feet)	Maximum Allowable Total Coliform Concentration, 95 th Percentile, Delivered to Acceptable Native Soil by the Disposal Works (Log ₁₀ of coliform concentration in cfu per 100 milliliters)
3.5	7
3	6
2.5	5
2	4
1.5	0*
1	0*
0.5	0*
0	0*

* Nominally free of coliform bacteria.

- ii. Include a hydraulic analysis with the Notice of Intent to Discharge, based on the location and dimensions of the absorption surfaces specified in R18-9-A312(B)(4)(b), showing that the soil is sufficiently permeable to conduct wastewater vertically downward and laterally without surfacing for the site conditions at the disposal works; and
 - iii. If a disinfection device under R18-9-E320 is proposed but is not used with surface disposal of wastewater under R18-9-E321 or "Category A" drip irrigation disposal under R18-9-E322, provide a justification with the Notice of Intent to Discharge stating why the selected type of disposal works is favored over disposal under R18-9-E321 or R18-9-E322.
 4. Vertical separation from a subsurface limiting condition described in R18-9-A310(D)(2)(e) that promotes accelerated downward movement of insufficiently treated wastewater. If a subsurface limiting condition described in R18-9-A310(D)(2)(e) exists at the location of the proposed disposal works, the applicant shall ensure that the design for the on-site wastewater treatment facility meets one of the following:
 - a. A zone of naturally occurring soil with the following characteristics exists between the bottom of the disposal works and the top of the subsurface limiting condition:
 - i. The zone of soil is at least 2 feet thick, and
 - ii. The SAR of the soil is not less than 0.20 gallons per day per square foot nor more than 1.20 gallons per day per square foot; or
 - b. The on-site wastewater treatment facility employs one or more technologies described in R18-9-E303 through R18-9-E322 that produces treated wastewater that meets a total coliform concentration of 1,000,000 (Log₁₀6) colony forming units per 100 milliliters, 95th percentile.
- F. Materials and manufactured system components.**
1. Materials. An applicant shall use aggregate if no specification for disposal works material is provided in this Article.
 2. Manufactured components. If manufactured components are used, an applicant shall design, install, and operate the on-site wastewater treatment facility following the manufacturer's specifications. The applicant shall ensure that:
 - a. Treatment and containment components, mechanical equipment, instrumentation, and controls have monitoring, inspection, access and cleanout ports or covers, as appropriate, for monitoring and service;
 - b. Treatment and containment components, pipe, fittings, pumps, and related components and controls are durable, watertight, structurally sound, and capable of withstanding stress from installation and operational service; and
 - c. Distribution lines for disposal works are constructed of perforated high density polyethylene pipe, perforated ABS pipe, perforated PVC pipe, or other pipe material, if the pipe is suitable for wastewater disposal use and sufficient openings are available for distribution of the wastewater into the trench or bed area.
 3. Electronic components. When electronic components are used, the applicant shall ensure that:
 - a. The component connections are compliant with the electrical code encompassed in the local building codes applicable in the county in which the facility is installed, except as required for a pressure distribution system under R18-9-E304(D)(2)(e);
 - b. Instructions and a wiring diagram are mounted on the inside of a control panel cover;
 - c. The control panel is equipped with a multimode operation switch, red alarm light, buzzer, and reset button;
 - d. The multimode operation switch operates in the automatic position for normal system operation; and
 - e. An anomalous condition is indicated by a glowing alarm light and sounding buzzer. The continued glowing of the alarm light after pressing the reset button shall signal the need for maintenance or repair of the system at the earliest practical opportunity.
 4. If a conflict exists between this Article and the manufacturer's specifications, the requirements of this Article apply. Except for the requirements in subsection (D) and (E), which always apply, if the conflict voids a manufacturer's warranty, the applicant may submit a request under subsection (G) justifying use of the manufacturer's specifications.

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G. Alternative design, setback, installation, or operational features. When an applicant submits a Notice of Intent to Discharge, the applicant may request that the Department review and approve a feature of improved or alternative technology, design, setback, installation, or operation that differs from a general permit requirement in this Article. Designs incorporating alternative features already approved in a current listing on the “proprietary and other reviewed product list” pursuant to R18-9-A309(E) do not need additional approval under this subsection for only those specific alternative features already approved in the proprietary products listing.

1. The applicant shall make the request for an improved or alternative feature of technology, design, setback, installation, or operation on a form provided by the Department and include:
 - a. A description of the requested change;
 - b. A citation to the applicable feature or technology, design, setback, installation, or operational requirement for which the change is being requested; and
 - c. Justification for the requested change, including any necessary supporting documentation.
2. The applicant shall submit the appropriate fee specified under 18 A.A.C. 14 for each requested change. For purposes of calculating the fee, a requested change that is applied multiple times in a similar manner throughout the facility is considered a single request if submitted for concurrent review.
3. The applicant shall provide sufficient information for the Department to determine that the change achieves equal or better performance compared with the general permit requirement, or addresses site or system conditions more satisfactorily than the requirements of this Article.
4. The Department shall review and may approve the request for change.
5. The Department shall deny the request for the change if the change will adversely affect other permittees or cause or contribute to a violation of an Aquifer Water Quality Standard.
6. The Department shall deny the request for the change if the change:
 - a. Fails to achieve equal or better performance compared to the general permit requirement;
 - b. Fails to address site or system conditions more satisfactorily than the general permit requirement;
 - c. Is insufficiently justified based on the information provided in the submittal;
 - d. Requires excessive review time, research, or specialized expertise by the Department to act on the request; or
 - e. For any other justifiable cause.
7. The Department may approve a reduced setback for a facility authorized to discharge under one or more of the general permits in R18-9-E302 through R18-9-E323, either separately or in combination, if the applicant additionally demonstrates at least one of the following:
 - a. The treatment performance is significantly better than that provided under R18-9-E302(B),
 - b. The wastewater loading rate is reduced, or
 - c. Surface or subsurface characteristics ensure that reduced setbacks are protective of human health or water quality.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended to

correct a manifest typographical error in subsection (E)(1) (Supp. 01-1). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3). Amended by final rulemaking at 29 A.A.R. 1023 (May 12, 2023), effective June 19, 2023 (Supp. 23-2).

R18-9-A313. Facility Installation, Operation, and Maintenance for On-site Wastewater Treatment Facilities

- A.** Facility installation. In addition to installation requirements in the general permit, the applicant shall ensure that the following tasks are performed, as applicable:
1. The facility is installed as described in design documents submitted with the Notice of Intent to Discharge;
 2. Components are installed on a firm foundation that supports the components and operating loads;
 3. The site is prepared to protect native soil beneath the soil absorption area and in adjacent areas from compaction, prevent smeared absorption surfaces, minimize disturbances from grubbing, and otherwise preclude damage to the disposal area that would impair performance;
 4. Components are protected from damage at the construction site and installed in conformance with the manufacturer’s instructions if consistent with this Article;
 5. Treatment media are placed to achieve uniform density, prevent differential settling, produce a level inlet surface unless otherwise specified by the manufacturer, and avoid introduction of construction contaminants;
 6. Backfill is placed to prevent damage to geotextile, liners, tanks, and other components;
 7. Soil cover is shaped to shed rainfall away from the backfill areas and prevent ponding of runoff; and
 8. Anti-buoyancy measures are implemented during construction if temporary saturated backfill conditions are anticipated during construction.
- B.** Operation and maintenance. In addition to operation and maintenance requirements in the general permit or specified in the operation and maintenance manual, the permittee shall ensure that the following tasks are performed, as applicable:
1. Pump accumulated residues, inspect and clean wastewater treatment and distribution components, and manage residues to protect human health and the environment;
 2. Clean, backwash, or replace effluent filters according to the manufacturer’s instructions, and manage residues to protect human health and the environment;
 3. Inspect and clean the effluent baffle screen and pump tank, and properly dispose of cleaning residue;
 4. Clean the dosing tank effluent screen, pump switches, and floats, and properly dispose of cleaning residue;
 5. Flush lateral lines and return flush water to the pretreatment headworks;
 6. Inspect, remove and replace, if necessary, and properly dispose of filter media;
 7. Rod pressurized wastewater delivery lines and secondary distribution lines (for dosing systems), and return cleaning water to the pretreatment headworks;
 8. Inspect and clean pump inlets and controls and return cleaning water to the pretreatment headworks;
 9. Implement corrective measures if anomalous ponding, dryness, noise, odor, or differential settling is observed;
 10. Inspect and monitor inspection and access ports, as applicable, to verify that operation is within expected limits for:
 - a. Influent wastewater quality;
 - b. The pressurized dosing system;
 - c. The aggregate infiltration bed and mound system;

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- d. Wastewater delivery and the engineered pad;
- e. The pressurized delivery system, filter, underdrain, and native soil absorption system;
- f. Saturation condition status in peat and other media; and
- g. Treatment system components;
- 11. Inspect tanks, liners, ports, seals, piping, and appurtenances for watertightness under all operational conditions;
- 12. Manage vegetation in areas that contain components subject to physical impairment or damage due to root invasion or animals;
- 13. Maintain drainage, berms, protective barriers, cover materials, and other features; and
- 14. Maintain the usefulness of the reserve area to allow for repair or replacement of the on-site wastewater treatment facility.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-A314. Septic Tank Design, Manufacturing, and Installation for On-site Wastewater Treatment Facilities

A person shall not install a septic tank in an on-site wastewater treatment facility unless the tank meets the following requirements:

1. The tank is:
 - a. Designed to produce a clarified effluent and provide adequate space for sludge and scum accumulations;
 - b. Watertight and constructed of solid durable materials not subject to excessive corrosion or decay;
 - c. Manufactured with at least two compartments unless two separate structures are placed in series. The tank is designed so that:
 - i. The inlet compartment of any septic tank not placed in series is nominally 67 percent to 75 percent of the total required capacity of the tank,
 - ii. Septic tanks placed in series are considered a unit and meet the same criteria as a single tank,
 - iii. The liquid depth of the septic tank is at least 42 inches, and
 - iv. A septic tank of 1000 gallon capacity is at least 8 feet long and the tank length of septic tanks of greater capacity is at least 2 times but not more than 3 times the width;
 - d. Manufactured with at least two access openings to the tank interior, each at least 20 inches in diameter. The tank is designed so that:
 - i. One access opening is located over the inlet end of the tank and one access opening is located over the outlet end;
 - ii. Whenever a first compartment exceeds 12 feet in length, another access opening is provided over the baffle wall; and
 - iii. Access openings and risers are constructed to ensure accessibility within 6 inches below finished grade;
 - e. Manufactured so that the sewage inlet and wastewater outlet openings are not smaller than the connecting sewer pipe. The tank is designed so that:
 - i. The vertical leg of round inlet and outlet fittings is at least 4 inches but not smaller than the connecting sewer pipe, and
 - ii. A baffle fitting has the equivalent cross-sectional area of the connecting sewer pipe and not less than a 4 inch horizontal dimension if measured at the inlet and outlet pipe inverts;
 - f. Manufactured so that the inlet and outlet pipe or baffle extends 4 inches above and at least 12 inches below the water surface when the tank is installed according to the manufacturer's instructions consistent with this Chapter. The invert of the inlet pipe is at least 2 inches above the invert of the outlet pipe;
 - g. Manufactured so that the inlet and outlet fittings or baffles and compartment partitions have a free vent area equal to the required cross-sectional area of the connected sewer pipe to provide free ventilation above the water surface from the disposal works or seepage pit through the septic tank, house sewer, and stack to the outer air;
 - h. Manufactured so that the open space extends at least 9 inches above the liquid level and the cover of the septic tank is at least 2 inches above the top of the inlet fitting vent opening;
 - i. Manufactured so that partitions or baffles between compartments are of solid durable material (wooden baffles are prohibited) and extend at least 4 inches above the liquid level. The open area of the baffle shall be between one and 2 times the open area of the inlet pipe or horizontal slot and located at the midpoint of the liquid level of the baffle. If a horizontal slot is used, the slot shall be no more than 6 inches in height;
 - j. Structurally designed to withstand all anticipated earth or other loads. The tank is designed so that:
 - i. All septic tank covers are capable of supporting an earth load of 300 pounds per square foot; and
 - ii. If the top of the tank is greater than 2 feet below finish grade, the septic tank and cover are capable of supporting an additional load of 150 pounds per square foot for each additional foot of cover;
 - k. Manufactured or installed so that the influent and effluent ends of the tank are clearly and permanently marked on the outside of the tank with the words "INLET" or "IN," and "OUTLET" or "OUT," above or to the right or left of the corresponding openings; and
 - l. Clearly and permanently marked with the manufacturer's name or registered trademark, or both, the month and year, or Julian date, of manufacture, the maximum recommended depth of earth cover in feet, and the design liquid capacity of the tank. The tank is manufactured to protect the markings from corrosion so that they remain permanent and readable for the operational life of the tank.
2. Materials used to construct or manufacture septic tanks.
 - a. A septic tank cast-in-place at the site of use shall be protected from corrosion by coating the tank with a bituminous coating, by constructing the tank using a concrete mix that incorporates 15 percent to 18 percent fly ash, or by any other Department-approved means. The tank is designed so that:

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- i. The coating extends at least 4 inches below the wastewater line and covers all of the internal area above that point; and
 - ii. A septic tank cast-in-place complies with the “Building Code Requirements for Structural Concrete and Commentary ACI 318-02/318R-02 (2002),” and the “Code Requirements for Environmental Engineering Concrete Structures and Commentary, ACI 350/350R-01 (2001),” published by the American Concrete Institute. This material is incorporated by reference and does not include any later amendments or editions of the incorporated material. Copies of the incorporated material are available for inspection at the Arizona Department of Environmental Quality, 1110 W. Washington Street, Phoenix, AZ 85007 or may be obtained from American Concrete Institute, P.O. Box 9094, Farmington Hills, MI 48333-9094.
 - b. A steel septic tank shall have a minimum wall thickness of No. 12 U.S. gauge steel and be protected from corrosion, internally and externally, by a bituminous coating or other Department-approved means.
 - c. A prefabricated concrete septic tank shall meet the “Standard Specification for Precast Concrete Septic Tanks, C1227-20,” published by the American Society for Testing and Materials. This information is incorporated by reference and does not include any later amendments or editions of the incorporated material. Copies of the incorporated material are available for inspection at the Arizona Department of Environmental Quality, 1110 W. Washington Street, Phoenix, AZ 85007 or may be obtained from the American Society for Testing and Materials International West.
 - d. A septic tank manufactured using fiberglass or thermoplastic shall meet the requirements set forth in “Prefabricated Septic Tanks – IAPMO/ANSI Z1000-2019,” published by the International Association of Plumbing and Mechanical Officials. This information is incorporated by reference, does not include any later amendments or editions of the incorporated material, and may be viewed at the Arizona Department of Environmental Quality, 1110 W. Washington Street, Phoenix, AZ 85007 or obtained from International Association of Plumbing and Mechanical Officials, 4755 E. Philadelphia Street, Ontario, CA 917761.
3. Conformance with design, materials, and manufacturing requirements.
 - a. If any conflict exists between this Article and the information incorporated by reference in subsection (2), the requirements of this Article apply.
 - b. The Department may approve use of alternative construction materials under R18-9-A312(G). Tanks constructed of wood, block, or bare steel are prohibited.
 - c. The Department may inspect septic tanks at the site of manufacturing to verify compliance with subsections (1) and (2).
 - d. The septic tank sale documentation includes:
 - i. A certificate attesting that the septic tank conforms with the design, materials, and manufacturing requirements in subsections (1) and (2); and
 - ii. Instructions for handling and installing the septic tank.
 4. The septic tank’s daily design flow is determined as follows:
 - a. For a single family dwelling:
 - i. The design liquid capacity of the septic tank and the septic tank’s daily design flow are determined based on the number of bedrooms and fixture count as follows:

Criteria for Septic Tank Size and Design Flow			
Number of Bedrooms	Fixture Count	Minimum Design Liquid Capacity (gallons)	Design Flow (gal/day)
1	7 or less	1000	150
	More than 7	1000	300
2	14 or less	1000	300
	More than 14	1000	450
3	21 or less	1000	450
	More than 21	1250	600
4	28 or less	1250	600
	More than 28	1500	750
5	35 or less	1500	750
	More than 35	2000	900
6	42 or less	2000	900
	More than 42	2500	1050
7	49 or less	2500	1050
	More than 49	3000	1200
8	56 or less	3000	1200
	More than 56	3000	1350

- ii. Fixture count is determined as follows:

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Residential Fixture Type	Fixture Units	Residential Fixture Type	Fixture Units
Bathtub	2	Sink, bar	1
Bidet	2	Sink, kitchen (including dishwasher)	2
Clothes washer	2	Sink, service	3
Dishwasher (Separate from kitchen)	2	Utility tub or sink	2
Lavatory, single	1	Water closet, 1.6 gallons per flush (gpf)	3
Lavatory, double in master bedroom	1	Water closet, >1.6 to 3.2 gpf	4
Shower, single stall	2	Water closet, greater than 3.2 gpf	6

- b. For other than a single family dwelling, the design liquid capacity of a septic tank in gallons is 2.1 times the daily design flow into the tank as determined from Table 1, Unit Design Flows. If the wastewater strength exceeds that of typical sewage, additional tank volume is required.
- c. A person may place two septic tanks in series to meet the septic tank design liquid capacity requirements if the capacity of the first tank is at least 67 percent of the total required tank capacity and the capacity of the second tank is at least 33 percent of the total required tank capacity.
5. The following requirements regarding new or replacement septic tank installation apply:
 - a. Permanent surface markers for locating the septic tank access openings are provided for maintenance;
 - b. A septic tank installed under concrete or pavement has the required access openings extended to grade;
 - c. A septic tank effluent filter is installed on the septic tank. The filter shall:
 - i. Prevent the passage of solids larger than 1/8 inch in diameter while under two feet of hydrostatic head; and
 - ii. Be constructed of materials that are resistant to corrosion and erosion, sized to accommodate hydraulic and organic loading, and removable for cleaning and maintenance; and
 - d. The septic tank is tested for watertightness after installation by the water test described in subsections (5)(d)(i) and (5)(d)(ii) and repaired or replaced, if necessary.
 - i. The septic tank is filled with clean water, as specified in R18-9-A310(A), to the invert of the outlet and the water left standing in the tank for 24 hours and:
 - (1) After 24 hours, the tank is refilled to the invert, if necessary;
 - (2) The initial water level and time is recorded; and
 - (3) After one hour, water level and time is recorded.
 - ii. The tank passes the water test if the water level does not drop over the one-hour period. Any visible leak of flowing water is considered a failure. A damp or wet spot that is not flowing is not considered a failure.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3). Amended by final rulemaking at 29 A.A.R. 1023 (May 12, 2023), effective June 19, 2023

(Supp. 23-2).

R18-9-A315. Interceptor Design, Manufacturing, and Installation for On-site Wastewater Treatment Facilities

- A. Interceptor requirement. An applicant shall ensure that an interceptor as required by R18-9-A309(A)(7)(c) or necessary due to excessive amounts of grease, garbage, sand, or other wastes in the sewage is installed between the sewage source and the on-site wastewater treatment facility.
- B. Interceptor design. An applicant shall ensure that:
 1. An interceptor has not less than two compartments with fittings designed for grease retention and capable of removing excessive amounts of grease, garbage, sand, or other similar wastes. An interceptor may not accept human excreta or toilet wastewater. Applicable structural and materials requirements prescribed in R18-9-A314 apply;
 2. Interceptors are located as close to the source as possible and are accessible for servicing. The applicant shall ensure that access openings for servicing are at grade level and gas-tight;
 3. The interceptor size for grease and garbage from non-residential kitchens is calculated using by the following equation: Interceptor Size (in gallons) = $M \times F \times T \times S$.
 - a. "M" is the number of meals per peak hour;
 - b. "F" is the applicable waste flow rate from Table 1, Unit Design Flows.
 - c. "T" is the estimated retention time:
 - i. Commercial kitchen waste, dishwasher or disposal: 2.5 hours; or
 - ii. Single service kitchen with utensil wash disposal: 1.5 hours;
 - d. "S" is the estimated storage factor:
 - i. Fully equipped commercial kitchen, 8-hour operation: 1.0;
 - ii. Fully equipped commercial kitchen, 16-hour operation: 2.0;
 - iii. Fully equipped commercial kitchen, 24-hour operation: 3.0; or
 - iv. Single service kitchen, 1.5;
 4. The interceptor size for silt and grease from laundries and laundromats is calculated using the following equation: Interceptor Size (in gallons) = $M \times C \times F \times T \times S$.
 - a. "M" is the number of machines;
 - b. "C" is the machine cycles per hour (assume 2);
 - c. "F" is the waste flow rate from Table 1, Unit Design Flows;
 - d. "T" is the estimated retention time (assume 2); and
 - e. "S" is the estimated storage factor (assume 1.5 that allows for rock filter).
- C. The applicant may calculate the size of an interceptor using different factor values than those given in subsections (B)(3) and (4) based on the values justified by the applicant in the

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Notice of Intent to Discharge submitted to the Department for the on-site wastewater treatment facility.

- D. The Department may require installation of a sampling box if the volume or characteristics of the waste will impair the performance of the on-site wastewater treatment facility.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3). Amended by final rulemaking at 29 A.A.R. 1023 (May 12, 2023), effective June 19, 2023 (Supp. 23-2).

R18-9-A316. Transfer of Ownership Inspection for On-site Wastewater Treatment Facilities

- A. Conforming with this Section satisfies the Notice of Transfer requirements under R18-9-A304.
- B. Within six months before the date of property transfer, the person who is transferring a property served by an on-site wastewater treatment facility shall retain an inspector to perform a transfer of ownership inspection of the on-site wastewater treatment facility who meets the following qualifications:
1. Possesses working knowledge of the type of facility and the inspection process;
 2. Holds a certificate of training from a course recognized by the Department as sufficiently covering the information specified in this Section by July 1, 2006; and
 3. Holds a license in one of the following categories:
 - a. An Arizona-registered engineer;
 - b. An Arizona-registered sanitarian;
 - c. An owner of a vehicle with a human excreta collection and transport license issued under 18 A.A.C. 13, Article 11 or an employee of the owner of the vehicle;
 - d. A contractor licensed by the Registrar of Contractors in one of the following categories:
 - i. Residential license B-4 or C-41;
 - ii. Commercial license A, A-12, or L-41; or
 - iii. Dual license KA or K-41;
 - e. A wastewater treatment plant operator certified under 18 A.A.C. 5, Article 1; or
 - f. A person qualifying under another category designated by the Department.
- C. The inspector shall complete a Report of Inspection on a form approved by the Department, sign it, and provide it to the person transferring the property. The Report of Inspection shall:
1. Address the physical and operational condition of the on-site wastewater treatment facility and describe observed deficiencies and repairs completed, if any;
 2. Indicate that each septic tank or other wastewater treatment container on the property was pumped or otherwise serviced to remove, to the maximum extent possible, solid, floating, and liquid waste accumulations, or that pumping or servicing was not performed for one of the following reasons:
 - a. A Discharge Authorization for the on-site wastewater treatment facility was issued and the facility was put into service within 12 months before the transfer of ownership inspection,
 - b. Pumping or servicing was not necessary at the time of the inspection based on the manufacturer's written operation and maintenance instructions, or

- c. No accumulation of floating or settled waste was present in the septic tank or wastewater treatment container; and

3. Indicate the date the inspection was performed.

- D. Before the property is transferred, the person transferring the property shall provide to the person to whom the property is transferred:

1. The completed Report of Inspection; and
2. Documents in the person's possession relating to permitting, operation, and maintenance of the on-site wastewater treatment facility.

- E. The person to whom the property is transferred shall complete a Notice of Transfer on a form approved by the Department and send the form with the applicable fee specified in 18 A.A.C. 14 within 15 calendar days after the property transfer to:

1. The Department for transfer of a property with an on-site wastewater treatment facility for which construction was completed before January 1, 2001; or
2. The health or environmental agency delegated by the Director to administer the on-site wastewater treatment facility program for transfer of a property with an on-site wastewater treatment facility constructed on or after January 1, 2001.

- F. If the Department issued a Discharge Authorization for the on-site wastewater treatment facility but the facility was not put into service before the property transfer, an inspection of the facility is not required and the transferee shall complete the Notice of Transfer form as specified in subsection (E).

- G. Effective date.

1. The owner of an on-site wastewater treatment facility operating under a Type 4 General Permit shall comply with this Section by November 12, 2005.
2. The owner of any on-site wastewater treatment facility other than a facility identified in subsection (G)(1) shall comply with this Section by July 1, 2006.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2002 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-A317. Nitrogen Management Area

- A. The Director may designate a new Nitrogen Management Area to control groundwater pollution by sources of nitrogen regulated by Title 49, Chapter 2, Article 3 of the Arizona Revised Statutes and not covered under an individual permit, modify the boundaries or requirements of a Nitrogen Management Area, or rescind designation of a Nitrogen Management Area.
1. If existing conditions or trends in nitrogen loading to an aquifer will cause or contribute to an exceedance of the Aquifer Water Quality Standard for nitrate at a point or points of current or reasonably foreseeable use of the aquifer, the Director shall use the following criteria to determine whether to designate the area as a Nitrogen Management Area:
 - a. Population of the area;
 - b. The degree to which the area is unsewered;
 - c. Gross areal nitrogen loading, calculated as the amount of nitrogen discharged into the subsurface by use of on-site wastewater treatment facilities, divided by the land area under consideration for designation as a Nitrogen Management Area;
 - d. Population growth rate of area;

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- e. Existing contamination of groundwater by nitrogen species;
 - f. Existing and potential impact to groundwater by sources of nitrogen other than on-site wastewater treatment facilities;
 - g. Characteristics of the vadose zone and aquifer;
 - h. Location, number, and areal extent of existing and potential sources of nitrogen;
 - i. Location and characteristics of existing and potential drinking water supplies; and
 - j. Any other information relevant to determining the severity of actual or potential nitrogen impact on the aquifer.
2. The Director may modify the boundaries or requirements of a Nitrogen Management Area or rescind designation of a Nitrogen Management Area based on:
 - a. A material change to one or more criterion specified in subsection (A)(1); or
 - b. The adoption by a local agency of a master plan to substantially sewer the area as soon as possible, but with a completion deadline within 10 years, unless a completion deadline of more than 10 years is approved by the Director.
- B. Preliminary designation, modification, or rescission.**
1. The Director shall provide a report to the mayors and members of the Board of Supervisors of all towns, cities, and counties and the directors of all sanitary districts affected by the Department's proposed action to designate, modify, or rescind a Nitrogen Management Area as follows:
 - a. If the Department proposes to designate a Nitrogen Management Area, the Department shall provide a report discussing each criterion specified in subsection (A)(1).
 - b. If the Department proposes to modify the boundaries or requirements of a Nitrogen Management Area or rescind the designation of a Nitrogen Management Area, the Department shall provide a report discussing applicable criteria in subsections (A)(1) and (2).
 2. The town, city, county, or sanitary district receiving the Director's report may provide written comments to the Department within 120 days to dispute the factual information presented in the report and supply any information supporting the comments.
 3. The Director shall evaluate the comments and supporting information obtained under subsection (B)(2) and either designate, modify, or rescind the Nitrogen Management Area or withdraw the proposal.
- C. Final designation.**
1. If the Director designates or modifies the Nitrogen Management Area, the Department shall:
 - a. Issue or modify the Nitrogen Management Area designation and any special provisions established for the area to control groundwater pollution by sources of nitrogen regulated by Title 49, Chapter 2, Article 3 of the Arizona Revised Statutes but not covered under an individual permit. The Department shall provide notice to the mayors and members of the Board of Supervisors of all towns, cities, and counties and the directors of all sanitary districts affected by the determination;
 - b. Maintain the designation and a map showing the boundaries of the Nitrogen Management Area at the Arizona Department of Environmental Quality, 1110

West Washington, Phoenix, Arizona 85007 and on the Department's web site at www.azdeq.gov; and

- c. Provide, upon request, a copy of the Nitrogen Management Area designation and a map of the area.
2. If the Director withdraws the preliminary Nitrogen Management Area designation or rescinds the Nitrogen Management Area designation, the Director shall issue a determination stating the decision and post it on the Department's web site at www.azdeq.gov.
- D. Nitrogen Management Area requirements. Within a Nitrogen Management Area:**
1. The Department shall issue a Construction Authorization, under R18-9-A301(D)(1)(c), for an on-site wastewater treatment facility only if the applicant proposes, in the Notice of Intent to Discharge, to employ one or more of the technologies allowed under R18-9-E302 through R18-9-E322 that achieves a discharge level containing not more than 15 mg/l of total nitrogen.
 2. An agricultural operation shall use the best control measure necessary to reduce nitrogen discharge when implementing the best management practices developed under 18 A.A.C. 9, Article 4. The Director may require the owner or operator to reassess the performance of the impoundment liner systems constructed under R18-9-403 before November 12, 2005.
 3. A person shall comply with any special provision established for the Nitrogen Management Area, as applicable, for the person's facility.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

PART B. TYPE 1 GENERAL PERMITS**R18-9-B301. Type 1 General Permit**

- A.** A 1.01 General Permit allows any discharge of wash water from a sand and gravel operation, placer mining operation, or other similar activity, including construction, foundation, and underground dewatering, if only physical processes are employed and only hazardous substances at naturally occurring concentrations in the sand, gravel, or other rock material are present in the discharge.
- B.** A 1.02 General Permit allows any discharge from hydrostatic tests of a drinking water distribution system and pipelines not previously used, if all the following conditions are met:
1. The quality of the water used for the test does not exceed an Aquifer Water Quality Standard or for non-drinking water pipelines, if reclaimed water is used, the reclaimed water meets Class A+ Reclaimed Water Quality Standards under A.A.C. R18-11-303 or Class B+ Reclaimed Water Quality Standards under A.A.C. R18-11-305;
 2. The discharge is not to a water of the United States, unless the discharge is under an AZPDES permit; and
 3. The test site is restored to its natural grade.
- C.** A 1.03 General Permit allows any discharge from hydrostatic tests of a pipeline, tank, or appurtenance previously used for transmission of fluid, other than those previously used for drinking water distribution systems, if all the following conditions are met:
1. All liquid discharge is contained in an impoundment lined with flexible geomembrane. The liquid is evaporated or removed from the impoundment and taken to a treatment works or landfill authorized to accept the material within:

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- a. 60 days of the hydrostatic test if the liner is 10 mils, or
 - b. 180 days of the hydrostatic test if the liner is 30 mils or greater;
 2. The liner is placed over a layer, at least 3 inches thick, of well-sorted sand or finer grained material, or over an underliner that provides protection equal to or better than sand or finer grained material and the calculated seepage is less than 550 gallons per acre per day;
 3. The liner is removed and disposed of at an approved land-fill unless the liner can be reused at another test location without a reduction in integrity;
 4. The test site is restored to its natural grade; and
 5. If the test waters are removed using a method not specified in subsection (C)(1), including a discharge under an AZPDES permit, the test waters meet Aquifer Water Quality Standards and the specific method is approved by the Department before the discharge.
- D.** A 1.04 General Permit allows any discharge from a facility that, for water quality sampling, hydrologic parameter testing, well development, redevelopment, or potable water system maintenance and repair purposes, receives water, drilling fluids, or drill cuttings from a well if the discharge is to the same aquifer in approximately the same location from which the water supply was originally withdrawn, or the discharge is under an AZPDES permit.
- E.** A 1.05 General Permit allows a discharge to an injection well, surface impoundment, and leach line only if the discharge is filter backwash from a potable water treatment system, condensate from a refrigeration unit, overflows from an evaporative cooler, heat exchange system return water, or swimming pool filter backwash and the discharge is less than 1000 gallons per day. The 1.05 General Permit allows a discharge of those sources to a navigable water if the discharge is authorized by an AZPDES permit.
- F.** A 1.06 General Permit allows the burial of mining industry off-road motor vehicle waste tires at the mine site in a manner consistent with the cover requirements in R18-13-1203.
- G.** A 1.07 General Permit allows the operation of dockside facilities and watercraft if the following conditions are met:
1. Docks that service watercraft equipped with toilets provide sanitary facilities at dockside for the disposal of sewage from watercraft toilets. No wastewater from sinks, showers, laundries, baths, or other plumbing fixtures at a dockside facility is discharged into waters of the state;
 2. Docks that service watercraft have conveniently located toilet facilities for men and women;
 3. No boat, houseboat, or other type of watercraft is equipped with a marine toilet constructed and operated to discharge sewage directly or indirectly into a water of the state, nor is any container of sewage placed, left, discharged, or caused to be placed, left, or discharged in or near any waters of the state by a person;
 4. Watercraft with marine toilets constructed to allow sewage to be discharged directly into waters of the state are locked and sealed to prevent usage. Chemical or other type marine toilets with approved storage containers are permitted if dockside disposal facilities are provided; and
 5. No bilge water or wastewater from sinks, showers, laundries, baths, or other plumbing fixtures on houseboats or other watercraft is discharged into waters of the state.
- H.** A 1.08 General Permit allows for any earth pit privy, fixed or transportable chemical toilet, incinerator toilet or privy, or pail or can-type privy if allowed by a county health or environmental department under A.R.S. Title 36 or a delegation agreement under A.R.S. § 49-107.
- I.** A 1.09 General Permit allows:
1. The operation of:
 - a. A sewage treatment facility with flows less than 20,000 gallons per day and approved by the Department before January 1, 2001, and
 - b. An on-site wastewater treatment facility with flows less than 20,000 gallons per day operating before January 1, 2001;
 2. The person who owns or operates a facility under subsections (I)(1)(a) or (b) to operate the facility if the following conditions are met:
 - a. The discharge from the facility does not cause or contribute to a violation of a water quality standard;
 - b. The owner or operator does not expand the facility to accommodate flows above the design flow or 20,000 gallons per day, whichever is less;
 - c. The facility only treats typical sewage;
 - d. The facility does not treat flows from commercial operations using hazardous substances or creating hazardous wastes, as defined in A.R.S. § 49-921(5);
 - e. The discharge from the facility does not create any environmental nuisance condition listed in A.R.S. § 49-141; or
 - f. The owner or operator does not alter the treatment or disposal characteristics of the original facility, except as allowed under R18-9-A309(A)(9)(a).
- J.** A 1.10 General Permit allows the operation of a sewage collection system installed before January 1, 2001 that serves downstream from the point where the daily design flow is 3000 gallons per day or that includes a manhole, force main, or lift station serving more than one dwelling regardless of flow, if:
1. The system complies with the performance standards in R18-9-E301(B),
 2. No sewage is released from the sewage collection system to the land surface, and
 3. The system is not operating under the 2.05 General Permit.
- K.** A 1.11 General Permit allows the operation of a sewage collection system that serves upstream from the point where the daily design flow is 3000 gallons per day to the building drains, or a single gravity sewer line conveying sewage from a building drain directly to an interceptor, lateral, or manhole, regardless of daily design flow, if all of the following are met:
1. The system does not cause or contribute to an exceedance of a water quality standard established in 18 A.A.C. 11, Articles 1 and 4;
 2. No sewage is released from the sewage collection system to the land surface;
 3. No environmental nuisance condition listed in A.R.S. § 49-141 is created;
 4. The system does not include a manhole, force main, or lift station serving more than one dwelling;
 5. Applicable local administrative requirements for review and approval of design and construction are followed;
 6. The performance standards specified in R18-9-E301(B) are met using:
 - a. Local building and construction codes,
 - b. Relevant design and construction standards specified in R18-9-E301, and
 - c. Appropriate operation and maintenance;

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7. The system flows directly into one of the following downstream facilities:
 - a. An on-site wastewater treatment facility;
 - b. A sewage treatment facility operating under an individual permit; or
 - c. A sewage collection system operating under a 1.10, 2.05, or 4.01 General Permit; and
 8. The system is not operating under a 2.05 General Permit.
 - L. A 1.12 General Permit allows the discharge of wastewater resulting from washing concrete from trucks, pumps, and ancillary equipment to an impoundment if the following conditions are met:
 1. The person holds an AZPDES Construction General Permit authorizing the concrete washout activities;
 2. The Stormwater Pollution Prevention Plan required by the Construction General Permit issued according to 18 A.A.C. 9, Article 9, Part C, for the construction activity addresses the concrete washout activities;
 3. The vegetation at the soil base of the impoundment is cleared, grubbed, and compacted to uniform density not less than 95 percent. If the impoundment is located above grade, the berms or dikes are compacted to a uniform density not less than 95 percent;
 4. If groundwater is less than 20 feet below land surface, the impoundment is lined with a synthetic liner at least 30 mils thick;
 5. The impoundment is located at least 50 feet from any storm drain inlet, open drainage facility, or watercourse and 100 feet from any water supply well;
 6. The impoundment is designed and operated to maintain adequate freeboard to prevent overflow or discharge of wastewater;
 7. The concrete washout wastewater from any wash pad is routed to the impoundment;
 8. The impoundment receives only concrete washout wastewater;
 9. The annual average daily flow of wastewater to the impoundment is less than 3000 gallons per day; and
 10. The following closure requirements are met.
 - a. The facility is closed by removing and appropriately disposing of any liquids remaining in the impoundment,
 - b. The area is graded to prevent ponding of water, and
 - c. Closure activities are completed before filing of the Notice of Termination under the AZPDES Construction General Permit.
- Historical Note**
- New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).
- PART C. TYPE 2 GENERAL PERMITS**
- R18-9-C301. 2.01 General Permit: Drywells That Drain Areas Where Hazardous Substances Are Used, Stored, Loaded, or Treated**
- A. A 2.01 General Permit allows for a drywell that drains an area where hazardous substances are used, stored, loaded, or treated.
 - B. Notice of Intent to Discharge. In addition to the requirements in R18-9-A301(B), an applicant shall submit:
 1. The Department registration number for the drywell or documentation that a drywell registration form was submitted to the Department;
 2. For a drywell constructed more than 90 days before submitting the Notice of Intent to Discharge to the Department, a certification signed, dated, and sealed by an Arizona-registered professional engineer or geologist that a site investigation has concluded that:
 - a. Analytical results from sampling the drywell settling chamber sediment for pollutants reasonably expected to be present do not exceed either the residential soil remediation levels or the groundwater protection levels;
 - b. The settling chamber does not contain sediments that could be used to characterize and compare results to soil remediation levels and the chamber has not been cleaned out within the last six months;
 - c. Neither a soil remediation level nor groundwater protection level is exceeded in soil samples collected from a boring drilled within 5 feet of the drywell and sampled in 5-foot increments starting from 5 feet below ground surface and extending to 10 feet below the base of the drywell injection pipe; or
 - d. If coarse grained lithology prevents the collection of representative soil samples in a soil boring, a groundwater investigation demonstrates compliance with Aquifer Water Quality Standards in groundwater at the applicable point of compliance;
 3. Design information to demonstrate that the requirements in subsection (C) are satisfied; and
 4. A copy of the Best Management Practices Plan described in subsection (D)(5).
 - C. Design requirements. An applicant shall:
 1. Locate the drywell no closer than 100 feet from a water supply well and 20 feet from an underground storage tank;
 2. Clearly mark the drywell "Stormwater Only" on the surface grate or manhole cover;
 3. Locate the bottom of the drywell hole at least 10 feet above groundwater. If during drilling and well installation the drywell borehole encounters saturated conditions, the applicant shall backfill the borehole with cement grout to at least 10 feet above the elevation of saturated conditions before constructing the drywell in the borehole;
 4. Ensure that the drywell design or drainage area design includes a method to remove, intercept, or collect pollutants that may be present at the operation with the potential to reach the drywell. The applicant may include a flow control or pretreatment device, such as an interceptor, sump, or another device or structure designed to remove, intercept, or collect pollutants. The applicant may use flow control or pretreatment devices listed under R18-9-C304(D)(1) or (2) to satisfy the design requirements of this subsection;
 5. Record the accurate latitude and longitude of the drywell using a Global Positioning System device or site survey; and
 6. Develop and maintain a current site plan showing the location of the drywell, the latitude and longitude coordinates of the drywell, surface drainage patterns, the location of floor drains and French drains plumbed to the drywell, water supply wells, monitor wells, underground storage tanks, and chemical and waste usage, storage, loading, and treatment areas.
 - D. Operational and maintenance requirements.

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1. A permittee shall operate the drywell only for the disposal of stormwater. The permittee shall not release industrial process waters or wastes in the drywell or drywell retention basin drainage area.
 2. The permittee shall implement a Best Management Practices Plan for operation of the drywell and control of pollutants in the drywell drainage area.
 3. The permittee shall keep the Best Management Practices Plan on-site or at the closest practical place of work and provide the plan to the Department upon request.
 4. The permittee may substitute any Spill Prevention Containment and Control Plan, facility response plan, or an AZPDES Stormwater Pollution Prevention Plan that meets the requirements of this subsection for a Best Management Practices Plan. If the permittee submits a substitute for the Best Management Practices Plan, the permittee shall identify the conditions within the substitute plan that satisfy the requirements of subsection (D).
 5. The Best Management Practices Plan shall include:
 - a. A site plan showing surface drainage patterns and the location of floor drains, water supply, monitor wells, underground storage tanks, and chemical and waste usage, storage, loading, and treatment areas. The site plan shall show surface grading details designed to prevent drainage and spills of hazardous substances from leaving the drainage area and entering the drywell;
 - b. A design plan showing details of drywell design and drainage design, including flow control or pretreatment devices, such as interceptors, sumps, and other devices and structures designed to remove, intercept, and collect any pollutant that may be present at the operation with the potential to reach the drywell;
 - c. Procedures to prevent and contain spills and minimize discharges to the drywell;
 - d. Operational practices that include routine inspection and maintenance of the drywell and associated pretreatment and flow-control devices, periodic inspection of waste storage facilities, and proper handling of hazardous substances to prevent discharges to the drywell. Routine inspection and maintenance shall include:
 - i. Replacing the adsorbent material in the skimmers, if installed, when the adsorbent capacity is reached;
 - ii. Maintaining valves and associated piping for a drywell injection and treatment system;
 - iii. Maintaining magnetic caps and mats, if installed;
 - iv. Removing sludge from the oil/water separator, if installed, and replacing the filtration or adsorption material to maintain treatment capacity;
 - v. Removing sediment from the catch basin inlet filters and retention basin to maintain required storage capacity; and
 - e. Procedures for periodic employee training on practices required by the Best Management Practices Plan specific to the drywell and prevention of unauthorized discharges.
 6. The permittee shall implement waste management practices to prohibit and prevent discharges, other than those exempted in A.R.S. § 49-250(B)(23), in the drywell drainage area, including:
 - a. Maintaining an up-to-date inventory of generated wastes and waste products;
 - b. Disposing or recycling all wastes or solvents through a company licensed to handle the material;
 - c. Where possible, collecting and storing waste in waste receptacles located outside the drywell drainage area. If the permittee collects and stores the waste within the drywell drainage area, the permittee shall collect and store the waste in properly designed receptacles; and
 - d. Using a licensed waste hauler to transport waste off-site to a permitted waste disposal facility.
- E. Inspection.** A permittee shall:
1. Conduct an annual inspection of the drywell for sediment accumulation in the chambers and the flow-control and treatment systems, and remove sediment annually or when 25 percent of the effective capacity is filled, whichever comes first, to restore capacity and ensure that the drywell functions properly. The permittee shall characterize the sediments that are removed from the drywell after inspection and dispose of the sediments according to local, state, and federal requirements; and
 2. If the stormwater fails to drain through the drywell within 36 hours, inspect the treatment system and piping to ensure that the treatment system is functioning properly, make repairs, and perform maintenance as needed to restore proper function.
- F. Recordkeeping.** A permittee shall maintain for at least 10 years, the following documents on-site or at the closest place of work and make the documents available to the Department upon request:
1. Documentation of drywell maintenance, inspections, employee training, and sampling activities;
 2. A site plan showing the location of the drywell, the latitude and longitude coordinates of the drywell, surface drainage patterns and the location of floor drains or French drains that are plumbed to the drywell or are used to alter drainage patterns, the location of water supply wells, monitor wells, underground storage tanks, and places where hazardous substances are used, stored, or loaded;
 3. A design plan showing details of drywell design and drainage design, including any flow control and pretreatment technologies;
 4. An operations and maintenance manual that includes:
 - a. Procedures to prevent and contain spills and minimize any discharge to the drywell and a list of actions and methods proposed to prevent and contain hazardous substance spills or leaks;
 - b. Methods and procedures for inspection, operation, and maintenance activities;
 - c. Procedures for spill response; and
 - d. A description of the employee training program for drywell inspections, operations, maintenance, and waste management practices;
 5. Drywell sediment waste characteristics and disposal manifest records for sediments removed during routine inspections and maintenance activities; and
 6. Sampling plans, certified laboratory reports, and chain of custody forms for soil, sediment, and groundwater sampling associated with drywell site investigations.
- G. Spills.**
1. In the event of a spill, the permittee shall:

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- a. Notify the Department within 24 hours of any spill of hazardous or toxic substance that enters the drywell inlet;
 - b. Contain, clean up, and dispose of, according to local, state, and federal requirements, any spill or leak of a hazardous substance in the drywell drainage area and basin drainage area;
 - c. If a pretreatment system is present, verify that treatment capacity has not been exceeded; and
 - d. If the spill reaches the drywell injection pipe, drill a soil boring within 5 feet of the drywell inlet chamber and sample the soil in 5-foot increments from 5 feet below ground surface to a depth extending at least 10 feet below the base of the injection pipe to determine whether a soil remediation level or groundwater protection level has been exceeded in the subsurface. The permittee shall:
 - i. Submit the results to the Department within 60 days of the date of the spill; and
 - ii. Notify the Department if soil contamination at the facility, not related to the spill, is being addressed by an existing approved remedial action plan.
2. Based on the results of subsection (G)(1)(d), the Director may require the permittee to submit an application for clean closure or an individual Aquifer Protection Permit.
- H. Closure and decommissioning requirements.**
1. A permittee shall:
 - a. Retain a drywell drilling contractor, licensed under 4 A.A.C. 9, to close the drywell;
 - b. Remove sediments and any drainage component, such as standpipes and screens from the drywell's settling chamber and backfill the injection pipe with cement grout;
 - c. Remove the settling chamber;
 - d. Backfill the settling chamber excavation to the land surface with clean silt, clay, or engineered material. Materials containing hazardous substances are prohibited from use in backfilling the drywell; and
 - e. Mechanically compact the backfill.
 2. Within 30 days of closure and decommissioning, the permittee shall submit a written verification to the Department that all material that contributed to a discharge has been removed and any reasonable probability of further discharge from the facility and of exceeding any Aquifer Water Quality Standard at the applicable point of compliance has been eliminated to the greatest degree practical. The written verification shall specify:
 - a. The reason for the closure;
 - b. The drywell registration number;
 - c. The general permit reference number;
 - d. The materials and methods used to close the drywell;
 - e. The name of the contractor who performed the closure;
 - f. The completion date;
 - g. Any sampling data;
 - h. Sump construction details, if a sump was constructed to replace the abandoned drywell; and
 - i. Any other information necessary to verify that closure has been achieved.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by

final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-C302. 2.02 General Permit: Intermediate Stockpiles at Mining Sites

- A.** A 2.02 General Permit allows for intermediate stockpiles not qualifying as inert material under A.R.S. § 49-201(19) at a mining site.
- B.** Notice of Intent to Discharge. In addition to the Notice of Intent to Discharge under R18-9-A301(B), an applicant shall submit the construction and operation specifications used to satisfy the requirements in subsection (C)(1).
- C.** Design and operational requirements.
1. An applicant shall design, construct, and operate the stockpile so that it does not impound water. An applicant may rely on stormwater run-on controls or facility design features, such as drains, or both.
 2. An applicant shall direct storm runoff contacting the stockpile to a mine pit or a facility covered by an individual or general permit.
 3. A permittee shall maintain any engineered feature of the facility in good working condition.
 4. A permittee shall visually inspect the facility at least quarterly and repair any defect as soon as practical.
 5. A permittee shall not add hazardous substances to the stockpiled material.
- D.** Closure requirements. In addition to the closure requirements in R18-9-A306, the following apply:
1. If an intermediate stockpile covered under a 2.02 General Permit is permanently closed, a permittee shall remove any remaining material, to the greatest extent practical, and regrade the area to prevent impoundment of water.
 2. The permittee shall submit a narrative description of closure measures to the Department within 30 days after closure.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-C303. 2.03 General Permit: Hydrologic Tracer Studies

- A.** A 2.03 General Permit allows for a discharge caused by the performance of tracer studies.
1. The 2.03 General Permit does not authorize the use of any hazardous substance, radioactive material, or any substance identified in A.R.S. § 49-243(I) in a tracer study.
 2. A permittee shall complete a single tracer test within two years of the Notice of Intent to Discharge.
- B.** Notice of Intent to Discharge. In addition to the Notice of Intent to Discharge requirements specified in R18-9-A301(B), an applicant shall submit:
1. A narrative description of the tracer test including the type and amount of tracer used;
 2. A Material Safety Data Sheet for the tracer; and
 3. Unless the injection or distribution is within the capture zone of an established passive containment system meeting the requirements of A.R.S. § 49-243(G), the following information:
 - a. A narrative description of the impacts that may occur if a solution migrates outside the test area, including a list of downgradient users, if any;
 - b. The anticipated effects and expected concentrations, if possible to calculate; and

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- c. A description of the monitoring, including types of tests and frequency.
- C. Design and operational requirements. A permittee shall:
1. Ensure that injection into a well inside the capture zone of an established passive containment system that meets the requirements of A.R.S. § 49-243(G) does not exceed the total depth of the influence of the hydrologic sink;
 2. Ensure that injection into a well outside the capture zone of an established passive containment system that meets the requirements of A.R.S. § 49-243(G) does not exceed rock fracture pressures during injection of the tracer;
 3. Not add a substance to a well that is not compatible with the well's construction;
 4. Ensure that a tracer is compatible with the construction materials at the impoundment if a tracer is placed or collected in an existing impoundment;
 5. For at least two years, monitor quarterly a well that is hydraulically downgradient of the test site for the tracer if a tracer is used outside the capture zone of an established passive containment system that meets the requirements of A.R.S. § 49-243(G) and less than 85 percent of the tracer is recovered. The permittee may adjust this period with the consent of the Department if the permittee shows that the hydraulic gradient causes the tracer to reach the monitoring point in a shorter or longer period of time;
 6. Ensure that a tracer does not leave the site in concentrations distinguishable from background water quality; and
 7. Monitor the amount of tracer used and recovered and submit a report summarizing the test and results to the Department within 30 calendar days of test completion.
- D. Recordkeeping. A permittee shall retain the following information at the site where the facility is located for at least three years after test completion and make it available to the Department upon request.
1. Test protocols,
 2. Material Safety Data Sheet information,
 3. Recovery records, and
 4. A copy of the report submitted to the Department under subsection (C)(7).
- E. Closure requirements.
1. If a tracer was used outside the capture zone of an established passive containment system that meets the requirements of A.R.S. § 49-243(G), a permittee shall account for any tracer not recovered through attenuation, modeling, or monitoring.
 2. The permittee shall achieve closure immediately following the test, or if the test area is within a pollutant management area defined in an individual permit, at the conclusion of operations.
- Historical Note**
- New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).
- R18-9-C304. 2.04 General Permit: Drywells that Drain Areas at Motor Fuel Dispensing Facilities Where Motor Fuels are Used, Stored, or Loaded**
- A. A 2.04 General Permit allows for a drywell that drains an area at a facility for dispensing motor fuel, as defined in A.A.C. R20-2-701(19), including a commercial gasoline station with an underground storage tank.
1. A drywell at a motor fuel dispensing facility using hazardous substances is eligible for coverage under the 2.04 General Permit.
 2. A drywell at a vehicle maintenance facility owned or operated by a commercial enterprise or by a federal, state, county, or local government is not eligible for coverage under this general permit, unless the facility design ensures that only motor fuel dispensing areas will drain to the drywell. Areas where hazardous substances other than motor fuels are used, stored, or loaded, including service bays, are not covered under the 2.04 General Permit.
 3. Definition. For purposes of this Section, "hazardous substances" means substances that are components of commercially packaged automotive supplies, such as motor oil, antifreeze, and routine cleaning supplies such as those used for cleaning windshields, but not degreasers, engine cleaners, or similar products.
- B. Notice of Intent to Discharge. In addition to the requirements in R18-9-A301(B), an applicant shall submit:
1. The Department registration number for the drywell or documentation that a drywell registration form was submitted to the Department;
 2. For a drywell constructed more than 90 days before submitting the Notice of Intent to Discharge to the Department, a certification signed, dated, and sealed by an Arizona-registered professional engineer or geologist that a site investigation concluded that:
 - a. Analytical results from sampling sediment from the drywell settling chamber sediment for pollutants reasonably expected to be present do not exceed either the residential soil remediation levels or the groundwater protection levels;
 - b. The settling chamber does not contain sediment that could be used to characterize and compare results to soil remediation levels and the chamber has not been cleaned out within the last six months;
 - c. Neither a soil remediation level nor groundwater protection level is exceeded in soil samples collected from a boring drilled within 5 feet of the drywell and sampled in 5 foot increments starting at a depth of 5 feet below ground surface and extending to a depth of 10 feet below the base of the drywell injection pipe; or
 - d. If coarse grained lithology prevents the collection of soil samples in a soil boring, a groundwater investigation demonstrates compliance with Aquifer Water Quality Standards in groundwater at the applicable point of compliance.
 3. Design information to demonstrate that the requirements in subsection (C) are satisfied.
- C. Design requirements.
1. An applicant shall:
 - a. Include a flow control or pretreatment device identified in subsections (D)(1) or (2), or both, that removes, intercepts, or collects spilled motor fuel or hazardous substances before stormwater enters the drywell injection pipe;
 - b. Calculate the volume of runoff generated in the design storm event and anticipate the maximum potential contaminant release quantity to design the treatment and holding capacity of the drywell;
 - c. Follow local codes and regulations to meet retention periods for removing standing water;

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- d. Locate the drywell at least 100 feet from a water supply well and 20 feet from an underground storage tank;
 - e. Locate the bottom of the drywell injection pipe at least 10 feet above groundwater. If during drilling and well installation the drywell borehole encounters saturated conditions, the applicant shall backfill the borehole with cement grout to a level at least 10 feet above the elevation at which saturated conditions were encountered in the borehole before constructing the drywell in the borehole;
 - f. Record the accurate latitude and longitude of the drywell using a Global Positioning System device or site survey and record the location on the site plans;
 - g. Clearly mark the drywell "Stormwater Only" on the surface grate or manhole cover;
 - h. Develop and maintain a current site plan showing the location of the drywell, the latitude and longitude coordinates of the drywell, surface drainage patterns and the location of floor drains and French drains that are plumbed to the drywell or are used to alter drainage patterns, water supply wells, monitor wells, underground storage tanks, and chemical and waste usage, storage, loading, and treatment areas; and
 - i. Prepare design plans showing details of drywell design and drainage design, including one or a combination of pre-approved technologies described in subsections (D)(1) and (2) designed to remove, intercept, and collect any pollutant that may be present at the operation with the potential to reach the drywell.
2. For an existing drywell, an applicant that cannot meet the design requirements in subsections (C)(1)(d) and (e) shall provide the Department with the date of drywell construction, the depth of the drywell borehole and injection pipe, the distance from the drywell to the nearest water supply well and from the drywell to the underground storage tank, and the depth to the groundwater from the bottom of the drywell injection pipe.
- D. Flow control and pretreatment.** A permittee shall ensure that motor fuels and other hazardous substances are not discharged to the subsurface. A permittee may use any of the following flow control or pretreatment technologies:
- 1. Flow control. The permittee shall ensure that motor fuel and hazardous substance spills are removed before allowing stormwater to enter the drywell.
 - a. Normally closed manual or automatic valve. The permittee shall leave a normally closed valve in a closed position except when stormwater is allowed to enter the drywell;
 - b. Raised drywell inlet. The permittee shall:
 - i. Raise the drywell inlet at least six inches above the bottom of the retention basin or other storage structure, or install a six-inch asphalt or concrete raised barrier encircling the drywell inlet to provide a non-draining storage capacity within the retention basin or storage structure for complete containment of a spill; and
 - ii. Ensure that the storage capacity is at least 110 percent of the volume of the design storm event required by the local jurisdiction and the estimated volume of a potential motor fuel spill based on the facility's past incident reports or incident reports for other facilities that are similar in design;
 - c. Magnetic mat or cap. The permittee shall ensure that the drywell inlet is sealed with a mat or cap at all times, except after rainfall or a storm event when the mat or cap is temporarily removed to allow stormwater to enter the drywell; and that the mat or cap is always used with a retention basin or other type of storage;
 - d. Primary sump, interceptor, or settling chamber. The permittee may use a primary sump, interceptor, or settling chamber only in combination with another flow control or pre-treatment technology.
 - i. The permittee shall remove motor fuel or hazardous substances from the sump, interceptor, or chamber before allowing stormwater to enter the drywell.
 - ii. The permittee shall install a settling chamber or sump and allow the suspended solids to settle before stormwater flows into a drywell; install the drywell injection pipe in a separate chamber and connect the sump, interceptor, or chamber to the drywell inlet by piping and valving to allow the stormwater to enter the drywell.
 - iii. The permittee may install fuel hydrocarbon detection sensors in the sump, interceptor, or settling chamber that use flow control to prevent fuel from discharging into the drywell;
2. Pretreatment. The permittee shall prevent the bypass of motor fuels and hazardous substances from the pretreatment system to the drywell during periods of high flow.
- a. Catch basin inlet filter. The permittee shall:
 - i. Install a catch basin inlet filter to fit inside a catchment drain to prevent motor fuels and hazardous substances from entering the drywell,
 - ii. Ensure that a motor fuel spill or a spill during a high rainfall does not bypass the system and directly release to the drywell injection pipe, and
 - iii. Combine the catch basin inlet filter with a flow control technology to prevent contaminated stormwater from entering the drywell injection pipe;
 - b. Combined settling chamber and an oil/water separator.
 - i. The permittee shall install a system that incorporates a catch basin inlet, a settling chamber, and an oil/water separator.
 - ii. The permittee may incorporate a self-sealing mechanism, such as fuel hydrocarbon detection sensors that activate a valve to cut off flow to the drywell inlet.
 - c. Combined settling chamber and oil/water separator, and filter/adsorption. The permittee shall:
 - i. Allow for adequate collection and treatment capacity for solid and liquid separation; and
 - ii. Allow a minimum treated outflow from the system to the drywell inlet of 20 gallons per minute. If a higher outflow rate is anticipated, the applicant shall design a larger collection system with storage capacity.
 - d. Passive skimmer.
 - i. If a passive skimmer is used, the permittee shall install sufficient hydrocarbon adsorbent materi-

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- als, such as pads and socks, or suspend the materials on top of the static water level in a sump or other catchment to absorb the entire volume of expected or potential spill.
- ii. The permittee may use a passive skimmer only in combination with another flow control or pre-treatment technology.
- E. Operation and maintenance.** A permittee shall:
1. Operate the drywell only for the subsurface disposal of stormwater;
 2. Remove or treat any motor fuel or hazardous substance spills;
 3. Replace the adsorbent material in skimmers, if installed; when the adsorbent capacity is reached;
 4. Maintain valves and associated piping;
 5. Maintain magnetic caps and mats, if installed;
 6. Remove sludge from the oil/water separator and replace the filtration or adsorption materials to maintain treatment capacity;
 7. Remove sediment from the catch basin inlet filters and retention basins to maintain required storage capacity;
 8. Remove accumulated sediment from the settling chamber annually or when 25 percent of the effective settling capacity is filled, whichever occurs first; and
 9. Provide new employee training within one month of hire and annual employee training on how to maintain and operate flow control and pretreatment technology used in the drywell.
- F. Inspection.** A permittee shall:
1. Conduct an annual inspection of the drywell for sediment accumulation in the chambers and in the flow control and treatment systems to ensure that the drywell is functioning properly; and
 2. If the stormwater fails to drain through the drywell within 36 hours, inspect the treatment system and piping to ensure that it is functioning properly, make repairs, and perform maintenance as needed to restore proper function.
- G. Recordkeeping.** A permittee shall maintain, for at least 10 years, the following documents on-site or at the closest place of work and make the documents available to the Department upon request:
1. Documentation of drywell maintenance, inspections, employee training, and sampling activities;
 2. A site plan showing the location of the drywell, the latitude and longitude coordinates of the drywell, surface drainage patterns and the location of floor drains or French drains that are plumbed to the drywell or are used to alter drainage patterns, water supply wells, monitor wells, underground storage tanks, and places where motor fuel and hazardous substances are used, stored, or loaded;
 3. A design plan showing details of drywell design and drainage design, including one or a combination of the pre-approved flow control and pretreatment technologies;
 4. An operations and maintenance manual that includes:
 - a. Procedures to prevent and contain spills and minimize any discharge to the drywell and a list of actions and specific methods proposed for motor fuel and hazardous substance spills or leaks;
 - b. Methods and procedures for inspection, operation, and maintenance activities;
 - c. Procedures for spill response; and
 - d. A description of the employee training program for drywell inspections, operations, and maintenance;
- H. Spills.**
1. In the event of a spill, a permittee shall:
 - a. Notify the Department within 24 hours of any spill of motor fuel or hazardous or toxic substances that enters into the drywell inlet;
 - b. Contain, clean up, and dispose of, according to local, state, and federal requirements, any spill or leak of motor fuel or hazardous substance in the drywell drainage area and basin drainage area;
 - c. If a pretreatment system is present, verify that treatment capacity has not been exceeded; and
 - d. If the spill reaches the injection pipe, drill a soil boring within 5 feet of the drywell inlet chamber and sample in 5-foot increments from 5 feet below ground surface to a depth extending at least 10 feet below the base of the injection pipe to determine whether a soil remediation level or groundwater protection level has been exceeded in the subsurface. The permittee shall:
 - i. Submit the results to the Department within 60 days of the date of the spill; and
 - ii. Notify the Department if soil contamination at the facility, not related to the spill, is being addressed by an existing approved remedial action plan.
 2. The Director may, based on the results of subsection (H)(1)(d), require the permittee to submit an application for clean closure or an individual Aquifer Protection Permit.
- I. Closure and decommissioning requirements.**
1. A permittee shall:
 - a. Retain a drywell drilling contractor, licensed under 4 A.A.C. 9, to close the drywell;
 - b. Remove sediments and any drainage component, such as standpipes and screens from the drywell's settling chamber and backfill the injection pipe with cement grout;
 - c. Remove the settling chamber;
 - d. Backfill the settling chamber excavation to the land surface with clean silt, clay, or engineered material. A permittee shall not use materials containing hazardous substances in backfilling the drywell; and
 - e. Mechanically compact the backfill.
 2. Within 30 days of closure and decommissioning, the permittee shall submit a written verification to the Department that all material that contributed to a discharge has been removed and any reasonable probability of further discharge from the facility and of exceeding any Aquifer Water Quality Standard at the applicable point of compliance has been eliminated to the greatest degree practical. The written verification shall specify:
 - a. The reason for the closure;
 - b. The drywell registration number;
 - c. The general permit reference number;
 - d. The materials and methods used to close the drywell;

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- e. The name of the contractor who performed the closure;
- f. The completion date;
- g. Any sampling data;
- h. Sump construction details, if a sump was constructed to replace the abandoned drywell; and
- i. Any other information necessary to verify that closure has been achieved.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 4096, effective September 15, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-C305. 2.05 General Permit: Capacity, Management, Operation, and Maintenance of a Sewage Collection System

A. Definition. For purposes of this Section, “imminent and substantial threat to public health or the environment” means when:

- 1. The volume of a release is more than 2000 gallons; or
- 2. The volume of a release is more than 50 gallons but less than 2000 gallons and any one of the following apply:
 - a. The release entered onto a recognized public area and members of the public were present during the release or before the release was mitigated;
 - b. The release occurred on a public or private street and pedestrians were at risk of being splashed by vehicles during the release or before the release was mitigated;
 - c. The release entered a perennial stream, an intermittent stream during a time of flow, a waterbody other than an ephemeral stream, a normally dry detention or sedimentation basin, or a drywell;
 - d. The release occurred within an occupied building due to a condition in the permitted sewage collection system; or
 - e. The release occurred within 100 feet of a school or a public or private drinking water supply well.

B. A 2.05 General Permit allows a permittee to manage, operate, and maintain a sewage collection system under the terms of a CMOM Plan that complies with subsection (D). The Department considers a sewage collection system operating in compliance with an AZPDES permit that incorporates provisions for capacity, management, operation, and maintenance of the system to comply with the provisions of the 2.05 General Permit regardless of whether a Notice of Intent to Discharge for the system was submitted to the Department.

C. Notice of Intent to Discharge. In addition to the Notice of Intent to Discharge requirements specified in R18-9-A301(B), an applicant shall submit:

- 1. The name and ownership of any downstream sewage collection system and sewage treatment facility that receives sewage from the applicant’s sewage collection system;
- 2. A map of the service area for which general permit coverage is sought, showing streets and sewage service boundaries for the sewage collection system;
- 3. A statement indicating that the CMOM Plan is in effect and the principal officer or ranking elected official of the sewage collection system has approved the plan; and
- 4. A statement indicating whether a local ordinance requires an on-site wastewater treatment facility to hookup to the sewage collection system.

D. CMOM Plan.

1. A permittee shall continuously implement a CMOM Plan for the sewage collection system under the permittee’s ownership, management, or operational control. The CMOM Plan shall include information to comply with subsection (E)(1) and instructions on:

- a. How to properly manage, operate, and maintain all parts of the sewage collection system that are owned or managed by the permittee or under the permittee’s operational control, to meet the performance requirements in R18-9-E301(B);
- b. How to maintain sufficient capacity to convey the base flows and peak wet weather flow of a 10-year, 24-hour storm event for all parts of the collection system owned or managed by the permittee or under the permittee’s operational control;
- c. All reasonable and prudent steps to minimize infiltration to the sewage collection system;
- d. All reasonable and prudent steps to stop all releases from the collection system owned or managed by the permittee or under the permittee’s operational control; and
- e. The procedure for reporting releases described in subsection (F).

2. The permittee shall maintain and update the CMOM Plan for the duration of this general permit and make it available for Department and public review.

3. If the Department requests the CMOM Plan and upon review finds that the CMOM Plan is deficient, the Department shall:

- a. Notify the permittee in writing of the specific deficiency and the reason for the deficiency, and
- b. Establish a deadline of at least 60 days to allow the permittee to correct the deficiency and submit the amended provision to the Department for approval.

E. Sewage release response determination. If the sewage collection system releases sewage, the Director shall consider any of the following factors in determining compliance:

- 1. Sufficiency of the CMOM Plan.
 - a. The level of detail provided by the CMOM Plan is appropriate for the size, complexity, and age of the system;
 - b. The level of detail provided by the CMOM Plan is appropriate considering geographic, climatic, and hydrological factors that may influence the sewage collection system;
 - c. The CMOM Plan provides schedules for the periodic preventative maintenance of the sewage collection system, including cleaning of all reaches of the sewage collection system below a specified pipe diameter.
 - i. The CMOM Plan may allow inspection of sewer lines by Closed Circuit Television (CCTV) and postponement of cleaning to the next scheduled cleaning cycle if the CCTV inspection indicated that cleaning of a reach of the sewer is not needed.
 - ii. The CMOM Plan may specify inspection and cleaning schedules that differ according to pipe diameter or other characteristics of the sewer;
 - d. The CMOM Plan identifies components of the sewage collection system that have insufficient capacity to convey, when properly maintained, the peak wet weather flow of a 10-year, 24-hour storm event. For those identified components, a capital improvement

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plan exists for achieving sufficient wet weather flow capacity within ten years of the effective date of permit coverage;

- e. The CMOM Plan includes an overflow emergency response plan appropriate to the size, complexity, and age of the sewage collection system considering geographic, climatic, and hydrological factors that may influence the system;
 - f. The CMOM Plan establishes a procedure to investigate and enforce against any commercial or industrial entity whose flows to the sewage collection system have caused or contributed to a release;
 - g. The CMOM Plan adequately addresses management of flows from upstream sewage collection systems not under the ownership, management, or operational control of the permittee; or
 - h. Any other factor necessary to determine if the CMOM Plan is sufficient;
2. Compliance with the CMOM Plan.
- a. The permittee's response to releases as established in the overflow emergency response plan, including whether:
 - i. Maintenance staff responds to and arrive at the release within the time period specified in the plan;
 - ii. Maintenance staff follow all written procedures to remove the cause of the release;
 - iii. Maintenance staff contain, recover, clean up, disinfect, and otherwise mitigate the release of sewage; and
 - iv. Required notifications to the Department, public health agencies, drinking water suppliers, and the public are provided;
 - b. The permittee's activities and timeliness in:
 - i. Implementing specified periodic preventative maintenance measures;
 - ii. Implementing the capital improvement plan; and
 - iii. Investigating and enforcing against an upstream sewage collection system, not under the ownership and operational control of the permittee, if those systems are impediments to the proper management of flows in the permittee's sewage collection system; or
 - c. Any other factor necessary to determine CMOM Plan compliance;
3. Compliance with the reporting requirements in subsection (F) and the public notice requirements in subsection (G); or
4. The release substantially endangers public health or the environment.

F. Reporting requirements.

- 1. Sewage releases.
 - a. A permittee shall report to the Department, by telephone, facsimile, or on the applicable notification form on the Department's Internet web site, any release that is an imminent and substantial threat to public health or the environment as soon as practical, but no later than 24 hours of becoming aware of the release.
 - b. A permittee shall submit a report to the Department within five business days after becoming aware of a release that is an imminent and substantial threat to

public health or the environment. The report shall include:

- i. The location of the release;
 - ii. The sewage collection system component from which the release occurred;
 - iii. The date and time the release began, was stopped, and when mitigation efforts were completed;
 - iv. The estimated number of persons exposed to the release, the estimated volume of sewage released, the reason the release is considered an imminent and substantial threat to public health or the environment if the volume is 2000 gallons or less, and where the release flowed;
 - v. The efforts made by the permittee to stop, contain, and clean up the released material;
 - vi. The amount and type of disinfectant applied to mitigate any associated public health or environmental risk; and
 - vii. The cause of the release or effort made to determine the cause and any effort made to help prevent a future reoccurrence.
2. Annual report. The permittee shall:
- a. Submit an annual report to the Department postmarked no later than March 1. The report shall:
 - i. Tabulate all releases of more than 50 gallons from the permitted sewage collection system;
 - ii. Provide the date of any release that is an imminent and substantial threat to public health or the environment; and
 - iii. For other reportable releases under subsection (F)(2)(a)(i), provide the information in subsection (F)(1)(b);
 - b. Provide an amended map of the service area boundaries if, during the calendar year, any area was removed from the service area or if any area was added to the service area that the permittee wishes to include under the 2.05 General Permit and associated CMOM Plan.

G. Public notice. The permittee shall:

- 1. Post a notice, in a format approved by the Department, at any location where there were more than three reportable releases under subsection (F)(2)(a) from the sewage collection system during any 12-month period,
- 2. Include within the notice a warning that identified the releases or potential releases at the location and potential health hazards from any release,
- 3. Post the notice at a place where the public is likely to come in contact with the release, and
- 4. Maintain the postings until no releases from the location are reported for at least 12 months from the last release and the permittee followed all actions specified in the CMOM Plan to prevent releases at that location during the period.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-C306. 2.06 General Permit: Fish Hatchery Discharge to a Perennial Surface Water

- A. A 2.06 General Permit allows a fish hatchery to discharge to a perennial surface water if Aquifer Water Quality Standards are met at the point of discharge and the fish hatchery is operating under a valid AZPDES permit.

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B. Notice of Intent to Discharge. In addition to the Notice of Intent to Discharge requirements specified in R18-9-A301(B), an applicant shall provide:

1. The applicable AZPDES permit number;
2. A description of the facility; and
3. A laboratory report characterizing the wastewater discharge, including the analytical results for all numeric Aquifer Water Quality Standards under R18-11-406.

C. Design and operational requirements. An applicant shall:

1. Collect a representative sample of the discharge to demonstrate compliance with all numeric Aquifer Water Quality Standards and make the results available to the Department upon request, and
2. Maintain a record of the average and daily flow rates and make it available to the Department upon request.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

PART D. TYPE 3 GENERAL PERMITS**R18-9-D301. 3.01 General Permit: Lined Impoundments**

A. A 3.01 General Permit allows a lined surface impoundment and a lined secondary containment structure. A permittee shall:

1. Ensure that inflow to the lined surface impoundment or lined secondary containment structure does not contain organic pollutants identified in A.R.S. § 49-243(I);
2. Ensure that inflow to the lined surface impoundment or lined secondary containment structure is from one or more of the following sources:
 - a. Evaporative cooler overflow, condensate from a refrigeration unit, or swimming pool filter backwash;
 - b. Wastewater that does not contain sewage, temporarily stored for short periods of time due to process upsets or rainfall events, provided the wastewater is promptly removed from the facility as required under subsection (D)(5). Facilities that continually contain wastewater as a normal function of facility operations are not covered under this general permit;
 - c. Stormwater runoff that is not permitted under A.R.S. § 49-245.01 because the facility does not receive solely stormwater or because the runoff is regulated but not considered stormwater under the Clean Water Act;
 - d. Emergency fire event water;
 - e. Wastewater from air pollution control devices at asphalt plants if the wastewater is routed through a sedimentation trap or sump and an oil/water separator before discharge;
 - f. Non-contact cooling tower blowdown and non-contact cooling water, except discharges from electric generating stations with more than 100 megawatts generating capacity;
 - g. Boiler blowdown;
 - h. Wastewater derived from a potable water treatment system, including clarification sludge, filtration backwash, lime and lime-softening sludge, ion exchange backwash, and reverse osmosis spent waste;
 - i. Wastewater from food washing;
 - j. Heat exchanger return water;
 - k. Wastewater from industrial laundries;

- l. Hydrostatic test water from a pipeline, tank, or appurtenance previously used for transmission of fluid;
- m. Wastewater treated through an oil/water separator before discharge; and
- n. Cooling water or wastewater from food processing.

B. Notice of Intent to Discharge. In addition to the Notice of Intent to Discharge requirements specified in R18-9-A301(B), an applicant shall submit:

1. A listing and description of all sources of inflow;
2. A representative chemical analysis of each expected source of inflow. If a sample is not available before facility construction, a permittee shall provide the chemical analysis of each inflow to the Department within 60 days of each inflow to the facility;
3. A narrative description of how the conditions of this general permit are satisfied. The narrative shall include a Quality Assurance/Quality Control program for liner installation, impoundment maintenance and repair, and impoundment operational procedures; and
4. A contingency plan that specifies actions proposed in case of an accidental release from the facility, overtopping of the impoundment, breach of the berm, or unauthorized inflows into the impoundment or containment structure.

C. Design and installation requirements. An applicant shall:

1. Design and construct surface water controls to:
 - a. Ensure that the impoundment or secondary containment structure maintains, using design volume or mechanical systems, normal operating volumes, if any, and any inflow from the 100-year, 24-hour storm event. The facility shall maintain at least 2 feet of freeboard or an alternative level of freeboard that the applicant demonstrates is reasonable, considering the size of the impoundment and meteorologic and other site-specific factors; and
 - b. Direct any surface water run-on from the 100-year 24-hour storm event around the facility if not intended for capture by facility;
2. Ensure that the facility design accommodates any significant geologic hazard, addressing static and seismic stability. The applicant shall document any design adjustments made for this reason in the Notice of Intent to Discharge;
3. Ensure that site preparation includes, as appropriate, clearing the area of vegetation, grubbing, grading, and embankment and subgrade preparation. The applicant shall ensure that supporting surface slopes and foundation are stable and structurally sound; and
4. Comply with the following impoundment lining requirements:
 - a. If a synthetic liner is used, ensure that the liner is at least a 30-mil geomembrane liner or a 60-mil liner if High Density Polyethylene, or an alternative, that the liner's calculated seepage rate is less than 550 gallons per acre per day, and:
 - i. Anchor the liner by securing it in an engineered anchor trench;
 - ii. Ensure that the liner is ultraviolet resistant if it is regularly exposed to sunlight; and
 - iii. Ensure that the liner is constructed of a material that is chemically compatible with the wastewater or impounded solution and is not affected by corrosion or degradation;
 - b. If a soil liner is used:

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- i. Ensure that it resists swelling, shrinkage, and cracking and that the liner's calculated seepage rate is less than 550 gallons per acre per day;
 - ii. Ensure that the soil is at least 1-foot thick and compacted to a uniform density of 95 percent to meet the "Standard Test Method for Laboratory Compaction Characteristics of Soil Using Standard Effect (12,400 ft-lbf/ft³), D698-00a1," (2000) published by the American Society for Testing and Materials. This material is incorporated by reference and does not include any later amendments or editions of the incorporated material. Copies of the incorporated material are available for inspection at the Arizona Department of Environmental Quality, 1110 W. Washington, Phoenix, AZ 85007 or may be obtained from the American Society for Testing and Materials International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959; and
 - iii. Upon installation, protect the soil liner to prevent desiccation; and
 - c. For new facilities, develop and implement a construction Quality Assurance/Quality Control program that addresses site and subgrade preparation, inspection procedures, field testing, laboratory testing, and final inspection after construction of the liner to ensure functional integrity.
- D. Operational requirements.** A permittee shall:
1. Maintain sufficient freeboard to manage the 100-year, 24-hour storm event including at least 2 feet of freeboard under normal operating conditions. Management of the 100-year, 24-hour storm event may be through design, pumping, or a combination of both;
 2. Remove accumulated residues, sediments, debris, and vegetation to maintain the integrity of the liner and the design capacity of the impoundment;
 3. Perform and document a visual inspection for damage to the liner and for accumulation of residual material at least monthly. The operator shall conduct an inspection within 72 hours after the facility receives a significant volume of stormwater inflow;
 4. Repair damage to the liner by following the Quality Assurance/Quality Control Plan required under subsection (B)(3); and
 5. Remove all inflow from the impoundment as soon as practical, but no later than 60 days after a temporary event, for facilities designed to contain inflow only for temporary events, such as process upsets.
- E. Recordkeeping.** A permittee shall maintain at the site, the following information for at least 10 years and make it available to the Department upon request:
1. Construction drawings and as-built plans, if available;
 2. A log book or similar documentation to record inspection results, repair and maintenance activities, monitoring results, and facility closure;
 3. Capacity design criteria;
 4. A list of standard operating procedures;
 5. The construction Quality Assurance/Quality Control program documentation; and
 6. Records of any inflow into the impoundment other than those permitted by this Section.
- F. Reporting requirements.**
1. If the liner leaks, as evidenced by a drop in water level not attributable to evaporation, or if the berm breaches or an impoundment is overtopped due to a catastrophic or other significant event, the permittee shall report the circumstance to the Department within five days of discovery and implement the contingency plan required in subsection (B)(4). The permittee shall submit a final report to the Department within 60 days of the event summarizing the circumstances of the problem and corrective actions taken.
 2. The permittee shall report unauthorized flows into the impoundment to the Department within five days of discovery and implement the contingency plan required in subsection (B)(4).
- G. Closure requirements.** The permittee shall notify the Department of the intent to close the facility permanently. Within 90 days following closure notification the permittee shall comply with the following requirements, as applicable:
1. Remove liquids and any solid residue on the liner and dispose appropriately;
 2. Inspect the liner for evidence of holes, tears, or defective seams that could have leaked;
 3. If evidence of leakage is discovered, remove the liner in the area of suspected leakage and sample potentially impacted soil. If soil remediation levels are exceeded, the permittee shall define the lateral and vertical extent of contamination and, within 60 days of the exceedance, notify the Department and submit an action plan for achieving clean closure for the Department's approval before implementing the plan;
 4. If there is no evidence of holes, tears, or defective seams that could have leaked:
 - a. Cover the liner in place or remove it for disposal or reuse if the impoundment is an excavated impoundment,
 - b. Remove and dispose of the liner elsewhere if the impoundment is bermed, and
 - c. Grade the facility to prevent the impoundment of water; and
 5. Notify the Department within 60 days following closure that the action plan was implemented and the closure is complete.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-D302. 3.02 General Permit: Process Water Discharges from Water Treatment Facilities

- A.** A 3.02 General Permit allows filtration backwash and discharges obtained from sedimentation and coagulation in the water treatment process from facilities that treat water for industrial process or potable uses. The permittee shall ensure that:
1. Liquid fraction. The discharge meets:
 - a. All numeric Aquifer Water Quality Standards for inorganic chemicals, organic chemicals, and pesticides established in R18-11-406(B) through (D);
 - b. The discharge meets one of the following criteria for microbiological contaminants:
 - i. Either the concentration of fecal coliform organisms is not more than 2/100 ml or the con-

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- centration of *E. coli* bacteria is not more than 1/100 ml, or
- ii. Either the concentration of fecal coliform organisms is less than 200/100 ml or the concentration of *E. coli* bacteria is less than 126/100 ml if the average daily flow processed by the water treatment facility is less than 250,000 gallons; and
2. Solid Fraction. The solid material in the discharge qualifies as inert material, as defined in A.R.S. § 49-201(19).
- B. Notice of Intent to Discharge.** In addition to the Notice of Intent to Discharge requirements specified in R18-9-A301(B), an applicant shall submit:
1. A characterization of the discharge, including a representative chemical and biological analysis of expected discharges and all source waters; and
 2. The design capacity of any impoundment covered by this general permit.
- C. Impoundment design and siting requirements.** An applicant shall:
1. Ensure that the depth to the static groundwater table is greater than 20 feet;
 2. Not locate the area of discharge immediately above karstic or fractured bedrock, unless the discharge meets the microbial limits specified in subsection (A)(1)(b)(i);
 3. Maintain a minimum horizontal setback of 100 feet between the facility and any water supply well;
 4. Design and construct an impoundment to maintain, using design volume or mechanical systems, normal operating volumes and any inflow from the 100-year, 24-hour storm event. The applicant shall:
 - a. Divert any surface water run-on from the 100-year, 24-hour storm event around the facility if not intended for capture by facility design; and
 - b. Design the facility to maintain 2 feet of freeboard or an alternative level of freeboard that the applicant demonstrates is reasonable, considering meteorological factors, the size of the impoundment, and other site-specific factors; or
 - c. Discharge to surface water under the conditions of an AZPDES permit; and
 5. Manage off-site disposal of sludge according to A.R.S. Title 49, Chapter 4.
- D. Operational requirements.**
1. Inorganic chemical, organic chemical, and pesticide monitoring.
 - a. The permittee shall monitor any discharge annually to determine compliance with the requirements of subsection (A).
 - b. If the concentration of any pollutant exceeds the numeric Aquifer Water Quality Standard, the permittee shall submit a report to the Department with a proposal for mitigation and shall increase monitoring frequency for that pollutant to quarterly.
 - c. If, in the quarterly sampling, the condition in subsection (D)(1)(b) continues for two consecutive quarters, the permittee shall submit an application for an individual permit.
 2. Microbiological contaminant monitoring.
 - a. The permittee shall monitor any discharge annually to determine compliance with the requirements of subsection (A)(1)(b).
 - b. If the concentration of any pollutant exceeds the limits established in subsection (A)(1)(b), the permittee shall submit a report to the Department with a proposal for mitigation and increase monitoring frequency for that pollutant to monthly.
 - c. If, in the monthly sampling, the condition in subsection (D)(2)(b) continues for three consecutive months, the permittee shall submit an application for an individual permit.
- E. Recordkeeping.** A permittee shall maintain at the site, the following information, if applicable for the disposal method, for at least 10 years, and make it available to the Department upon request:
1. Construction drawings and as-built plans, if available;
 2. A log book or similar documentation to record inspection results, repair and maintenance activities, monitoring results, and facility closure;
 3. Water quality data collected under subsection (D);
 4. Standard operating procedures; and
 5. Records of any discharge other than those identified under subsection (B).
- F. Reporting requirements.** The permittee shall:
1. Report unauthorized flows into the impoundment to the Department within five days of discovery, and
 2. Submit the report required in subsections (D)(1)(b) or (2)(b) within 30 days of receiving the analytical results.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-D303. 3.03 General Permit: Vehicle and Equipment Washes

- A.** A 3.03 General Permit allows a facility to discharge water from washing vehicle exteriors and vehicle equipment. The 3.03 General Permit does not authorize:
1. Discharge water that typically results from the washing of vehicle engines unless the discharge is to a lined surface impoundment;
 2. Direct discharges of sanitary sewage, vehicle lubricating oils, antifreeze, gasoline, paints, varnishes, solvents, pesticides, or fertilizers;
 3. Discharges resulting from washing the interior of vessels used to transport fuel products or chemicals, or washing equipment contaminated with fuel products or chemicals; or
 4. Discharges resulting from washing the interior of vehicles used to transport mining concentrates that originate from the same mine site, unless the discharge is to a lined surface impoundment.
- B.** Notice of Intent to Discharge. In addition to the Notice of Intent to Discharge requirements specified in R18-9-A301(B), an applicant shall submit a narrative description of the facility and a design of the disposal system and wash operations.
- C.** Design, installation, and testing requirements. An applicant shall:
1. Design and construct the wash pad:
 - a. To drain and route wash water to a sump or similar sediment-settling structure and an oil/water separator or a comparable pretreatment technology;
 - b. Of concrete or material chemically compatible with the wash water and its constituents; and
 - c. To support the maximum weight of the vehicle or equipment being washed with an appropriate safety factor;

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2. Not use unlined ditches or natural channels to convey wash water;
3. Ensure that a surface impoundment meets the requirements in R18-9-D301(C)(1) through (3). The applicant shall ensure that berms or dikes at the impoundment can withstand wave action erosion and are compacted to a uniform density not less than 95 percent;
4. Ensure that a surface impoundment required for wash water described in subsection (A)(1) meets the design and installation requirements in R18-9-D301(C);
5. If wash water is received by an unlined surface impoundment or engineered subsurface disposal system, the applicant shall:
 - a. Ensure that the annual daily average flow is less than 3000 gallons per day;
 - b. Maintain a minimum horizontal setback of 100 feet between the impoundment or subsurface disposal system and any water supply well;
 - c. Ensure that the bottom of the surface impoundment or subsurface disposal system is at least 50 feet above the static groundwater level and the intervening material does not consist of karstic or fractured bedrock;
 - d. Ensure that the wash water receives primary treatment before discharge through, at a minimum, a sump or similar structure for settling sediments or solids and an oil/water separator or a comparable pretreatment technology designed to reduce oil and grease in the wastewater to 15 mg/l or less;
 - e. Withdraw the separated oil from the oil/water separator using equipment such as adjustable skimmers, automatic pump-out systems, or level sensing systems to signal manual pump-out; and
 - f. If a subsurface disposal system is used, design the system to prevent surfacing of the wash water.
- D. Operational requirements. The permittee shall:
 1. Inspect the oil/water separator before operation to ensure that there are no leaks and that the oil/water separator is in operable condition;
 2. Inspect the entire facility at least quarterly. The inspection shall, at a minimum, consist of a visual examination of the wash pad, the sump or similar structure, the oil/water separator, and all surface impoundments;
 3. Visually inspect each surface impoundment at least monthly, to ensure the volume of wash water is maintained within the design capacity and freeboard limitation;
 4. Repair damage to the integrity of the wash pad or impoundment liner as soon as practical;
 5. Maintain the oil/water separator to achieve the operational performance of the separator;
 6. Remove accumulated sediments in all surface impoundments to maintain design capacity; and
 7. Use best management practices to minimize the introduction of chemicals not typically associated with the wash operations. Only biodegradable surfactant or soaps are allowed. The permittee shall not use products that contain chemicals in concentrations likely to cause a violation of an Aquifer Water Quality Standard at the applicable point of compliance.
- E. Monitoring requirements.
 1. If wash water is discharged to an unlined surface impoundment or other area for subsurface disposal, the permittee shall monitor the wash water quarterly at the point of discharge for pH and for the presence of C₁₀ through C₃₂ hydrocarbons using a Department of Health Services certified method.
 2. If pH is not between 6.0 and 9.0 or the concentration of C₁₀ through C₃₂ hydrocarbons exceeds 50 mg/l, the permittee shall, within 30 days of the monitorings, submit a report to the Department with a proposal for mitigation and shall increase monitoring frequency to monthly.
 3. If the condition in subsection (E)(2) persists for three consecutive months, the permittee shall submit, within 90 days, an application for an individual permit.
- F. Recordkeeping. A permittee shall maintain the following information for at least 10 years and make it available to the Department upon request:
 1. Construction drawings and as-built plans, if available;
 2. A log book or similar documentation to record inspection results, repair and maintenance activities, monitoring results, and facility closure; and
 3. The Material Safety Data Sheets for the chemicals used in the wash operations and any required monitoring results.
- G. Closure requirements. A permittee shall comply with the closure requirements specified in R18-9-D301(G) if a liner has been used. If no liner is used the permittee shall remove and appropriately dispose of any liquids and grade the facility to prevent impoundment of water.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-D304. 3.04 General Permit: Non-Stormwater Impoundments at Mining Sites

- A. A 3.04 General Permit allows discharges to lined surface impoundments, lined secondary containment structures, and associated lined conveyance systems at mining sites.
 1. The following discharges are allowed under the 3.04 General Permit:
 - a. Seepage from tailing impoundments, unleached rock piles, or process areas;
 - b. Process solution temporarily stored for short periods of time due to process upsets or rainfall, provided the solution is promptly removed from the facility as required under subsection (D);
 - c. Stormwater runoff not permitted under A.R.S. § 49-245.01 because the facility does not receive solely stormwater or because the runoff is regulated but not considered stormwater under the Clean Water Act; and
 - d. Wash water specific to sand and gravel operations not covered by R18-9-B301(A).
 2. Facilities that continually contain process solution as a normal function of facility operations are not eligible for coverage under the 3.04 General Permit. If a normal process solution contains a pollutant regulated under A.R.S. § 49-243(I) the 3.04 General Permit does not apply if the pollutant will compromise the integrity of the liner.
- B. Notice of Intent to Discharge. In addition to the Notice of Intent to Discharge requirements specified in R18-9-A301(B), an applicant shall submit:
 1. A description of the sources of inflow to the facility. An applicant shall include a representative chemical analysis of expected sources of inflow to the facility unless a sample is not available, before facility construction, in which

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- case the applicant shall provide a chemical analysis of solution present in the facility to the Department within 90 days after the solution first enters the facility;
2. Documentation demonstrating that the facility design and operation under subsections (C) and (D) have been reviewed by a mining engineer or an Arizona-registered professional engineer before submission to the Department; and
 3. A contingency plan that specifies actions proposed in case of an accidental release from the facility, overtopping of the impoundment, breach of the berm, or unauthorized inflows into the impoundment or containment structure.
- C. Design, construction, and installation requirements.** An applicant shall:
1. Design and construct the impoundment or secondary containment structure as specified under R18-9-D301(C)(1);
 2. Ensure that conveyance systems are capable of handling the peak flow from the 100-year storm;
 3. Construct the liner as specified in R18-9-D301(C)(4)(a);
 4. Develop and implement a Quality Assurance/Quality Control program that meets or exceeds the liner manufacturer's guidelines. The program shall address site and subgrade preparation, inspection procedures, field testing, laboratory testing, repair of seams during installation, and final inspection of the completed liner for functional integrity;
 5. If the facility is located in the 100-year flood plain, design the facility so it is protected from damage or flooding as a result of a 100-year, 24-hour storm event;
 6. Design and manage the facility so groundwater does not come into contact with the liner;
 7. Ensure that the facility design addresses any significant geologic hazard relating to static and seismic stability. The applicant shall document any design adjustments made for this reason in the Notice of Intent to Discharge;
 8. Ensure that the site preparation includes, as appropriate, clearing the area of vegetation, grubbing, grading, and embankment and subgrade preparation. The applicant shall ensure that supporting surface slopes and foundation are stable and structurally sound;
 9. Ensure that the liner is anchored by being secured in an engineered anchor trench. If regularly exposed to sunlight, the applicant shall ensure that the liner is ultraviolet resistant; and
 10. Use compacted clay subgrade in areas with shallow groundwater conditions.
- D. Operational requirements.** The permittee shall:
1. Maintain the freeboard required in subsection (C)(1) through design, pumping, or both;
 2. Remove accumulated residues, sediments, debris, and vegetation to maintain the integrity of the liner and the design capacity of the impoundment;
 3. Perform and document a visual inspection for cracks, tears, perforations and residual build-up at least monthly. The operator shall conduct and document an inspection after the facility receives significant volumes of stormwater inflow;
 4. Report cracks, tears, and perforations in the liner to the Department, and repair them as soon as practical, but no later than 60 days under normal operating conditions, after discovery of the crack, tear, or perforation;
 5. For facilities that temporarily contain a process solution due to process upsets, remove the process solution from the facility as soon as practical, but no later than 60 days after cessation of the upset; and
 6. For facilities that temporarily contain a process solution due to rainfall, remove the process solution from the facility as soon as practical.
- E. Recordkeeping.** A permittee shall maintain the following information for at least 10 years and make it available to the Department upon request:
1. Construction drawings and as-built plans, if available;
 2. A log book or similar documentation to record inspection results, repair and maintenance activities, monitoring results and facility closure;
 3. Capacity design criteria;
 4. A list of standard operating procedures;
 5. The Quality Assurance/Quality Control program required under subsection (C)(4); and
 6. Records of any unauthorized flows into the impoundment.
- F. Reporting requirements.**
1. If the liner is breached, as evidenced by a drop in water level not attributable to evaporation, or if the impoundment breaches or is overtopped due to a catastrophic or other significant event, the permittee shall report the circumstance to the Department within five days of discovery and implement the contingency plan required in subsection (B)(3). The permittee shall submit a final report to the Department within 60 days of the event summarizing the circumstances of the problem and corrective actions taken.
 2. The permittee shall report unauthorized flows into the impoundment to the Department within five days of discovery and implement the contingency plan required in subsection (B)(3).
- G. Closure requirements.**
1. The permittee shall notify the Department of the intent to close the facility permanently.
 2. Within 90 days following closure notification the permittee shall comply with the following requirements, as applicable:
 - a. Remove liquids and any solid residue on the liner and dispose appropriately;
 - b. Inspect the liner for evidence of holes, tears, or defective seams that could have leaked;
 - c. If evidence of leakage is discovered, remove the liner in the area of suspected leakage and sample potentially impacted soil. If soil remediation levels are exceeded, the permittee shall, within 60 days notify the Department and submit an action plan for the Department's approval before implementing the plan;
 - d. If there is no evidence of holes, tears, or defective seams that could have leaked:
 - i. Cover the liner in place or remove it for disposal or reuse if the impoundment is an excavated impoundment,
 - ii. Remove and dispose of the liner elsewhere if the impoundment is bermed, and
 - iii. Grade the facility to prevent the impoundment of water; and
 3. Notify the Department within 60 days following closure that the action plan has been implemented and the closure is complete.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

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235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-D305. 3.05 General Permit: Disposal Wetlands

- A.** A 3.05 General Permit allows discharges of reclaimed water into constructed or natural wetlands, including waters of the United States, waters of the state, and riparian areas, for disposal. This general permit does not apply if the purpose of the wetlands is to provide treatment.
- B.** Notice of Intent to Discharge. In addition to the Notice of Intent to Discharge requirements specified in R18-9-A301(B), an applicant shall submit the name and individual permit number of the facility providing the reclaimed water.
- C.** Design requirements. An applicant shall:
 - 1. Ensure that the reclaimed water released into the wetland meets numeric and narrative Aquifer Water Quality Standards for all parameters except for coliform bacteria and is Class A+ reclaimed water. A+ reclaimed water is wastewater that has undergone secondary treatment established under R18-9-B204(B)(1), filtration, and meets a total nitrogen concentration under R18-9-B204(B)(3) and fecal coliform limits under R18-9-B204(B)(4);
 - 2. Maintain a minimum horizontal separation of 100 feet between any water supply well and the maximum wetted area of the wetland;
 - 3. Post signs at points of access and every 250 feet along the perimeter of the wetland stating, "CAUTION. THESE WETLANDS CONTAIN RECLAIMED WATER. DO NOT DRINK." The applicant shall ensure that the signs are in English and Spanish, or in English with inclusion of the international "do not drink" symbol; and
 - 4. Ensure that wetland siting is consistent with local zoning and land use requirements.
- D.** Operational requirements.
 - 1. A permittee shall manage the wetland to minimize vector problems.
 - 2. The permittee shall submit to the Department and implement a Best Management Practices Plan for operation of the wetland. The Best Management Practices Plan shall include:
 - a. A site plan showing the wetland footprint, point of inflow, stormwater drainage, and placement of vegetation;
 - b. Management of flows into and through the wetland to minimize erosion and damage to vegetation;
 - c. Management of visitation and use of the wetlands by the public;
 - d. A management plan for vector control;
 - e. A plan or criteria for enhancing or supplementing of wetland vegetation; and
 - f. Management of shallow groundwater conditions on existing on-site wastewater treatment facilities.
 - 3. The permittee shall perform quarterly inspections to review bank integrity, erosion evidence, the condition of signage and vegetation, and correct any problem noted.
- E.** Recordkeeping. A permittee shall maintain the following information for at least 10 years and make it available to the Department upon request:
 - 1. Construction drawings and as-built plans, if available; and
 - 2. A log book or similar documentation to record inspection results, repair and maintenance activities, monitoring results, and facility closure.

- F.** Reporting requirements. The permittee shall, by January 30, provide the Department in writing with an annual assessment of the biological condition of the wetland, including the volume of inflow to the wetland in the past year.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-D306. 3.06 General Permit: Constructed Wetlands to Treat Acid Rock Drainage at Mining Sites

- A.** A 3.06 General Permit allows the operation of constructed wetlands that receive, with the intent to treat, acid rock drainage from a closed facility.
- B.** Notice of Intent to Discharge. In addition to the Notice of Intent to Discharge requirements specified in R18-9-A301(B), an applicant shall submit a design, including information on the quality of the influent, the treatment process to be used, the expected quality of the wastewater, and the nutrients and other constituents that will indicate wetland performance.
- C.** Design, construction, and installation. An applicant shall:
 - 1. Ensure that:
 - a. Water released into the treatment wetland is compatible with construction materials and vegetation;
 - b. Water released from the treatment wetland:
 - i. Meets numeric Aquifer Water Quality Standards,
 - ii. Has a pH between 6.0 and 9.0, and
 - iii. Has a sulfate concentration less than 1000 mg/l; and
 - c. Water released from the treatment wetland complies with and is released under an individual permit and an AZPDES Permit, if required;
 - 2. Construct the treatment wetland with a liner, using a low-hydraulic conductivity synthetic liner, site-specific liner, or both, to achieve a calculated seepage rate of less than 550 gallons per acre per day. The applicant shall:
 - a. Ensure that, if a synthetic liner is used, such as geomembrane, the liner is underlain by at least 6 inches of prepared and compacted subgrade;
 - b. Anchor the liner along the perimeter of the treatment wetland; and
 - c. Manage the plants in the treatment wetland to prevent species with root penetration that impairs liner performance;
 - 3. Design the treatment wetland for optimum:
 - a. Sizing appropriate for the anticipated treatment,
 - b. Cell configuration,
 - c. Vegetative species composition, and
 - d. Berm configuration;
 - 4. Construct and locate the treatment wetland so that it:
 - a. Maintains physical integrity during a 100-year, 24-hour storm event; and
 - b. Operates properly during a 25-year, 24-hour storm event;
 - 5. Ensure that the bottom of the treatment wetland is at least 20 feet above the seasonal high groundwater table; and
 - 6. If public access to the treatment wetland is anticipated or encouraged, post signs at points of access and every 250 feet along the perimeter of the treatment wetland stating, "CAUTION. THESE WETLANDS CONTAIN MINE DRAINAGE WATER. DO NOT DRINK." The permittee shall ensure that the signs are in English and Spanish, or

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in English with inclusion of the international “do not drink” symbol.

D. Operational requirements.

1. The permittee shall monitor the water leaving the treatment wetlands at least quarterly for the standards specified in subsection (C)(1)(b). Monitoring shall include nutrients or other constituents used as indicators of treatment wetland performance.
2. The permittee shall submit to the Department and implement a Best Management Practices Plan for operation of the treatment wetland. The Best Management Practices Plan shall include:
 - a. A site plan showing the treatment wetland footprint, point of inflow, stormwater drainage, and placement of vegetation;
 - b. A contingency plan to address problems, including treatment performance, wash-out and vegetation die-off, and a plan to apply for an individual permit if the treatment wetland is unable to achieve the treatment standards in subsection (C)(1)(b) on a continued basis;
 - c. Management of flows into and through the treatment wetland to minimize erosion and damage to vegetation;
 - d. A description of the measures for restricting access to the treatment wetlands by the public;
 - e. A management plan for vector control; and
 - f. A plan or criteria for enhancing or supplementing treatment wetland vegetation.
3. The permittee shall perform quarterly inspections to review the bank and liner integrity, erosion evidence, and the condition of signage and vegetation, and correct any problems noted.

E. Recordkeeping. A permittee shall maintain the following information for at least 10 years and make it available to the Department upon request:

1. Construction drawings and as-built plans, if available; and
2. A log book or similar documentation to record inspection results, repair and maintenance activities, monitoring results, and facility closure.

F. Reporting requirements.

1. If preliminary laboratory results indicate that the quality of the water leaving the treatment wetlands does not meet the standards specified in subsection (C)(1)(b), the permittee may request that the laboratory re-analyze the sample before reporting the results to the Department. The permittee shall:
 - a. Conduct verification sampling within 15 days of receiving final laboratory results,
 - b. Conduct verification sampling only for parameters that are present in concentrations greater than the standards specified in subsection (C)(1)(b), and
 - c. Notify the Department in writing within five days of receiving final laboratory results.
2. If the final laboratory result confirms that the quality of the water leaving the treatment wetlands does not meet the standards in subsection (C)(1)(b), the permittee shall implement the contingency plan required by subsection (D)(2)(b) and notify the Department that the plan is being implemented.
3. The permittee shall, by January 30, provide the Department in writing with an annual assessment of the biological condition of the treatment wetland, including the

volume of inflow to the treatment wetland in the past year.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-D307. 3.07 General Permit: Tertiary Treatment Wetlands

- A.** A 3.07 General Permit allows constructed wetlands that receive with the intent to treat, discharges of reclaimed water that meet the secondary treatment level requirements specified in R18-9-B204(B)(1).
- B.** Notice of Intent to Discharge. In addition to the Notice of Intent to Discharge requirements specified in R18-9-A301(B), an applicant shall submit:
 1. The name and individual permit number of any facility that provides the reclaimed water to the treatment wetland;
 2. The name and individual permit number of any facility that receives water released from the treatment wetland;
 3. The design of the treatment wetland construction and management project, including information on the quality of the influent, the treatment process, and the expected quality of the wastewater;
 4. A Best Management Practices Plan that includes:
 - a. A site plan showing the treatment wetland footprint, point of inflow, stormwater drainage, and placement of vegetation;
 - b. A contingency plan to address any problem, including treatment performance, wash-out, and vegetation die-off;
 - c. A management plan for flows into and through the treatment wetland to minimize erosion and damage to vegetation;
 - d. A description of the measures for restricting access to the treatment wetlands by the public;
 - e. A management plan for vector control; and
 - f. A plan or criteria for enhancing or supplementing treatment wetland vegetation.
- C.** Design requirements. An applicant shall:
 1. Release water from the treatment wetland under an individual permit and an AZPDES permit, if required. The applicant shall release water from the treatment wetland only to a direct reuse site if the site is permitted to receive reclaimed water of the quality generated under the individual permit specified in subsection (B)(1);
 2. Construct and locate the treatment wetland so that it:
 - a. Maintains physical integrity during a 100-year, 24-hour storm event; and
 - b. Operates properly during a 25-year, 24-hour storm event;
 3. Ensure that the bottom of the treatment wetland is at least 20 feet above the seasonal high groundwater table;
 4. Maintain a minimum horizontal separation of 100 feet between a water supply well and the maximum wetted area of the treatment wetland;
 5. Maintain the setbacks specified in R18-9-B201(I) for no noise, odor, or aesthetic controls between the property boundary at the site and the maximum wetted area of the treatment wetland;
 6. Fence the treatment wetland area to prevent unauthorized access;

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7. Post signs at points of access stating "CAUTION. THESE WETLANDS CONTAIN RECLAIMED WATER, DO NOT DRINK." The applicant shall ensure that the signs are in English and Spanish, or in English with inclusion of the international "do not drink" symbol;
 8. Construct the treatment wetland with a liner using low hydraulic conductivity liner, site-specific liner, or both, to achieve a calculated seepage rate of less than 550 gallons per acre per day. The applicant shall:
 - a. Ensure that if a synthetic liner is used, such as geomembrane, the liner is underlain by at least 6 inches of prepared and compacted subgrade;
 - b. Anchor the liner along the perimeter of the treatment wetland; and
 - c. Manage the plants in the treatment wetland to prevent species with root penetration that impairs liner performance;
 9. Calculate the size and depth of the treatment wetland so that the rate of flow allows adequate treatment detention time. The applicant shall design the treatment wetland with at least two parallel treatment cells to allow for efficient system operation and maintenance;
 10. Ensure that the treatment wetland vegetation includes cattails, bulrush, common reed, or other species of plants with high pollutant treatment potential to achieve the intended water quality identified in subsection (B)(3); and
 11. Ensure that construction and operation of the treatment wetlands is consistent with local zoning and land use requirements.
- D. Operational requirements.** The permittee shall:
1. Implement the Best Management Practices Plan approved under subsection (B);
 2. Monitor wastewater leaving the treatment wetland to ensure that discharge water quality meets the expected wastewater quality specified in subsection (B)(3). The permittee shall ensure that analyses of wastewater samples are conducted by a laboratory certified by the Department of Health Services, following the Department's Quality Assurance/Quality Control requirements;
 3. Follow the prescribed measures as required in the contingency plan under subsection (B)(4)(b) and submit a written report to the Department within five days if verification sampling demonstrates that an alert level or discharge limit is exceeded;
 4. Inspect the treatment wetlands at least quarterly for bank and liner integrity, erosion evidence, and condition of signage and vegetation, and correct any problem discovered; and
 5. Ensure that the treatment wetland is operated by a certified operator under 18 A.A.C. 5, Article 1.
- E. Recordkeeping.** A permittee shall maintain the following information for at least 10 years and make it available to the Department upon request:
1. Construction drawings and as-built plans, if available; and
 2. A log book or similar documentation to record inspection results, repair and maintenance activities, monitoring results, and facility closure.
- F. Reporting requirements.** The permittee shall, by January 30, provide the Department in writing with an annual assessment of the biological condition of the treatment wetland including the volume of inflow to the treatment wetland in the past year.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

PART E. TYPE 4 GENERAL PERMITS**R18-9-E301. 4.01 General Permit: Sewage Collection Systems**

- A.** A 4.01 General Permit allows for construction and operation of a new sewage collection system or expansion of an existing sewage collection system involving new construction as follows:
1. A sewage collection system or portion of a sewage collection system that serves downstream from the point where the daily design flow is 3000 gallons per day based on Table 1, Unit Design Flows, except a gravity sewer line conveying sewage from a single building drain directly to an interceptor, collector sewer, lateral, or manhole regardless of daily design flow;
 2. A sewage collection system that includes a manhole; or
 3. A sewage collection system that includes a force main or lift station serving more than one dwelling.
- B.** Performance. An applicant shall design, construct, and operate a sewage collection system so that the sewage collection system:
1. Provides adequate wastewater flow capacity for the planned service area;
 2. Minimizes sedimentation, blockage, and erosion through maintenance of proper flow velocities throughout the system;
 3. Prevents releases of sewage to the land surface through appropriate sizing, capacities, and inflow and infiltration prevention measures throughout the system;
 4. Protects water quality through minimization of exfiltration losses from the system;
 5. Provides for adequate inspection, maintenance, testing, visibility, and accessibility;
 6. Maintains system structural integrity; and
 7. Minimizes septic conditions in the sewage collection system.
- C.** Notice of Intent to Discharge. In addition to the Notice of Intent to Discharge requirements specified in R18-9-A301(B), an applicant shall submit the following information:
1. A statement on a form approved by the Director, signed by the owner or operator of the sewage treatment facility that treats or processes the sewage from the proposed sewage collection system.
 - a. The statement shall affirm that the additional volume of wastewater delivered to the facility by the proposed sewage collection system will not cause any flow or effluent quality limits of the individual permit for the facility to be exceeded.
 - b. If the facility is classified as a groundwater protection permit facility under A.R.S. § 49-241.01(C), or if no flow or effluent limits are applicable, the statement shall affirm that the design flow of the facility will not be exceeded;
 2. If the proposed sewage collection system delivers wastewater to a downstream sewage collection system under different ownership or control, a statement on a form approved by the Director, signed by the owner or operator of the downstream sewage collection system, affirming that the downstream system can maintain the perfor-

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mance required by subsection (B) when receiving the increased flows;

3. A general site plan showing the boundaries and key aspects of the project;
4. Construction quality drawings that provide overall details of the site and the engineered works comprising the project including:
 - a. The plans and profiles for all sewer lines, manholes, force mains, depressed sewers, and lift stations with sufficient detail to allow Department verification of design and performance characteristics;
 - b. Relevant cross sections showing construction details and elevations of key components of the sewage collection system to allow Department verification of design and performance characteristics, including the slope of each gravity sewer segment stated as a percentage; and
 - c. Drainage features and controls, and erosion protection as applicable, for the components of the project; and
 - d. Horizontal and vertical location of utilities within the area affected by the sewer line construction;
5. Documentation of design flows for significant components of the sewage collection system and the basis for calculating the design flows;
6. Drawings, reports, and other information that are clear, reproducible, and in a size and format specified by the Department. The applicant may submit the drawings in a Department-approved electronic format; and
7. Design documents, including plans, specifications, drawings, reports, and calculations that are signed, dated, and sealed by an Arizona-registered professional engineer. The designer shall use good engineering judgment by following engineering standards of practice, and rely on appropriate engineering methods, calculations, and guidance.

D. Design requirements.

1. General Provisions. An applicant shall design and construct a new sewage collection system or an expansion of an existing sewage collection system involving new construction, according to the requirements of this general permit. An applicant shall:
 - a. Base design flows for components of the system on unit flows specified in Table 1, Unit Design Flows.
 - b. Design gravity sewer lines and all other sewage collection system components, including, manholes, force mains, lift stations, depressed sewers, and appurtenant devices and structures to accommodate maximum sewage flows as follows:
 - i. Any point in a sewer main when flowing full can accommodate a peak wet weather flow calculated by multiplying the sum of the upstream sources of flow from Table 1, Unit Design Flows by a dry weather peaking factor based on upstream population, as tabulated below, and adding a wet weather infiltration and inflow rate based on either a percentage of peak dry weather flow or a gallons per acre rate of flow;

Upstream Population	Dry Weather Peaking Factor
100	3.62
200	3.14
300	2.90

400	2.74
500	2.64
600	2.56
700	2.50
800	2.46
900	2.42
1000	2.38
1001 to 10,000	$PF = (6.330 \times p^{-0.231}) + 1.094$
10,001 to 100,000	$PF = (6.177 \times p^{-0.233}) + 1.128$
More than 100,000	$PF = (4.500 \times p^{-0.174}) + 0.945$
PF = Dry Weather Peaking Factor p = Upstream Population	

- ii. For a lift station serving less than 600 single family dwelling units (d.u.), use either of the following methods to size the pumps for peak dry weather flow in gallons per minute and add an allowance for wet weather flow and infiltration:
 - (1) Peak dry weather flow = 17 d.u.^{0.42}, or
 - (2) Peak dry weather flow = 11.2 (population)^{0.42}
- iii. If justified by the applicant, the Department may accept lower unit flow values in the served area due to significant use of low-flow fixtures, hydrographs of actual flows, or other factors;
- c. Use the "Uniform Standard Specifications for Public Works Construction" (revisions through 2004) and the "Uniform Standard Details for Public Works Construction" (revisions through 2004) published by the Maricopa Association of Governments, and the "Standard Specifications for Public Improvements," (2003 Edition), and "Standard Details for Public Improvements," (2003 Edition), published jointly by Pima County Wastewater Management and the City of Tucson, as the applicable design and construction criteria, unless the Department approves alternative design standards or specifications. An applicant in a county other than Maricopa and Pima shall use design and construction criteria from either the Maricopa Association of Governments or the Pima County Wastewater Management and the City of Tucson for the facility unless alternative criteria are designated by the Department.
 - i. This material is incorporated by reference and does not include any later amendments or editions of the incorporated material.
 - ii. Copies of the incorporated material are available for inspection at the Arizona Department of Environmental Quality, 1110 W. Washington, Phoenix, AZ 85007 or may be obtained from the Maricopa Association of Governments, 302 N. 1st Avenue, Suite 300, Phoenix, Arizona 85003, or on the web at <http://www.mag.maricopa.gov/archive/Newpages/on-line.htm>; or from Pima County Wastewater Management, 201 N. Stone Avenue, Tucson, Arizona 85701-1207, or on the web at <http://www.pima.gov/www/stdtdet>;
- d. Ensure that sewage collection system components are separated from drinking water distribution sys-

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- tem components as specified in 18 A.A.C. 5, Article 5;
- e. Ensure that sewage collection system components are separated from reclaimed water system components as specified in 18 A.A.C. 9, Article 6; and
 - f. Request review and approval of an alternative to a design feature specified in this Section by following the requirements in R18-9-A312(G).
2. Gravity sewer lines. An applicant shall:
 - a. Ensure that any sewer line that runs between manholes, if not straight, is of constant horizontal curvature with a radius of curvature not less than 200 feet;
 - b. Cover each sewer line with at least 3 feet of earth cover meeting the requirements of subsection (D)(2)(h). The applicant shall:
 - i. Include at least one note specifying this requirement in construction plans;
 - ii. If site-specific limitations prevent 3 feet of earth cover, provide the maximum cover attainable, construct the sewer line of ductile iron pipe or other design of equivalent or greater tensile and compressive strength, and note the change on the construction plans; and
 - iii. Ensure that the design of the pipe and joints can withstand crushing or shearing from any expected static and live load to protect the structural integrity of the pipe. Construction plans shall note locations requiring these measures;
 - c. If sewer lines cross or are constructed in floodways:
 - i. Place the lines at least 2 feet below the level of the 100-year storm scour depth and calculated 100-year bed degradation and construct the lines using ductile iron pipe or pipe with equivalent tensile strength, compressive strength, shear resistance, and scour protection.
 - ii. If it is not possible to maintain the 2 feet of clearance specified in subsection (D)(2)(c)(i), using the process described in R18-9-A312(G), provide a design that ensures that the sewer line will withstand any lateral and vertical load for the scour and bed degradation conditions specified in subsection (D)(2)(c)(i);
 - iii. Ensure that sewer lines constructed in a floodway extend at least 10 feet beyond the boundary of the 100-year storm scouring;
 - iv. If a sewer line is constructed in a floodway and is longer than the applicable maximum manhole spacing distance in subsection (D)(3)(a), using the process described in R18-9-A312(G), provide a design that ensures the performance standards in subsection (B) are met; and
 - v. Note locations requiring these measures on the construction plans;
 - d. Ensure that each sewer line is 8 inches in diameter or larger except the first 400 feet of a dead end sewer line with no potential for extension may be 6 inches in diameter if the design flow criteria specified in subsections (D)(1)(a) and (D)(1)(b) are met and the sewer line is installed with a slope sufficient to achieve a velocity of at least 3 feet per second when flowing full. If the line is extended, the applicant seeking the extension shall replace the entire length with larger pipe to accommodate the new design flow unless the applicant demonstrates with engineering calculations that using the existing 6-inch pipe will accommodate the design flow;
 - e. Design sewer lines with at least the minimum slope calculated from Manning's Formula using a coefficient of roughness of 0.013 and a sewage velocity of 2 feet per second when flowing full.
 - i. An applicant may request a smaller minimum slope under R18-9-A312(G) if the smaller slope is justified by a quarterly program of inspections, flushings, and cleanings.
 - ii. If a smaller minimum slope is requested, the applicant shall not specify a slope that is less than 50 percent of that calculated from Manning's formula using a coefficient of roughness of 0.013 and a sewage velocity of 2 feet per second.
 - iii. The ratio of flow depth in the pipe to the diameter of the pipe shall not exceed 0.75 in peak dry weather flow conditions;
 - f. Design sewer lines to avoid a slope that creates a sewage velocity greater than 10 feet per second. The applicant shall construct any sewer line carrying a flow with a normal velocity of greater than 10 feet per second using ductile iron pipe or pipe with equivalent erosion resistance, and structurally reinforce the receiving manhole or sewer main;
 - g. Design and install sewer lines, connections, and fittings with materials that meet or exceed manufacturer's specifications consistent with this Chapter to:
 - i. Limit inflows, infiltration, and exfiltration;
 - ii. Resist corrosion in the ambient electrochemical environment;
 - iii. Withstand anticipated static and live loads; and
 - iv. Provide internal erosion protection;
 - h. Indicate trenching and bedding details applicable for each pipe material and size in the design plans. Unless the Department approved alternative design standards or specifications under subsection (D)(1)(c), the applicant shall place and bed the sewer lines in trenches following the specifications in "Trench Excavation, Backfilling, and Compaction" (Section 601) revised 2004, published by the Maricopa Association of Governments; and "Rigid Pipe Bedding for Sanitary Sewers" (WWM 104) revised July 2002, and "Flexible Pipe Bedding for Sanitary Sewers" (WWM 105) revised July 2002, published by Pima County Wastewater Management. This material is part of the material incorporated by reference in subsection (D)(1)(b).
 - i. Perform a deflection test of the total length of all sewer lines made of flexible materials to ensure that the installation meets or exceeds the manufacturer's recommendations and record the results;
 - j. Test each segment of the sewer line for leakage using the applicable method below and record the results:
 - i. "Standard Test Method for Installation of Acceptance of Plastic Gravity Sewer Lines Using Low-Pressure Air, F1417-92(1998)," published by the American Society for Testing and Materials;
 - ii. "Standard Practice for Testing Concrete Pipe Sewer Lines by Low-Pressure Air Test Method,

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- C924-02 (2002),” published by the American Society for Testing and Materials;
- iii. “Standard Test Method for Low-Pressure Air Test of Vitrified Clay Pipe Lines, C828-03 (2003),” published by the American Society for Testing and Materials;
 - iv. “Standard Test Method for Hydrostatic Infiltration Testing of Vitrified Clay Pipe Lines, C1091-03a (2003),” published by the American Society for Testing Materials;
 - v. “Standard Practice for Infiltration ion and Exfiltration Acceptance Testing of Installed Precast Concrete Pipe Sewer Lines, C969-02 (2002),” published by the American Society for Testing Material; or
 - vi. “Standard Practice for Underground Installation of Thermoplastic Pipe for Sewers and Other Gravity-Flow Applications, D2321-00 (2000),” published by the American Society for Testing Materials; or
 - vii. The material listed in subsections (D)(2)(j)(i) through (vi) is incorporated by reference and does not include any later amendments or editions of the incorporated material. Copies of the incorporated material are available for inspection at the Arizona Department of Environmental Quality, 1110 W. Washington, Phoenix, AZ 85007 or may be obtained from the American Society for Testing and Materials International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959;
 - k. Test the total length of the sewer line for uniform slope by lamp lighting, remote camera or similar method approved by the Department, and record the results; and
 - l. Minimize the planting within the disturbed area of new sewage collection system construction of plant species having roots that are likely to reach and damage the sewer or impair the operation of the sewer or visual and vehicular access to any manhole.
3. Manholes.
- a. An applicant shall install manholes at all grade changes, size changes, alignment changes, sewer intersections, and at any location necessary to comply with the following spacing requirements:
- | Sewer Pipe Diameter (inches) | Maximum Manhole Spacing (feet) |
|------------------------------|--------------------------------|
| Less than 8 | 400 |
| 8 to less than 18 | 500 |
| 18 to less than 36 | 600 |
| 36 to less than 60 | 800 |
| 60 or greater | 1300 |
- b. The Department shall allow greater manhole spacing if the applicant follows the procedure provided in R18-9-A312(G) and provides documentation showing the operator possesses or has available specialized sewer cleaning equipment suitable for the increased spacing.
 - c. The applicant shall ensure that manhole design is consistent with “Pre-cast Concrete Sewer Manhole” #420-1, revised January 1, 2004 and #420-2, revised January 1, 2001, “Offset Manhole for 8” – 30” Pipe” #421 (1998), and “Sewer Manhole and Cover Frame Adjustment” #422, revised January 1, 2001, published by the Maricopa Association of Governments; and “Manholes and Appurtenant Items” (WWM 201 through WWM 211, except WWM 204, 205, and 206), revised July 2002, published by Pima County Wastewater Management. This material is part of the material incorporated by reference in subsection (D)(1)(b).
 - d. The applicant shall not locate manholes in areas subject to more than incidental runoff from rain falling in the immediate vicinity unless the manhole cover assembly is designed to restrict or eliminate storm-water inflow.
 - e. The applicant shall test each manhole using one of the following test protocols:
 - i. Watertightness testing by filling the manhole with water. The applicant shall ensure that the drop in water level following presoaking does not exceed 0.0034 of total manhole volume per hour;
 - ii. Negative air pressure testing using the “Standard Test Method for Concrete Sewer Manholes by Negative Air Pressure (Vacuum) Test, C1244-02e1 (2002),” published by the American Society for Testing and Materials. This material is incorporated by reference, does not include any later amendments or editions of the incorporated material and may be viewed at the Arizona Department of Environmental Quality, 1110 W. Washington, Phoenix, AZ 85007, or obtained from the American Society for Testing and Materials International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959; or
 - iii. Holiday testing of a lined manhole constructed with uncoated rebar using the “High-Voltage Electrical Inspection of Pipeline Coatings, RP0274-2004 (2004),” published by the National Association of Corrosion Engineers (NACE International). This material is incorporated by reference as modified below, does not include any later amendments or editions of the incorporated material and may be viewed at the Arizona Department of Environmental Quality, 1110 W. Washington, Phoenix, AZ 85007 or obtained from NACE International, 1440 South Creek Drive, Houston, Texas 77084-4906. The following substitutions apply:
 - (1) Where the word “metal” is used in the standard, use the word “surface” instead; and
 - (2) Where the words “pipe” or “pipeline” are used, use the word “manhole” instead.
 - f. The applicant shall perform manhole testing under subsection (D)(3)(e) after installation of the manhole cone or top riser to verify watertightness integrity of the manhole from the top of the cone or riser down.
 - i. Upon satisfactory test results, the applicant shall install the manhole ring and any spacers, complete the joints, and seal the manhole to a watertight condition.
 - ii. If the applicant can install the manhole cone or top riser, spacers, and ring to final grade without disturbance or adjustment by later construction

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- tion, the applicant may perform the testing from the top of the manhole ring on down.
- g. The applicant shall locate a manhole to provide adequate visibility and vehicular maintenance accessibility following construction.
 4. Force mains. An applicant may install a force main if it meets the following design, installation, and testing requirements. The applicant shall:
 - a. Design force mains to maintain a minimum flow velocity of 3 feet per second and a maximum flow velocity of 7 feet per second. The applicant may design for sustained periods of flow above 7 feet per second, if the applicant justifies the design using the process specified in R18-9-A312(G);
 - b. Ensure that force mains have the appropriate valves and controls required to prevent drainback to the lift station. If drainback is necessary during cold weather to prevent freezing, the control system may allow manual or automatic drainback;
 - c. Incorporate air release valves or other appropriate components in force mains at all high points along the line to eliminate air accumulation. If engineering calculations provided by the applicant demonstrate that air will not accumulate in a given high point under typical flow conditions, the Department shall waive the requirement for an air release valve;
 - d. Design restrained joints or thrust blocks on force mains to accommodate water hammer, surge control, and to prevent excessive movement of the force main. Submitted construction plans shall show restrained joint or thrust block locations and details;
 - e. If a force main is proposed to discharge directly to a sewage treatment facility without entering a flow equalization basin, include in the Notice of Intent to Discharge a statement from the owner or operator of the sewage treatment facility that the design is acceptable;
 - f. Design a force main to withstand a pressure of 50 pounds per square inch or more above the design working pressure for two hours and test upon completion to ensure no leakage;
 - g. Supply flow to a force main using a lift station that meets the requirements of subsection (D)(5); and
 - h. Ensure that force mains are designed to control odor.
 5. Lift stations. An applicant shall:
 - a. Secure a lift station to prevent tampering and affix on its exterior, or on the nearest vertical object if the lift station is entirely below grade, at least one warning sign that includes the 24-hour emergency phone number of the owner or operator of the collection system;
 - b. Protect lift stations from physical damage from a 100-year flood event. An applicant shall not construct a lift station in a floodway;
 - c. Lift station wet well design.
 - i. Ensure that the minimum wet well volume in gallons is 1/4 of the product of the minimum pump cycle time, in minutes, and the total pump capacity, in gallons per minute;
 - ii. Protect the wet well against corrosion to provide at least a 20-year operational life;
 - iii. Ensure that wet well volume does not allow the sewage retention time to exceed 30 minutes unless the sewage is aerated, chemicals are added to prevent or eliminate hydrogen sulfide formation, or adequate ventilation is provided. Notwithstanding these measures, the applicant shall not allow the septic condition of the sewage to adversely affect downstream collection systems or sewage treatment facility performance;
 - iv. Ensure that excessively high or low levels of sewage in the wet well trigger an audible or visible alarm at the wet well site and at the system control center;
 - v. Ensure that a wet well designed to accommodate more than 5000 gallons per day has a horizontal cross-sectional area of at least 20 square feet; and
 - vi. Ensure that lift stations are designed to prevent odor from emanating beyond the lift station site;
 - d. Equip a lift station wet well with at least two pumps. The applicant shall ensure that:
 - i. The pumps are capable of passing a 2.5-inch sphere or are grinder pumps;
 - ii. The lift station is capable of operating at design flow with any one pump out of service; and
 - iii. Piping, valves, and controls are arranged to allow independent operation of each pump;
 - e. Not use suction pumps if the sewage lift is more than 15 feet. The applicant shall ensure that other types of pumps are self-priming and that pump water brake horsepower is at least 0.00025 times the product of the required discharge, in gallons per minute, and the required total dynamic head, in feet; and
 - f. For lift stations receiving an average flow of more than 10,000 gallons per day, include a standby power source and redundant wastewater level controls in the lift station design that will provide immediate service and remain available for 24 hours per day if the main power source or controls fail.
 6. Depressed sewers. An applicant shall:
 - a. Size the depressed sewer to attain a minimum velocity of 3 feet per second through all barrels of the depressed sewer when the flow equals or exceeds the design daily peak dry weather flow,
 - b. Design the depressed sewer to convey the sewage flow through at least two parallel pipes at least 6 inches in diameter,
 - c. Include an inlet and outlet structure at each end of the inverted sewer,
 - d. Design the depressed sewer so that the barrels are brought progressively into service as flow increases to its design value, and
 - e. Design the depressed sewer to minimize release of odors to the atmosphere.
 - E. Additional Discharge Authorization requirements. An applicant shall:
 1. Supply a signed, dated, and sealed Engineer's Certificate of Completion in a format approved by the Department that provides the following:
 - a. Confirmation that the project was completed in compliance with the requirements of this Chapter, as described in the plans and specifications corresponding to the Construction Authorization issued by the Director, or with changes that are reflected in as-

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built plans submitted with the Engineer's Certificate of Completion;

- b. As-built plans, if required, that are properly identified and numbered; and
 - c. Satisfactory field test results from deflection, leakage, and uniform slope testing;
2. Provide any other relevant information required by the Department to determine that the facility conforms to the terms of the 4.01 General Permit; and
 3. Provide a signed certification on a form approved by the Department that:
 - a. Confirms that an operation and maintenance manual exists for the sewage collection system;
 - b. Confirms that the operation and maintenance manual addresses components of operation and maintenance specified on the certification form;
 - c. Provides the 24-hour emergency number of the owner or operator of the sewage collection system; and
 - d. Provides an address where the operation and maintenance manual is maintained and confirms that the manual is available for inspection at that address by the Department on request.
- F. Operation and maintenance requirements.** The permittee shall:
1. Operate the new sewage collection system or expansion of an existing sewage collection system involving new construction using the operation and maintenance manual certified by the owner or operator in subsection (E)(3), to meet the performance standards specified in subsection (B), unless the permittee is operating the sewage collection system under a CMOM Plan under the general permit established in R18-9-C305;
 2. Ensure that the sewage collection system is operated according to the operator certification requirements in 18 A.A.C. 5, Article 1; and
 3. For safety during operation and maintenance of lift station and other confined space components of the sewage collection system, follow all applicable state and federal confined space entry requirements.
- G. Recordkeeping.** A person owning or operating a facility permitted under this Section shall maintain the documents listed in subsection (E) for the life of the facility and make them available to the Department upon request.
- H. Repairs.**
1. A Notice of Intent to Discharge is not required for sewage collection system repairs. Repairs include work performed in response to deterioration or damage of existing structures, devices, and appurtenances with the intent to maintain or restore the system to its original design flow and operational characteristics. Repairs do not include changes in vertical or horizontal alignment.
 2. Components used in the repair shall meet the design, installation, and operational requirements of this Section.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-E302. 4.02 General Permit: Septic Tank with Disposal by Trench, Bed, Chamber Technology, or Seepage Pit, Less Than 3000 Gallons Per Day Design Flow

- A.** A 4.02 General Permit allows for the construction and operation of a system with less than 3000 gallons per day design

flow consisting of a septic tank dispensing wastewater to an approved means of disposal described in this Section. Only gravity flow of wastewater from the septic tank to the disposal works is authorized by this general permit.

1. The standard septic tank and disposal works design specified in the 4.02 General Permit serves sites where no site limitations are identified by the site investigation conducted under R18-9-A310.
 2. If site conditions allow, this general permit authorizes the discharge of wastewater from a septic tank meeting the requirements of R18-9-A314 to one of the following disposal works:
 - a. Trench,
 - b. Bed,
 - c. Chamber technology, or
 - d. Seepage pit.
- B. Performance.** An applicant shall design a system consisting of a septic tank and one of the disposal works listed in subsection (A)(2) so that treated wastewater released to the native soil meets the following criteria:
1. TSS of 75 milligrams per liter, 30-day arithmetic mean;
 2. BOD₅ of 150 milligrams per liter, 30-day arithmetic mean;
 3. Total nitrogen (as nitrogen) of 53 milligrams per liter, five-month arithmetic mean; and
 4. Total coliform level of 100,000,000 (Log₁₀ 8) colony forming units per 100 milliliters, 95th percentile.
- C. Design and installation requirements.**
1. General provisions. In addition to the applicable requirements in R18-9-A312, the applicant shall:
 - a. Ensure that the septic tank meets the requirements specified in R18-9-A314;
 - b. Before placing aggregate or disposal pipe in a prepared excavation, remove all smeared or compacted surfaces from trenches by raking to a depth of 1 inch and removing loose material. The applicant shall:
 - i. Place aggregate in the trench to the depth and grade specified in subsection (C)(2);
 - ii. Place the drain pipe on aggregate and cover it with aggregate to the minimum depth specified in subsection (C)(2); and
 - iii. Cover the aggregate with landscape filter material, geotextile, or similar porous material to prevent filling of voids with earth backfill;
 - c. Use a grade board stake placed in the trench to the depth of the aggregate if the disposal pipe is constructed of drain tile or flexible pipe that will not maintain alignment without continuous support;
 - d. Disposal pipe. If two or more disposal pipes are installed, install a distribution box approved by the Department of sufficient size to receive all lateral lines and flows at the head of each disposal works and:
 - i. Ensure that the inverts of all outlets are level and the invert of the inlet is at least 1 inch above the outlets;
 - ii. Design distribution boxes to ensure equal flow and install the boxes on a stable level surface such as a concrete slab or native or compacted soil; and
 - iii. Protect concrete distribution boxes from corrosion by coating them with an appropriate bituminous coating, constructing the boxes with

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- concrete that has a 15 to 18 percent fly ash content, or by using other equivalent means;
- e. Construct all lateral pipes running from a distribution box to the disposal works with watertight joints and ensure that multiple disposal laterals, wherever practical, are of uniform length;
 - f. Lay pipe connections between the septic tank and a distribution box on natural ground or compact fill and construct the pipe connections with watertight joints;
 - g. Construct steps within distribution line trenches or beds, if necessary, to maintain a level disposal pipe on sloping ground. The applicant shall construct the lines between each horizontal section with watertight joints and install them on natural or unfilled ground; and
 - h. Ensure that a disposal works consisting of trenches, beds, chamber technology, or seepage pits is not paved over or covered by concrete or any material that can reduce or inhibit possible evaporation of wastewater through the soil to the land surface or oxygen transport to the soil absorption surfaces.
2. Trenches.
 - a. The applicant shall calculate the trench absorption area as the total of the trench bottom area and the sum of both trench sidewall areas to a maximum depth of 48 inches below the bottom of the disposal pipe.
 - b. The applicant shall ensure that trench bottoms and disposal pipe are level. The applicant shall calculate trench sizing from the soil absorption rate specified under R18-9-A312(D) and the design flow established in R18-9-A312(B).
 - c. The following design criteria for trenches apply:

Trenches	Minimum	Maximum
1. Number of trenches	1 (2 are recommended)	No Maximum
2. Length of trench	----	100 feet
3. Bottom width of trench	12 inches	36 inches
4. Trench absorption area (sq. ft. of absorption area per linear foot of trench)	No Minimum	11 sq. ft.
5. Depth of cover over aggregate surrounding disposal pipe	9 inches	24 inches ²
6. Thickness of aggregate material over disposal pipe	2 inches	2 inches
7. Thickness of aggregate material under disposal pipe	12 inches	No Maximum
8. Slope of disposal pipe	Level	Level
9. Disposal pipe diameter	3 inches	4 inches

10. Spacing of trenches (measured between nearest sidewalls)	2 times effective depth ³ or five feet, whichever is greater	No Maximum
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Notes:

- ¹ If unequal trench lengths are used, proportional distribution of wastewater is required.
 - ² For more than 24 inches, Standard Dimensional Ratio 35 or equivalent strength pipe is required.
 - ³ The effective depth is the distance between the bottom of the disposal pipe and the bottom of the trench bed.
- d. The applicant may substitute clean, durable, crushed, and washed recycled concrete for aggregate if noted in design documents and the trench absorption area calculation excludes the trench bottom.
3. Beds. An applicant shall:
 - a. If a bed is installed, use the soil absorption rate specified in R18-9-A312(D) for "SAR, Bed. The applicant may, in computing the bed bottom absorption area, include the bed bottom and the perimeter sidewall area not more than 36 inches below the disposal pipe;
 - b. Comply with the following design criteria for beds:

Gravity Beds	Minimum	Maximum
1. Number of disposal pipes	2	No Maximum
2. Length of bed	No Minimum	100 feet
3. Distance between disposal pipes	4 feet	6 feet
4. Spacing of beds measured between nearest sidewalls	2 times effective depth ¹ or 5 feet, whichever is greater	No Maximum
5. Width of bed	10 feet	12 feet
6. Distance from disposal pipe to sidewall	3 feet	3 feet
7. Depth of cover over disposal pipe	9 inches	14 inches
8. Thickness of aggregate material under disposal pipe	12 inches	No Maximum
9. Thickness of aggregate material over disposal pipe	2 inches	2 inches
10. Slope of disposal pipe	Level	Level
11. Disposal pipe diameter	3 inches	4 inches

Note:

- ¹ The effective depth is the distance between the bottom of the disposal pipe and the bottom of the bed.
4. Chamber technology. An applicant shall:
 - a. Calculate an effective chamber absorption area to size the disposal works area and determine the number of chambers needed. The effective absorption area of each chamber is calculated as follows:

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$$A = (1.8 \times B \times L) + (2 \times V \times L)$$

- i. "A" is the effective absorption area of each chamber;
 - ii. "B" is the exterior width of the bottom of the chamber;
 - iii. "V" is the vertical height of the louvered sidewall of the chamber; and
 - iv. "L" is the length of the chamber;
 - b. Calculate the disposal works size and number of chambers from the effective absorption area of each chamber and the soil absorption rates specified in R18-9-A312(D);
 - c. Ensure that the sidewall of the chamber provides at least 35 percent open area for sidewall credit and that the design and construction minimizes the movement of fines into the chamber area. The applicant shall not use filter fabric or geotextile against the sidewall openings.
5. Seepage pits. If allowed by R18-9-A311(B)(1), the applicant shall:
- a. Design a seepage pit to comply with R18-9-A312(E)(1) for minimum vertical separation distance;
 - b. Ensure that multiple seepage pit installations are served through a distribution box approved by the Department or connected in series with a watertight connection laid on undisturbed or compacted soil. The applicant shall ensure that the outlet from the pit has a sanitary tee with the vertical leg extending at least 12 inches below the inlet;
 - c. Ensure that each seepage pit is circular and has an excavated diameter of 4 to 6 feet. If multiple seepage pits are installed, ensure that the minimum spacing between seepage pit sidewalls is 12 feet or three times the diameter of the seepage pit, whichever is greater. The applicant may use the alternative design procedure specified in R18-9-A312(G) for a proposed seepage pit more than 6 feet in diameter;
 - d. For a gravel filled seepage pit, backfill the entire pit with aggregate. The applicant shall ensure that each pit has a breather conductor pipe that consists of a perforated pipe at least 4 inches in diameter, placed vertically within the backfill of the pit. The pipe shall extend from the bottom of the pit to within 12 inches below ground level;
 - e. For a lined, hollow seepage pit, lay a concrete liner or a liner of a different protective material in the pit on a firm foundation and fill excavation voids behind the liner with at least 9 inches of aggregate;
 - f. For the cover of a lined seepage pit, use an approved one or two piece reinforced concrete slab with a minimum compressive strength of 2500 pounds per square inch. The applicant shall ensure that the cover:
 - i. Is at least 5 inches thick and designed to support an earth load of at least 400 pounds per square foot;
 - ii. Has a 12-inch square or diameter minimum access hole with a plug or cap that is coated on the underside with an protective bituminous seal, constructed of concrete with 15 percent to 18 percent fly ash content, or made of other nonpermeable protective material; and
 - iii. Has a 4 inch or larger inspection pipe placed vertically not more than 6 inches below ground level;
 - g. Ensure that the top of the seepage pit cover is 4 to 18 inches below the surface of the ground;
 - h. Install a vented inlet fitting in every seepage pit to prevent flows into the seepage pit from damaging the sidewall. An applicant may use a 1/4 bend fitting placed through an opening in the top of the slab cover if a one or two piece concrete slab cover inlet is used;
 - i. Bore seepage pits five feet deeper than the proposed pit depth to verify underlying soil characteristics and backfill the five feet of overdrill with low permeability drill cuttings or other suitable material;
 - j. Backfill seepage pits that terminate in gravelly, coarse sand zones five feet above the beginning of the zone with low permeability drill cuttings or other suitable material;
 - k. Determine the minimum sidewall area for a seepage pit from the design flow and the soil absorption rate derived from the testing procedure described in R18-9-A310(G). The effective absorption surface for a seepage pit is the sidewall area only. The sidewall area is calculated using the following formula:

$$A = 3.14 \times D \times H$$
 - i. "A" is the minimum sidewall area in square feet needed for the design flow and soil absorption rate for the installation;
 - ii. "D" is the diameter of the proposed seepage pit in feet;
 - iii. "H" is the vertical height in feet in the seepage pit through which wastewater infiltrates native soil. The applicant shall ensure that H is at least 10 feet for any seepage pit.
- D. Operation and maintenance. The permittee shall follow the applicable operation and maintenance requirements in R18-9-A313.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-E303. 4.03 General Permit: Composting Toilet, Less Than 3000 Gallons Per Day Design Flow

- A. A 4.03 General Permit allows for the use of a composting toilet with less than 3000 gallons per day design flow.
1. Definition. For purposes of this Section, "composting toilet" means a manufactured turnkey or kit form treatment technology that receives human waste from a waterless toilet directly into an aerobic composting chamber where dehydration and biological activity reduce the waste volume and the content of nutrients and harmful microorganisms to an appropriate level for later disposal at the site or by other means.
 2. An applicant may use a composting toilet if:
 - a. Limited water availability prevents use of other types of on-site wastewater treatment facilities;
 - b. Environmental constraints prevent the discharge of wastewater or nutrients to a sensitive area;
 - c. Inadequate space prevents use of other systems;
 - d. Severe site limitations exist that make other forms of treatment or disposal unacceptable, or

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- e. The applicant desires maximum water conservation.
3. A permittee may use a composting toilet only if:
- Wastewater is managed as provided in this Section and, if gray water is separated and reused, the gray water reuse complies with 18 A.A.C. 9, Article 7; and
 - Soil conditions support subsurface disposal of all wastewater sources.
- B. Restrictions.**
- A permittee shall ensure that no more than 50 persons per day use the composting toilet.
 - A composting toilet shall only receive human excrement unless the manufacturer's specifications allow the deposit of kitchen or other wastes into the toilet.
- C. Performance.** An applicant shall ensure that:
- The composting toilet provides containment to prevent the discharge of toilet contents to the native soil except leachate, which may drain to the wastewater disposal works described in subsection (F);
 - The composting toilet limits access by vectors to the contained waste; and
 - Wastewater is disposed into the subsurface to prevent any wastewater from surfacing.
- D. Notice of Intent to Discharge.** In addition to the Notice of Intent to Discharge requirements specified in R18-9-A301(B) and R18-9-A309(B), the applicant shall submit the following information:
- Composting toilet.
 - The name and address of the composting toilet system manufacturer;
 - A copy of the manufacturer's warranty, and the specifications for installation operation, and maintenance;
 - The product model number;
 - Composting rate, capacity, and waste accumulation volume calculations;
 - Documentation of listing by a national listing organization indicating that the composting toilet meets the stated manufacturer's specifications for loading, treatment performance, and operation, unless the composting toilet is listed under R18-9-A309(E) or is a component of a reference design approved by the Department;
 - The method of vector control;
 - The planned method and frequency for disposing the composted human excrement residue; and
 - The planned method for disposing of the drainage from the composting unit; and
 - Wastewater.
 - The number of bedrooms in the dwelling or persons served on a daily basis, as applicable, and the corresponding design flow of the disposal works for the wastewater;
 - The results from soil evaluation or percolation testing that adequately characterize the soils into which the wastewater will be dispersed and the locations of soil evaluation and percolation testing on the site plan; and
 - The design for the disposal works in subsection (F), including the location of the interceptor, the location and configuration of the trench or bed used for wastewater dispersal, the location of connecting wastewater pipelines, and the location of the reserve area.
- E. Design requirements for a composting toilet.** An applicant shall ensure that:
- The composting chamber is watertight, constructed of solid durable materials not subject to excessive corrosion or decay, and is constructed to exclude access by vectors;
 - The composting chamber has airtight seals to prevent odor or toxic gas from escaping into the building. The system may be vented to the outside;
 - The capacity of the chamber and rate of composting are calculated based on:
 - The lowest monthly average chamber temperature; or
 - The yearly average chamber temperature, if the composting toilet is designed to compost on a yearly cycle or longer; and
 - The composting system provides adequate storage of all waste produced during the months when the average temperature is below 55°F, unless a temperature control device is installed to increase the composting rate and reduce waste volume.
- F. Design requirements for the disposal works.**
- Interceptor. An applicant shall ensure that the design complies with the following:
 - An interceptor may not accept human excreta or toilet wastewater;
 - Wastewater passes into an interceptor before it is conducted to the subsurface for dispersal;
 - The interceptor is designed to remove grease, oil, fibers, and solids to ensure long-term performance of the trench or bed used for subsurface dispersal;
 - The interceptor is covered to restrict access and eliminate habitat for mosquitoes and other vectors; and
 - Minimum interceptor size is based on design flow.
 - For a dwelling, the following apply:

No. of Bedrooms	Design Flow (gallons per day)	Minimum Interceptor Size (gallons)	
		Kitchen Wastewater Only (All gray water sources are collected and reused)	Combined Non-Toilet Wastewater (Gray water is not separated and reused)
1 (7 fixture units or less)	90	42	200
1-2 (greater than 7 fixture units)	180	84	400
3	270	125	600
4	330	150	700
5	380	175	800
6	420	200	900
7	460	225	1000

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- ii. For other than a dwelling, minimum interceptor size in gallons is 2.1 times the design flow from Table 1, Unit Design Flows.
 - 2. Dispersal of wastewater. An applicant shall ensure that the design complies with the following:
 - a. A trench or bed is used to disperse the wastewater into the subsurface;
 - b. Sizing of the trench or bed is based on the design flow as determined in subsection (F)(1)(e), including all black and gray water, and an SAR determined under R18-9-A312(D);
 - c. The minimum vertical separation from the bottom of the trench or bed to a limiting subsurface condition is at least 5 feet; and
 - d. Other aspects of trench or bed design follow R18-9-E302, as applicable.
 - 3. Setback distances. Setback distances are no less than 1/4 of the setback distances specified in R18-9-A312(C), but not less than 5 feet, except the setback distance from wells is 100 feet.
- G. Operation and maintenance requirements.** A permittee shall:
- 1. Composting toilet.
 - a. Provide adequate mixing, ventilation, temperature control, moisture, and bulk to reduce fire hazard and prevent anaerobic conditions;
 - b. Follow manufacturer's specifications for addition of any organic bulking agent to control liquid drainage, promote aeration, or provide additional carbon;
 - c. Follow the manufacturer's specifications for operation and maintenance regarding movement of material within the composting chamber;
 - d. If batch system containers are mounted on a carousel, place a new container in the toilet area if the previous one is full;
 - e. Ensure that only human waste, paper approved for septic tank use, and the amount of bulking material required for proper maintenance is introduced to the composting chamber. The permittee shall remove all other materials or trash. If allowed by the manufacturer's specifications the permittee may add, other nonliquid compostable food preparation residues to the toilet;
 - f. Ensure that any liquid end product is:
 - i. Sprayed back onto the composting waste material;
 - ii. Removed by a person who licensed a vehicle under 18 A.A.C. 13, Article 11; or
 - iii. Is drained to the interceptor described in subsection (F);
 - g. Remove and dispose of composted waste as necessary, using a person who licensed a vehicle under 18 A.A.C. 13, Article 11 if the waste is not placed in a disposal area for burial or used on-site as mulch;
 - h. Before ending use for an extended period take measures to ensure that moisture is maintained to sustain bacterial activity and free liquids in the chamber do not freeze; and
 - i. After an extended period of non-use, empty the composting chamber of solid end product and inspect all mechanical components to verify that the mechanical components are operating as designed;
 - 2. Wastewater Disposal Works.
 - a. Ensure that the interceptor is maintained regularly according to manufacturer's instructions to prevent grease and solid wastes from impairing performance of the trench or bed used for dispersal of wastewater, and
 - b. Protect the area of the trench or bed from soil compaction or other activity that will impair dispersal performance.
- H. Reference design.**
- 1. An applicant may use a composting toilet that achieves the performance requirements in subsection (C) by following a reference design on file with the Department.
 - 2. The applicant shall file a form provided by the Department for supplemental information about the proposed system with the applicant's submittal of the Notice of Intent to Discharge.
- Historical Note**
- New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3). Amended by final rulemaking at 29 A.A.R. 1023 (May 12, 2023), effective June 19, 2023 (Supp. 23-2).
- R18-9-E304. 4.04 General Permit: Pressure Distribution System, Less Than 3000 Gallons Per Day Design Flow**
- A.** A 4.04 General Permit allows for the use of a pressurized distribution of wastewater system with a design flow less than 3000 gallons per day that treats wastewater to a level equal to or better than that specified in R18-9-E302(B).
- 1. Definition. For purposes of this Section, a "pressure distribution system" means a tank, pump, controls, and piping that conducts wastewater under pressure in controlled amounts and intervals to a bed or trench or other means of distribution authorized by a general permit for an on-site wastewater treatment facility.
 - 2. An applicant may use a pressure distribution system if a gravity flow system is unsuitable, inadequate, unfeasible, or cost prohibitive because of site limitations or other conditions, or if needed to optimally distribute wastewater.
- B.** Performance. An applicant shall ensure that a pressure distribution system:
- 1. Disperses wastewater so that:
 - a. Loading rates are optimized for the intended purpose, and
 - b. The wastewater is delivered under pressure and evenly distributed within the disposal works, and
 - 2. Prevents ponding on the land surface.
- C.** Notice of Intent to Discharge. In addition to the Notice of Intent to Discharge requirements specified in R18-9-A301(B) and R18-9-A309(B), the applicant shall submit:
- 1. A copy of operation, maintenance, and warranty materials for the principal components; and
 - 2. A copy of dosing specifications, including pump curves, dispersing component details, and float control settings.
- D.** Design requirements.
- 1. Pumps. An applicant shall ensure that pumps used in the on-site wastewater treatment facility:
 - a. Are rated for wastewater service by the manufacturer and certified by Underwriters Laboratories;
 - b. Achieve the minimum design flow rate and total dynamic head requirements for the particular site; and

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- c. Incorporate a quick disconnect using compression-type unions for pressure connections. The applicant shall ensure that:
 - i. Quick-disconnects are accessible in the pressure piping, and
 - ii. A pump has adequate lift attachments for removal and replacement of the pump and switch assembly without entering the dosing tank or process chamber.
- 2. Switches, controls, alarms, timers, and electrical components. An applicant shall ensure that:
 - a. Switches and controls accommodate the minimum and maximum dose capacities of the distribution network design. The applicant shall not use pressure diaphragm level control switches;
 - b. Fail-safe controls that can be tested in the field are used to prevent discharge of inadequately treated wastewater. The applicant shall include counters or flow meters if critical to control functions, such as timed dosing;
 - c. Control panels and alarms:
 - i. Are either mounted in an exterior location visible from the structure served, mounted in a conspicuous location on the side of the structure served, or mounted in a conspicuous location adjacent to the structure served,
 - ii. Provide manual pump switch and alarm test features, and
 - iii. Include written instructions covering standard operation and alarm events;
 - d. Audible and visible alarms are used for all critical control functions, such as pump failures, treatment failures, and excess flows. The applicant shall ensure that:
 - i. The visual portion of the signal is conspicuous from a distance 50 feet from the system and its appurtenances;
 - ii. The audible portion of the signal is between 70 and 75 db at 5 feet and is discernible from a distance of 50 feet from the system and its appurtenances;
 - iii. Alarms, test features, and controls are on a non-dedicated electrical circuit separate from the dedicated circuit for the pump with constant visual confirmation that the circuit is electrically active; and
 - iv. The alarm is clearly audible and visible inside the structure served;
 - e. All electrical wiring complies with the National Electrical Code, 2005 Edition, published by the National Fire Protection Association. This material is incorporated by reference and does not include any later amendments or editions of the incorporated material. Copies of the incorporated material are available for inspection at the Arizona Department of Environmental Quality, 1110 W. Washington, Phoenix, AZ 85007 or may be obtained from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9101. The applicant shall ensure that:
 - i. Connections are made using National Electrical Manufacturers Association (NEMA) 4x junction boxes certified by Underwriters Laboratories; and
 - ii. All controls are in NEMA 3r, 4, or 4x enclosures for outdoor use.
- 3. Dosing tanks and wastewater distribution components.
 - a. An applicant shall:
 - i. Design dosing tanks to withstand anticipated internal and external loads under full and empty conditions, and design concrete tanks to meet the "Standard Specification for Precast Concrete Water and Wastewater Structures, C913-02 (2002)," published by the American Society for Testing and Materials. This material is incorporated by reference and does not include any later amendments or editions of the incorporated material. Copies of the incorporated material are available for inspection at the Arizona Department of Environmental Quality, 1110 W. Washington, Phoenix, AZ 85007 or may be obtained from the American Society for Testing and Materials International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959;
 - ii. Design dosing tanks to be easily accessible and have secured covers;
 - iii. Install risers to provide access to the inlet and outlet of the tank and to service internal components;
 - iv. Ensure that the volume of the dosing tank accommodates bottom depth below maximum drawdown, maximum design dose, including any drainback, volume to high water alarm, and a reserve volume above the high water alarm level that is not less than the daily design flow volume. If the tank is time dosed, the applicant shall ensure that the combined surge capacity and reserve volume above the high water alarm is not less than the daily design flow volume;
 - v. Ensure that dosing tanks are watertight and anti-buoyant;
 - vi. Design the wastewater distribution components to withstand system pumping pressures;
 - vii. Design the wastewater distribution system to allow air to purge from the system;
 - viii. Design pressure piping to minimize freezing during cold weather;
 - ix. Ensure that the end of each wastewater distribution line is accessible for maintenance;
 - x. Ensure that orifices emit the design discharge rate uniformly throughout the wastewater distribution system; and
 - xi. Design orifices using orifice shields to provide proper distribution of wastewater to the receiving medium.
 - b. An applicant may use a septic tank second compartment or a second septic tank in series as a dosing tank if all dosing tank requirements of this Section are met and a screened vault is used instead of the septic tank effluent filter.
- 4. Design SAR. If the site conditions of the property for the on-site wastewater treatment facility do not require pressure distribution, but an applicant chooses to use pressure distribution, the applicant shall use a design SAR for the absorption surfaces in the disposal works that is not more than 1.10 times the adjusted SAR determined in R18-9-A312(D).

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- E. Additional Discharge Authorization requirements. An applicant shall obtain copies of instructions for the critical controls of the system from the person who installed the pressure distribution system. The applicant shall submit one copy of the instructions with the information required in subsection (C).
- F. Operation and maintenance requirements. In addition to the applicable requirements specified in R18-9-A313(B), a permittee shall ensure that:
 1. The operation and maintenance manual for the on-site wastewater treatment facility that supplies the wastewater to the pressure distribution system specifies inspection and maintenance needed for the following items:
 - a. Sludge level in the bottom of the treatment and dosing tanks,
 - b. Watertightness,
 - c. Condition of electrical and mechanical components, and
 - d. Piping and other components functioning within design limits;
 2. All critical control functions are specified in the operation and maintenance manual for testing to demonstrate compliance with design specifications, including:
 - a. Alarms, test features, and controls;
 - b. Float switch level settings;
 - c. Dose rate, volume, and frequency, if applicable;
 - d. Distal pressure or squirt height, if applicable; and
 - e. Voltage test on pumps, motors, and controls, as applicable;
 3. The finished grade is observed and maintained for proper surface drainage. The applicant shall observe the levelness of the tank for differential settling. If there is settling, the applicant shall grade the facility to maintain surface drainage.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3). Amended by final rulemaking at 29 A.A.R. 1023 (May 12, 2023), effective June 19, 2023 (Supp. 23-2).

R18-9-E305. 4.05 General Permit: Gravelless Trench, Less Than 3000 Gallons Per Day Design Flow

- A. A 4.05 General Permit allows for the use of a gravelless trench with less than 3000 gallons per day design flow receiving wastewater treated to a level equal to or better than that specified in R18-9-E302(B).
 1. Definition. For purposes of this Section, a “gravelless trench” means a disposal technology characterized by installation of a proprietary pipe and geocomposite or other substitute media into native soil instead of the distribution pipe and aggregate fill used in a trench allowed in R18-9-E302.
 2. A permittee may use a gravelless trench if suitable gravel or volcanic rock aggregate is unavailable, excessively expensive, or if adverse site conditions make movement of gravel difficult, damaging, or time consuming.
- B. Performance. An applicant shall design a gravelless trench so that treated wastewater released to the native soil meets the following criteria:
 1. TSS of 75 milligrams per liter, 30-day arithmetic mean;
 2. BOD₅ of 150 milligrams per liter, 30-day arithmetic mean;
 3. Total nitrogen (as nitrogen) of 53 milligrams per liter, 5-month arithmetic mean; and
 4. Total coliform level of 100,000,000 (Log₁₀ 8) colony forming units per 100 milliliters, 95th percentile.

- C. Notice of Intent to Discharge. In addition to the Notice of Intent to Discharge requirements specified in R18-9-A301(B) and R18-9-A309(B), an applicant shall submit the following:
 1. The soil absorption area that would be required if a conventional disposal trench filled with aggregate was used at the site,
 2. The configuration and size of the proposed gravelless disposal works, and
 3. The manufacturer’s installation instructions and warranty of performance for absorbing wastewater into the native soil.
- D. Design requirements. In addition to the applicable requirements in R18-9-A312, an applicant shall:
 1. Ensure that the top of the gravelless disposal pipe or similar disposal mechanism is at least 6 inches below the surface of the native soil and 12 to 36 inches below finished grade if approved fill is placed on top of the installation;
 2. Calculate the infiltration surface as follows:
 - a. For 8-inch diameter pipe, 2 square feet of absorption area is allowed per linear foot;
 - b. For 10-inch diameter pipe, 3 square feet of absorption area is allowed per linear foot;
 - c. For bundles of two pipes of the same diameter, the absorption area is calculated as 1.67 times the absorption area of one pipe; and
 - d. For bundles of three pipes of the same diameter, the absorption area is calculated as 2.00 times the absorption area of one pipe;
 3. Use a pressure distribution system meeting the requirements of R18-9-E304 in medium sand, coarse sand, and coarser soils; and
 4. Construct the drainfield of material that will not decay, deteriorate, or leach chemicals or byproducts if exposed to sewage or the subsurface soil environment.
- E. Installation requirements. In addition to the applicable requirements in R18-9-A313(A), an applicant shall:
 1. Install the gravelless pipe material according to manufacturer’s instructions if the instructions are consistent with this Chapter,
 2. Ensure that the installed disposal system can withstand the physical disturbance of backfilling and the load of any soil cover above natural grade placed over the installation, and
 3. Shape any backfill and soil cover in the area of installation to prevent settlement and ponding of rainfall for the life of the disposal works.
- F. Operation and maintenance requirements. In addition to the applicable requirements in R18-9-A313(B), the permittee shall inspect the finished grade in the vicinity of the gravelless disposal works for maintenance of proper drainage and protection from damaging loads.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-E306. 4.06 General Permit: Natural Seal Evapotranspiration Bed, Less Than 3000 Gallons Per Day Design Flow

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- A.** A 4.06 General Permit allows for the use of a natural seal evapotranspiration bed with less than 3000 gallons per day design flow receiving wastewater treated to a level equal to or better than that specified in R18-9-E302(B).
1. Definition. For purposes of this Section, a “natural seal evapotranspiration bed” means a disposal technology characterized by a bed of sand or other media with an internal wastewater distribution system, contained on the bottom and sidewalls by an engineered liner consisting of natural soil and clay materials.
 2. An applicant may use a natural seal evapotranspiration bed if site conditions restrict soil infiltration or require reduction of the volume of wastewater discharged to the native soil underlying the natural seal liner.
- B.** Restrictions. Unless a person provides design documentation to show that a natural seal evapotranspiration bed will properly function, the person shall not install this technology if:
1. Average minimum temperature in any month is 20° F or less,
 2. Over 1/3 of the average annual precipitation falls in a 30-day period, or
 3. Design flow exceeds net evaporation.
- C.** Performance. An applicant shall ensure that a natural seal evapotranspiration bed:
1. Minimizes discharge to the native soil through the natural seal liner,
 2. Maximizes wastewater disposed to the atmosphere by evapotranspiration, and
 3. Prevents ponding of wastewater on the bed surface and maintains an interval of unsaturated media directly beneath the bed surface.
- D.** Notice of Intent to Discharge. In addition to the Notice of Intent to Discharge requirements in R18-9-A301(B) and R18-9-A309(B), an applicant shall submit:
1. Capillary rise potential test results for the media used to fill the evapotranspiration bed, unless sand meeting a D₅₀ of 0.1 millimeter (50 percent by weight of grains equal to or smaller than 0.1 millimeter) is used; and
 2. Water mass balance calculations used to size the evapotranspiration bed.
- E.** Design requirements. An applicant shall:
1. Ensure that the evapotranspiration bed is from 18 to 36 inches deep and shall calculate the bed design based on the capillary rise of the bed media, following the “Standard Test Method for Capillary-Moisture Relationships for Coarse- and Medium-Textured Soils by Porous-Plate Apparatus, D2325-68 (2000),” incorporated by reference in R18-9-E307(E), and the anticipated maximum frost depth;
 2. Ensure the media is sand or other durable material;
 3. Base design area calculations on a water mass balance for the winter months and the design seepage rate;
 4. Ensure that the natural seal liner is a durable, low-hydraulic conductivity liner and is accompanied by the liner performance specification and calculations for bottom and sidewall seepage rate;
 5. If a surfacing layer is used, use topsoil, dark cinders, decomposed granite, or similar landscaping material placed to a maximum depth of 2 inches and ensure that:
 - a. If topsoil is used as a surfacing layer for growth of landscape plants:
 - i. The topsoil is a fertile, friable soil obtained from well-drained arable land;
 - ii. The topsoil is free of nut grass, refuse, roots, heavy clay, clods, noxious weeds, or any other material toxic to plant growth;
 - iii. The pH of the topsoil is between 5.5 and 8.0;
 - iv. The plasticity index of the topsoil is between 3 and 15; and
 - v. The topsoil contains approximately 1-1/2 percent organic matter, by dry weight, either natural or added;
- b.** If landscaping material other than topsoil is used as a surfacing layer, the material meets the following gradation:
- | Sieve Size | Percent Passing |
|------------|-----------------|
| 1” | 100 |
| 1/2” | 95-100 |
| No. 4 | 90-100 |
| No. 10 | 70-100 |
| No. 200 | 15-70 |
- 6.** Use shallow-rooted, non-invasive, salt- and drought-tolerant evergreens if vegetation is planted on the evapotranspiration bed;
- 7.** Install at least two observation ports to determine the level of the liquid surface of wastewater within the evapotranspiration bed;
- 8.** Design the bed to pump out the saturated zone if accumulated salts or a similar condition impairs bed performance; and
- 9.** Instead of the minimum vertical separation required under R18-9-A312(E), ensure that the minimum vertical separation from the bottom of the natural seal evapotranspiration bed liner to the seasonal high water table is at least 12 inches.
- F.** Installation requirements. In addition to the applicable requirements in R18-9-A313(A), an applicant shall ensure that:
1. The liner covers the bottom and all sidewalls of the bed and is installed on a stable base according to the manufacturer’s installation specifications;
 2. If the inlet pipe passes through the liner, the joint is tightly sealed to minimize leakage during the operational life of the facility;
 3. The liner is leak tested under the supervision of an Arizona-registered professional engineer to confirm the design leakage rate; and
 4. A 2- to 4-inch layer of 1/2- to 1-inch gravel or crushed stone is placed around the distribution pipes within the bed. The applicant shall ensure that the filter cloth is placed on top of the gravel or crushed stone to prevent sand from settling into the gravel or crushed stone.
- G.** Additional Discharge Authorization requirements. An applicant shall submit the satisfactory results of the leakage test required under subsection (F)(3) to the Department before the Department issues the Discharge Authorization.
- H.** Operation and maintenance requirements. In addition to the applicable requirements in R18-9-A313(B), the permittee shall:
1. Not allow irrigation of an evapotranspiration bed, and
 2. Protect the bed from vehicle loads and other damaging activities.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November

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12, 2005 (05-3).

R18-9-E307. 4.07 General Permit: Lined Evapotranspiration Bed, Less Than 3000 Gallons Per Day Design Flow

- A. A 4.07 General Permit allows for the use of a lined evapotranspiration bed receiving wastewater treated to a level equal to or better than that specified in R18-9-E302(B).
 1. Definition. For purposes of this Section, a "lined evapotranspiration bed" means a disposal technology characterized by a bed of sand or other media with an internal wastewater distribution system contained on the bottom and sidewalls by an impervious synthetic liner.
 2. An applicant may use a lined evapotranspiration bed if site conditions restrict soil infiltration or require reduction or elimination of the volume of wastewater or nitrogen load discharged to the native soil.
 3. Provision of a reserve area is not required for a lined evapotranspiration bed.
- B. Restrictions. Unless a person provides design documentation to show that a lined evapotranspiration bed will properly function, the person shall not install this technology if:
 1. Average minimum temperature in any month is 20° F or less,
 2. Over 1/3 of average annual precipitation falls in a 30-day period, or
 3. Design flow exceeds net evaporation.
- C. Performance. An applicant shall ensure that a lined evapotranspiration bed:
 1. Prevents discharge to the native soil by a synthetic liner,
 2. Attains full disposal of wastewater to the atmosphere by evapotranspiration, and
 3. Prevents ponding of wastewater on the bed surface and maintains an interval of unsaturated media directly beneath the bed surface.
- D. Notice of Intent to Discharge. In addition to the Notice of Intent to Discharge requirements specified in R18-9-A301(B) and R18-9-A309(B), an applicant shall submit:
 1. Capillary rise potential test results for the media used to fill the evapotranspiration bed, unless sand meeting a D₅₀ of 0.1 millimeter (50 percent by weight of grains equal to or smaller than 0.1 millimeter in size) is used; and
 2. Water mass balance calculations used to size the evapotranspiration bed.
- E. Design requirements. In addition to the applicable requirements in R18-9-A312, an applicant shall:
 1. Ensure that the evapotranspiration bed is from 18 to 36 inches deep and calculate the bed design on the basis of the capillary rise of the bed media, according to the "Standard Test Method for Capillary-Moisture Relationships for Coarse- and Medium-Textured Soils by Porous-Plate Apparatus, D2325-68 (2003)," published by the American Society for Testing and Materials and the anticipated maximum frost depth. This material is incorporated by reference and does not include any later amendments or editions of the incorporated material. Copies of the incorporated material are available for inspection at the Arizona Department of Environmental Quality, 1110 W. Washington, Phoenix, AZ 85007 or may be obtained from the American Society for Testing and Materials International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959;
 2. Ensure the media is sand or other durable material;
 3. Base design area calculations on a water mass balance for the winter months;

4. Ensure that the evapotranspiration bed liner is a durable, low hydraulic conductivity synthetic liner that has a calculated bottom area and sidewall seepage rate of less than 550 gallons per acre per day;
5. If a surfacing layer is used, use topsoil, dark cinders, decomposed granite, or similar landscaping material placed to a maximum depth of 2 inches. The applicant shall ensure that:
 - a. If topsoil is used as a surfacing layer for growth of landscape plants:
 - i. The topsoil is a fertile, friable soil obtained from well-drained arable land;
 - ii. The topsoil is free of nut grass, refuse, roots, heavy clay, clods, noxious weeds, or any other material toxic to plant growth;
 - iii. The pH of the topsoil is between 5.5 and 8.0;
 - iv. The plasticity index of the topsoil is between 3 and 15; and
 - v. The topsoil contains approximately 1 1/2 percent organic matter, by dry weight, either natural or added;
 - b. If another landscaping material is used as a surfacing layer, the material meets the following gradation:

Sieve Size	Percent Passing
1"	100
1/2"	95-100
No. 4	90-100
No. 10	70-100
No. 200	15-70

6. Use shallow-rooted, non-invasive, salt and drought tolerant evergreens if vegetation is planted on the evapotranspiration bed;
7. Install at least two observation ports to allow determination of the depth to the liquid surface of wastewater within the evapotranspiration bed;
8. Design the bed to pump out the saturated zone if accumulated salts or a similar condition impairs bed performance; and
9. Instead of the minimum vertical separation required under R18-9-A312(E), ensure that the minimum vertical separation from the bottom of the evapotranspiration bed liner to the surface of the seasonal high water table or impervious layer or formation is at least 12 inches.
- F. Installation requirements. In addition to the applicable requirements in R18-9-A313(A), an applicant shall ensure that:
 1. All liner seams are factory fabricated or field welded according to manufacturer's specifications. The applicant shall ensure that:
 2. The liner covers the bottom and all sidewalls of the bed and is cushioned on the top and bottom with layers of sand at least 2 inches thick or other puncture-protective material;
 3. If the inlet pipe passes through the liner, the joint is tightly sealed to minimize leakage during the operational life of the facility;
 4. The liner is leak tested under the supervision of an Arizona-registered professional engineer; and
 5. A 2- to 4-inch layer of one-half to 1-inch gravel or crushed stone is placed around the distribution pipes within the bed. The applicant shall place filter cloth on top of the gravel or crushed stone to prevent sand from settling into the crushed stone or gravel.

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- G.** Additional Discharge Authorization requirements. An applicant shall submit the liner test results sealed by an Arizona-registered professional engineer to the Department for issuance of the Discharge Authorization.
- H.** Operation and maintenance requirements. In addition to the applicable requirements in R18-9-A313(B), the permittee shall:
1. Not allow irrigation of an evapotranspiration bed; and
 2. Protect the bed from vehicle loads and other damaging activities.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-E308. 4.08 General Permit: Wisconsin Mound, Less Than 3000 Gallons Per Day Design Flow

- A.** A 4.08 General Permit allows for the use of a Wisconsin mound with a design flow of less than 3000 gallons per day receiving wastewater treated to a level equal to or better than that specified in R18-9-E302(B).
1. Definition. For purposes of this Section, a "Wisconsin mound" means a disposal technology characterized by:
 - a. An above-grade bed system that blends with the land surface into which is dispensed pressure dosed wastewater from a septic tank or other upstream treatment device,
 - b. Dispersal of wastewater under unsaturated flow conditions through the engineered media system contained in the mound, and
 - c. Wastewater treated by passage through the mound before percolation into the native soil below the mound.
 2. An applicant may use a Wisconsin mound if:
 - a. The native soil has excessively high or low permeability,
 - b. There is little native soil overlying fractured or excessively permeable rock, or
 - c. A reduction in minimum vertical separation is desired.
- B.** Performance. An applicant shall design a Wisconsin mound so that treated wastewater released to the native soil meets the following criteria:
1. Performance Category A.
 - a. TSS of 20 milligrams per liter, 30-day arithmetic mean;
 - b. BOD₅ of 20 milligrams per liter, 30-day arithmetic mean;
 - c. Total nitrogen (as nitrogen) of 53 milligrams per liter, 5-month arithmetic mean; and
 - d. Total coliform level of 1000 (Log₁₀ 3.0) colony forming units per 100 milliliters, 95th percentile; or
 2. Performance Category B.
 - a. TSS of 30 milligrams per liter, 30-day arithmetic mean;
 - b. BOD₅ of 30 milligrams per liter, 30-day arithmetic mean;
 - c. Total nitrogen (as nitrogen) of 53 milligrams per liter, 5-month arithmetic mean; and
 - d. Total coliform level of 300,000 (Log₁₀ 5.5) colony forming units per 100 milliliters, 95th percentile.
- C.** Notice of Intent to Discharge. In addition to the Notice of Intent to Discharge requirements specified in R18-9-A301(B) and R18-9-A309(B), an applicant shall submit:
1. Specifications for the internal wastewater distribution system media proposed for use in the Wisconsin mound;
 2. Two scaled or dimensioned cross sections of the mound (one of the shortest basal area footprint dimension and one of the lengthwise dimension); and
 3. Design calculations following the "Wisconsin Mound Soil Absorption System: Siting, Design, and Construction Manual," published by the University of Wisconsin – Madison, January 1990 Edition (the Wisconsin Mound Manual). This material is incorporated by reference and does not include any later amendments or editions of the incorporated material. Copies of the incorporated material are available for inspection at the Arizona Department of Environmental Quality, 1110 W. Washington, Phoenix, AZ 85007 or may be obtained from the University of Wisconsin – Madison, SSWMP, 1525 Observatory Drive, Room 345, Madison, WI 53706.
- D.** Design requirements. In addition to the applicable requirements in R18-9-A312, an applicant shall ensure that:
1. Pressure dosed wastewater is delivered into the Wisconsin mound through a pressurized line and secondary distribution lines into an engineered aggregate infiltration bed, or equivalent system, in conformance with R18-9-E304 and the Wisconsin Mound Manual. The applicant shall ensure that the aggregate is washed;
 2. Wastewater is applied to the inlet surface of the mound media at not more than 1.0 gallon per day per square foot of mound bed inlet surface if the mound bed media conforms with the "Standard Specification for Concrete Aggregates, C33-03 (2003)," published by the American Society for Testing and Materials and the Wisconsin Mound Manual, except if cinder sand is used that is the appropriate grade with not more than 5 percent passing a #200 screen. This material is incorporated by reference and does not include any later amendments or editions of the incorporated material. Copies of the incorporated material are available for inspection at the Arizona Department of Environmental Quality, 1110 W. Washington, Phoenix, AZ 85007 or may be obtained from the American Society for Testing and Materials International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959. The applicant shall:
 - a. For cinder sand, ensure that the rate is not more than 0.8 gallons per day per square foot of mound bed inlet surface; and
 - b. Wash the media used for the mound bed;
 3. The aggregate infiltration bed and mound bed is capped by coarser textured soil, such as sand, sandy loam, or silt loam. An applicant shall not use silty clay, clay loam, or clays;
 4. The cap material is covered by topsoil, following the procedure in the Wisconsin Mound Manual, and the topsoil is capable of supporting vegetation, is not clay, and is graded to drain;
 5. The top and bottom surfaces of the aggregate infiltration bed are level and do not exceed 10 feet in width and that:
 - a. The minimum depth of the aggregate infiltration bed is 9 inches, or
 - b. Synthetic filter fabric permeable to water and air and capable of supporting the cap and topsoil load is

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placed on the top surface of the aggregate infiltration bed;

6. The minimum depth of mound bed media is:
 - a. Performance Category A, 24 inches; or
 - b. Performance Category B, 12 inches;
7. The maximum allowable side slope of the mound bed, cap material, and topsoil is not more than one vertical to three horizontal;
8. Ports for inspection and monitoring are provided to verify performance, including verification of unsaturated flow within the aggregate infiltration bed. The applicant shall:
 - a. Install a vertical PVC pipe and cap with a minimum diameter of 4 inches as an inspection port at the end of the disposal line, and
 - b. Install the pipe with a physical restraint to maintain pipe position;
9. The main pressurized line and secondary distribution lines for the aggregate infiltration bed are equipped at appropriate locations with cleanouts to grade;
10. The following requirements and the setbacks specified in R18-9-A312(C) are observed:
 - a. Increase setbacks for the following downslope features at least 30 feet from the toe of the mound system:
 - i. Property line,
 - ii. Driveway,
 - iii. Building,
 - iv. Ditch or interceptor drain, or
 - v. Any other feature that impedes water movement away from the mound; and
 - b. Ensure that no upslope natural feature or improvement channels surface water or groundwater to the mound area;
11. The portion of the basal area of native soil below the mound conforms to the Wisconsin Mound Manual. The applicant shall:
 - a. Calculate the absorption of wastewater into the native soil for only the effective basal area;
 - b. Apply the soil absorption rate specified in R18-9-A312(D). The applicant may increase allowable loading rate to the mound bed inlet surface up to 1.6 times if the wastewater dispersed to the mound is pretreated to reduce the sum of TSS and BOD₅ to 60 mg/l or less. The applicant may increase the soil absorption rate to not more than 0.20 gallons per day per square foot of basal area if the following slowly permeable soils underlie the mound:
 - i. Sandy clay loam, clay loam, silty clay loam, or finer with weak platy structure; or
 - ii. Sandy clay loam, clay loam, silty clay loam, or silt loam with massive structure;
12. The slope of the native soil at the basal area does not exceed 25 percent, and a slope stability analysis is performed whenever the basal area or site slope within 50 horizontal feet from the mound system footprint exceeds 15 percent.

E. Installation. An applicant shall:

1. Prepare native soil for construction of a Wisconsin mound system. The applicant shall:
 - a. Mow vegetation and cut down trees in the vicinity of the basal area site to within 2 inches of the surface;
 - b. Leave in place boulders and tree stumps and other herbaceous material that would excessively alter the soil structure if removed after mowing and cutting;

- c. Plow native soil serving as the basal area footprint along the contours to 7- to 8- inch depth;
 - d. Not substitute rototilling for plowing; and
 - e. Begin mound construction immediately after plowing;
2. Place each layer of the bed system to prevent differential settling and promote uniform density; and
 3. Use the Wisconsin Mound Manual to guide any other detail of installation. The applicant may vary installation procedures and criteria depending on mound design but shall use installation procedures and criteria that are at least equivalent to those in the Wisconsin Mound Manual.

F. Operation and maintenance requirements. In addition to the applicable requirements specified in R18-9-A313(B), the permittee shall:

1. If an existing mound system shows evidence of overload or hydraulic failure, conduct the following sequence of evaluations:
 - a. Verify the actual loading and performance of the pretreatment system.
 - b. Verify the watertightness of the pretreatment and dosing tanks;
 - c. Determine the dosing rates and dosing intervals to the aggregate infiltration bed and compare it with the original design to evaluate the presence or absence of saturated conditions in the aggregate infiltration bed;
 - d. If the above steps in subsections (F)(1)(a) through (c) do not indicate an anomalous condition, evaluate the site and recalculation of the disposal capability to determine if mound lengthening is feasible;
 - e. Determine if site modifications are possible including changing surface drainage patterns at upgrade locations and lowering the groundwater level by installing interceptor drains to reduce native soil saturation at shallow levels; and
 - f. Determine if the basal area can be increased, consistent with R18-9-A309(A)(9)(b)(iv);
2. Prepare servicing and waste disposal procedures and task schedules necessary for clearing the main pressurized wastewater line and secondary distribution lines, septic tank effluent filter, pump intake, and controls.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-E309. 4.09 General Permit: Engineered Pad System, Less Than 3000 Gallons Per Day Design Flow

- A.** A 4.09 General Permit allows for the use of an engineered pad system receiving wastewater treated to a level equal to or better than that specified in R18-9-E302(B).
1. Definition. For purposes of this Section, an "engineered pad system" means a treatment and disposal technology characterized by:
 - a. The delivery of pretreated wastewater by gravity or pressure distribution to the engineered pad and sand bed assembly, followed by dispersal of the wastewater into the native soil; and
 - b. Wastewater movement through the engineered pad and sand bed assembly by gravity under unsaturated

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flow conditions to provide additional passive biological treatment.

2. The applicant may use an engineered pad system if:
 - a. The native soil is excessively permeable,
 - b. There is little native soil overlying fractured or excessively permeable rock, or
 - c. The available area is limited for installing a disposal works authorized by R18-9-E302.
- B. Performance.** An applicant shall ensure that:
 1. The engineered pad system is designed so that the treated wastewater released to the native soil meets the following criteria:
 - a. TSS of 50 milligrams per liter, 30-day arithmetic mean;
 - b. BOD₅ of 50 milligrams per liter, 30-day arithmetic mean;
 - c. Total nitrogen (as nitrogen) of 53 milligrams per liter, 5-month arithmetic mean; and
 - d. Total coliform level of 1,000,000 (Log₁₀ 6) colony forming units per 100 milliliters, 95th percentile; or
 2. The engineered pad system is designed to meet any other performance, loading rate, and configuration criteria specified in the reviewed product list maintained by the Department as required under R18-9-A309(E).
- C. Notice of Intent to Discharge.** In addition to the Notice of Intent to Discharge requirements specified in R18-9-A301(B) and R18-9-A309(B), an applicant shall submit design materials and construction specifications for the engineered pad system.
- D. Design requirements.** In addition to the applicable requirements in R18-9-A312, an applicant shall ensure that:
 1. Gravity and pressurized wastewater delivery is from a septic tank or intermediate watertight chamber equipped with a pump and controls. The applicant shall ensure that:
 - a. Delivered wastewater is distributed onto the top of the engineered pad system and achieves even distribution by good engineering practice, and
 - b. The dosing rate for pressurized wastewater delivery is at least four doses per day and no more than 24 doses per day;
 2. The sand bed consists of mineral sand washed to conform to the "Standard Specification for Concrete Aggregates, C33-03 (2003)," which is incorporated by reference in R18-9-E308(D)(2), unless the performance testing and design specifications of the engineered pad manufacturer justify a substitute specification. The applicant shall ensure that:
 - a. The sand bed design provides for the placement of at least 6 inches of sand bed material below and along the perimeter of each pad, and
 - b. The contact surface between the bottom of the sand bed and the native soil is level;
 3. The spacing between adjacent two-pad-wide rows is at least two times the distance between the bottom of the distribution pipe and the bottom of the sand bed or 5 feet, whichever is greater;
 4. The wastewater distribution system installed on the top of the engineered pad system is covered with a breathable geotextile material and the breathable geotextile material is covered with at least 10 inches of backfill.
 - a. The applicant shall ensure that rocks and cobbles are removed from backfill cover and grade the backfill for drainage.
 - b. The applicant may place the engineered pad system above grade, partially bury it, or fully bury it depending on site and service circumstances;
5. The engineered pad system is constructed with durable materials and capable of withstanding stress from installation and operational service; and
6. At least two inspection ports are installed in the engineered pad system to confirm unsaturated wastewater treatment conditions at diagnostic locations.
- E. Installation requirements.** In addition to the applicable requirements in R18-9-A313(A), an applicant shall place sand media to obtain a uniform density of 1.3 to 1.4 grams per cubic centimeter.
- F. Operation and maintenance requirements.** In addition to the applicable requirements in R18-9-A313(B), an applicant shall inspect the backfill cover for physical damage or erosion and promptly repair the cover, if necessary.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended to correct a manifest typographical error in subsection (B)(2) (Supp. 01-1). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-E310. 4.10 General Permit: Intermittent Sand Filter, Less Than 3000 Gallons Per Day Design Flow

- A. A 4.10 General Permit** allows for the use of an intermittent sand filter receiving wastewater treated to a level equal to or better than that specified in R18-9-E302(B).
 1. **Definition.** For purposes of this Section, an "intermittent sand filter" means a treatment technology characterized by:
 - a. The pressurized delivery of pretreated wastewater to an engineered sand bed in a containment vessel equipped with an underdrain system or designed as a bottomless filter;
 - b. Delivered wastewater dispersed throughout the sand media by periodic doses from the delivery pump to maintain unsaturated flow conditions in the bed; and
 - c. Wastewater that is treated during passage through the media, collected by a bed underdrain chamber, and removed by pump or gravity to the disposal works, or wastewater that percolates downward directly into the native soil as part of a bottomless filter design.
 2. An applicant may use an intermittent sand filter if:
 - a. The native soil is excessively permeable,
 - b. There is little native soil overlying fractured or excessively permeable rock, or
 - c. The applicant desires a reduction in setback distances or minimum vertical separation.
- B. Performance.** An applicant shall ensure that:
 1. An intermittent sand filter with underdrain system is designed so that it produces treated wastewater that meets the following criteria:
 - a. TSS of 10 milligrams per liter, 30-day arithmetic mean;
 - b. BOD₅ of 10 milligrams per liter, 30-day arithmetic mean;
 - c. Total nitrogen (as nitrogen) of 40 milligrams per liter, 5-month arithmetic mean; and
 - d. Total coliform level or 1000 (Log₁₀ 3) colony forming units per 100 milliliters, 95th percentile; or

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2. An intermittent sand filter with a bottomless filter is designed so that it produces treated wastewater released to the native soil that meets the following criteria:
 - a. TSS of 20 milligrams per liter, 30-day arithmetic mean;
 - b. BOD₅ of 20 milligrams per liter, 30-day arithmetic mean;
 - c. Total nitrogen (as nitrogen) of 53 milligrams per liter, five-month arithmetic mean; and
 - d. Total coliform level of 100,000 (Log₁₀ 5 colony forming units per 100 milliliters, 95th percentile).
- C. Notice of Intent to Discharge. In addition to the Notice of Intent to Discharge requirements specified in R18-9-A301(B) and R18-9-A309(B), an applicant shall submit specifications for the media proposed for use in the intermittent sand filter.
- D. Design requirements. In addition to the applicable requirements in R18-9-A312, an applicant shall ensure that:
 1. Pressurized wastewater delivery is from the septic tank or separate watertight chamber with a pump sized and controlled to deliver the pretreated wastewater to the top of the intermittent sand filter. The applicant shall ensure that the dosing rate is at least 4 doses per day and not more than 24 doses per day;
 2. The pressurized wastewater delivery system provides even distribution in the sand filter through good engineering practice. The applicant shall:
 - a. Specify all necessary controls, pipes, valves, orifices, filter cover materials, gravel, or other distribution media, and monitoring and servicing components in the design documents; and
 - b. Ensure that the cover and topsoil is 6 to 12 inches in depth and graded to drain;
 3. The sand filter containment vessel is watertight, structurally sound, durable, and capable of withstanding stress from installation and operational service. The applicant may place the intermittent sand filter above grade, partially buried, or fully buried depending on site and service circumstances;
 4. Media used in the intermittent sand filter is mineral sand and that the media is washed and conforms to "Standard Specification for Concrete Aggregates, C33-03," which is incorporated by reference in R18-9-E308(D)(2);
 5. The sand media depth is a minimum of 24 inches with the top and bottom surfaces level and the maximum wastewater loading rate is 1.0 gallons per day per square foot of inlet surface at the rated daily design flow;
 6. The underdrain system:
 - a. Is within the containment vessel;
 - b. Supports the filter media and all overlying loads from the unsupported construction above the top surface of the sand media;
 - c. Has sufficient void volume above the normal high level of the intermittent sand filter effluent to prevent saturation of the bottom of the sand media by a 24-hour power outage or pump malfunction; and
 - d. Includes necessary monitoring, inspection, and servicing features;
 7. Inspection ports are installed in the distribution media and in the underdrain;
 8. The bottomless filter is designed similar to the underdrain system, except that the sand media is positioned on top of the native soil absorption surface. The applicant shall ensure that companion modifications are made that eliminate the containment vessel bottom and underdrain and relocate the underdrain inspection port to ensure reliable indication of the presence or absence of water saturation in the sand media;
 9. The native soil absorption system is designed to ensure that the linear loading rate does not exceed site disposal capability; and
 10. The bottomless sand filter discharge rate per unit area to the native soil does not exceed the adjusted soil absorption rate for the quality of wastewater specified in subsection (B)(2).
- E. Installation requirements. In addition to the applicable requirements in R18-9-A313(A), an applicant shall place the containment vessel, underdrain system, filter media, and pressurized wastewater distribution system in an excavation with adequate foundation and each layer installed to prevent differential settling and promote a uniform density throughout of 1.3 to 1.4 grams per cubic centimeter within the sand media.
- F. Operation and maintenance requirements. The applicant shall follow the applicable requirements in R18-9-A313(B).

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-E311. 4.11 General Permit: Peat Filter, Less Than 3000 Gallons Per Day Design Flow

- A. A 4.11 General Permit allows for the use of a peat filter receiving wastewater treated to a level equal to or better than that specified in R18-9-E302(B).
 1. Definition. For purposes of this Section, a "peat filter" means a disposal technology characterized by:
 - a. The dosed delivery of treated wastewater to the peat bed, which can be a manufactured module or a disposal bed excavated in native soil and filled with compacted peat;
 - b. Wastewater passing through the peat that is further treated by removal of positively charged molecules, filtering, and biological activity before entry into native soil; and
 - c. If the peat filter system is constructed as a disposal bed filled with compacted peat, wastewater that is absorbed into native soil at the bottom and sides of the bed.
 2. An applicant may configure a modular system if a portion of the wastewater that has passed through the peat filter is recirculated back to the pump chamber.
 3. An applicant may use a peat filter system if:
 - a. The native soil is excessively permeable,
 - b. There is little native soil overlying fractured or excessively permeable rock,
 - c. A reduction in setback distances or minimum vertical separation is desired, or
 - d. Cold weather inhibits performance of other treatment or disposal technologies.
- B. Performance. An applicant shall ensure that a peat filter is designed so that it produces treated wastewater that meets the following criteria:
 1. TSS of 15 milligrams per liter, 30-day arithmetic mean;
 2. BOD₅ of 15 milligrams per liter, 30-day arithmetic mean;
 3. Total nitrogen (as nitrogen) of 53 milligrams per liter, 5-month arithmetic mean; and
 4. Total coliform level of 100,000 (Log₁₀ 5) colony forming units per 100 milliliters, 95th percentile.

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- C. Notice of Intent to Discharge. In addition to the Notice of Intent to Discharge requirements specified in R18-9-A301(B) and R18-9-A309(B), an applicant shall submit:
- Specifications for the peat media proposed for use in the peat filter or provided in the peat module, including:
 - Porosity;
 - Degree of humification;
 - pH;
 - Particle size distribution;
 - Moisture content;
 - A statement of whether the peat is air dried, and whether the peat is from sphagnum moss or bog cotton; and
 - A description of the degree of decomposition;
 - Specifications for installing the peat media; and
 - If a peat module is used:
 - The name and address of the manufacturer,
 - The model number, and
 - A copy of the manufacturer's warranty.
- D. Design requirements.
- If a pump tank is used to dose the peat module or bed, an applicant shall:
 - Ensure that the pump tank is sized to contain the dose volume and a reserve volume above the high water alarm that will contain the volume of daily design flow; and
 - Use a control panel with a programmable timer to dose at the applicable loading rate.
 - Peat module system. In addition to the applicable requirements in R18-9-A312, the applicant shall:
 - Size the gravel bed supporting the peat filter modules to allow it to act as a disposal works and ensure that the bed is level, long, and narrow, and installed on contour to optimize lateral movement away from the disposal area;
 - For modules designed to allow wastewater flow through the peat filter and base material into underlying native soil, size the base on which the modules rest to accommodate the soil absorption rate of the native soil;
 - Place fill over the module so that it conforms to the manufacturer's specification. If the fill is planted, the applicant shall use only grass or shallow rooted plants; and
 - Ensure that the peat media depth is at least 24 inches, the peat is installed with the top and bottom surfaces level, and the maximum wastewater loading rate is 5.5 gallons per day per square foot of inlet surface at the rated daily design flow, unless the Department approves a different wastewater loading rate under R18-9-A309(E).
 - Peat filter bed system. In addition to the applicable requirements in R18-9-A312, the applicant shall ensure that:
 - The bed is filled with peat derived from sphagnum moss and compacted according to the installation specification;
 - The maximum wastewater loading rate is 1 gallon per day per square foot of inlet surface at the rated daily design flow;
 - At least 24 inches of installed peat underlies the distribution piping and 10 to 14 inches of installed peat overlies the piping;
 - The cover material over the peat filter bed is slightly mounded to promote runoff of rainfall. The applicant shall not place additional fill over the peat; and
 - The peat is air dried, with a porosity greater than 90 percent, and a particle size distribution of 92 to 100 percent passing a No. 4 sieve and less than 8 percent passing a No. 30 sieve.
- E. Installation requirements. In addition to the applicable requirements in R18-9-A313(A), the applicant shall:
- Peat module system.
 - Compact the bottom of all excavations for the filter modules, pump, aerator, and other components to provide adequate foundation, slope the bottom toward the discharge to minimize ponding, and ensure that the bottom is flat, and free of debris, rocks, and sharp objects. If the excavation is uneven or rocky, the applicant shall use a bed of sand or pea gravel to create an even, smooth surface;
 - Place the peat filter modules on a level, 6-inch deep gravel bed;
 - Place backfill around the modules and grade the backfill to divert surface water away from the modules;
 - Not place objects on or move objects over the system area that might damage the module containers or restrict airflow to the modules;
 - Cover gaps between modules to prevent damage to the system;
 - Fit each system with at least one sampling port that allows collection of wastewater at the exit from the final treatment module;
 - Provide the modules and other components with anti-buoyancy devices to ensure stability in the event of flooding or high water table conditions; and
 - Provide a mechanism for draining the filter module inlet line; or
 - Peat filter bed system.
 - Scarify the bottom and sides of the leaching bed excavation to remove any smeared surfaces, and:
 - Unless directed by an installation specification consistent with this Chapter, place peat media in the excavation in 6-inch lifts; and
 - Compact each lift before the next lift is added. The applicant shall take care to avoid compaction of the underlying native soil;
 - Lay distribution pipe in trenches cut in the compacted peat, and
 - Ensure that at least 3 inches of aggregate underlie the pipe to reduce clogging of holes or scouring of the peat surrounding the pipe, and
 - Place peat on top of and around the sides of the pipes.
- F. Operation and maintenance requirements. In addition to the applicable requirements in R18-9-A313(B), the permittee shall inspect the finished grade over the peat filter for proper drainage, protection from damaging loads, and root invasion of the wastewater distribution system and perform maintenance as needed.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November

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12, 2005 (05-3).

R18-9-E312. 4.12 General Permit: Textile Filter, Less Than 3000 Gallons Per Day Design Flow

A. A 4.12 General Permit allows for the use of a textile filter receiving wastewater treated to a level equal to or better than that specified in R18-9-E302(B).

1. Definition. For purposes of this Section, a "textile filter" means a disposal technology characterized by:
 - a. The flow of wastewater into a packed bed filter in a containment structure or structures. The packed bed filter uses a textile filter medium with high porosity and surface area; and
 - b. The textile filter medium provides further treatment by removing suspended material from the wastewater by physical straining, and reducing nutrients by microbial action.
2. An applicant may use a textile filter in conjunction with a two-compartment septic tank or a two-tank system if the second compartment or tank is used as a recirculation and blending tank. The applicant shall divert a portion of the wastewater flow from the textile filter back into the second tank for further treatment.
3. An applicant may use a textile filter if:
 - a. Nitrogen reduction is desired,
 - b. The native soil is excessively permeable,
 - c. There is little native soil overlying fractured or excessively permeable rock, or
 - d. A reduction in setback distances or minimum vertical separation is desired.

B. Performance. An applicant shall ensure that a textile filter is designed so that it produces treated wastewater that meets the following criteria:

1. TSS of 15 milligrams per liter, 30-day arithmetic mean;
2. BOD₅ of 15 milligrams per liter, 30-day arithmetic mean;
3. Total nitrogen (as nitrogen) of 30 milligrams per liter, five-month arithmetic mean, or 15 milligrams, five-month arithmetic mean per liter if documented under subsection (C)(4); and
4. Total coliform level of 100,000 (Log₁₀ 5) colony forming units per 100 milliliters, 95th percentile.

C. Notice of Intent to Discharge. In addition to the Notice of Intent to Discharge requirements specified in R18-9-A301(B) and R18-9-A309(B), an applicant shall submit:

1. The name and address of the filter manufacturer;
2. The filter model number;
3. A copy of the manufacturer's filter warranty;
4. If the system is for nitrogen reduction to 15 milligrams per liter, five-month arithmetic mean, specifications on the nitrogen reduction performance of the filter system and corroborating third-party test data;
5. The manufacturer's operation and maintenance recommendations to achieve a 20-year operational life; and
6. If a pump or aerator is required for proper operation, the pump or aerator model number and a copy of the manufacturer's warranty.

D. Design requirements. In addition to the applicable requirements in R18-9-A312, an applicant shall ensure that:

1. The textile medium has a porosity of greater than 80 percent;
2. The wastewater is delivered to the textile filter by gravity flow or a pump;
3. If a pump is used to dose the textile filter, the pump and appurtenances meet following criteria:

- a. The textile media loading rate and wastewater recirculation rate are based on calculations that conform with performance data listed in the reviewed product list maintained by the Department as required under R18-9-A309(E),
- b. The tank and recirculation components are sized to contain the dose volume and a reserve volume above the high water level alarm that will contain the volume of daily design flow, and
- c. A control panel with a programmable timer is used to dose the textile media at the applicable loading rate and wastewater recirculation rate.

E. Installation requirements. In addition to the applicable requirements in R18-9-A313(A), an applicant shall:

1. Before placing the filter modules, slope the bottom of the excavation for the modules toward the discharge point to minimize ponding;
2. Ensure that the bottom of all excavations for the filter modules, pump, aerator, or other components is level and free of debris, rocks, and sharp objects. If the excavation is uneven or rocky, the applicant shall use a bed of sand or pea gravel to create an even, smooth surface;
3. Provide the modules and other components with anti-buoyancy devices to ensure they remain in place in the event of high water table conditions; and
4. Provide a mechanism for draining the filter module inlet line.

F. Operation and maintenance requirements. In addition to the applicable requirements in R18-9-A313, the permittee shall not flush corrosives or other materials known to damage the textile material into any drain that transmits wastewater to the on-site wastewater treatment facility.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-E313. 4.13 General Permit: Denitrifying System Using Separated Wastewater Streams, Less Than 3000 Gallons Per Day Design Flow

A. A 4.13 General Permit allows for the use of a separated wastewater streams, denitrifying system for a dwelling.

1. Definition. For purposes of this Section a "denitrifying system using wastewater streams" means a gravity flow treatment and disposal system for a dwelling that requires separate plumbing drains for conducting dishwasher, kitchen sink, and toilet flush water to wastewater treatment tank "A" and all other wastewater to a wastewater treatment tank "B."

- a. Treated wastewater from tanks "A" and "B" is delivered to an engineered composite disposal bed system that includes an upper distribution pipe to deliver treated wastewater from tank "A" to a columnar celled, sand-filled bed.
- b. The wastewater drains downward into a sand bed, then into a pea gravel bed with an internal distribution pipe system that delivers the treated wastewater from tank "B."
- c. The entire composite bed is constructed within an excavation about 6 feet deep.
- d. The system operates under gravity flow from tanks "A" and "B."

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- e. An engineered sampling assembly is installed at the midpoint of the disposal line run and at the base of the composite bed during construction to monitor system performance.
- 2. An applicant may use a separated wastewater streams, denitrifying system where total nitrogen reduction is required under this Article before release to the native soil.
- B. Performance.** An applicant shall ensure that a separated wastewater streams, denitrifying system is designed so that the treated wastewater released to the native soil meets the following criteria:
 - 1. TSS of 30 milligrams per liter, 30-day arithmetic mean;
 - 2. BOD₅ of 30 milligrams per liter, 30-day arithmetic mean;
 - 3. Total nitrogen (as nitrogen) of 30 milligrams per liter, five-month arithmetic mean; and
 - 4. Total coliform level of 1,000,000 (Log₁₀ 6) colony forming units per 100 milliliters, 95th percentile.
- C. Notice of Intent to Discharge.** The applicant shall comply with the Notice of Intent to Discharge requirements in R18-9-A301(B) and R18-9-A309(B).
- D. Design, installation, operation, and maintenance requirements.** The applicant shall comply with the applicable design, installation, operation, and maintenance requirements in R18-9-A312, R18-9-A313(A), and R18-9-A313(B).
- E. Reference design.**
 - 1. An applicant may use a separated wastewater streams, denitrifying system achieving the performance requirements specified in subsection (B) by following a reference design on file with the Department.
 - 2. The applicant shall file a form provided by the Department for supplemental information about the proposed system with the applicant's submittal of the Notice of Intent to Discharge.
- D. Design requirements.** In addition to the requirements in R18-9-A312, an applicant shall:
 - 1. Install a sewage vault with a capacity that is at least 10 times the daily design flow determined by R18-9-A314(4)(a)(i),
 - 2. Use design elements to prevent the buoyancy of the vault if installed in an area where a high groundwater table may impinge on the vault,
 - 3. Test the sewage vault for leakage using the procedure under R18-9-A314(5)(d). The tank passes the water test if the water level does not drop over a 24-hour period,
 - 4. Install an alarm or signal on the vault to indicate when 85 percent of the vault capacity is reached, and
 - 5. Contract with a person who licensed a vehicle under 18 A.A.C. 13, Article 11 to pump out the vault on a schedule specified within the contract to ensure that the vault is pumped before full.
- E. Installation, operation, and maintenance requirements.** The applicant shall comply with the applicable installation, operation, and maintenance requirements in R18-9-A313(A) and (B).
- F. Reference design.**
 - 1. An applicant may use a sewage vault that achieves the performance requirements in subsection (B) by following a reference design on file with the Department.
 - 2. The applicant shall file a form provided by the Department for supplemental information about the proposed storage vault with the applicant's submittal of the Notice of Intent to Discharge.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-E314. 4.14 General Permit: Sewage Vault, Less Than 3000 Gallons Per Day Design Flow

- A. A 4.14 General Permit** allows for the use of a sewage vault that receives sewage.
 - 1. An applicant may use a sewage vault if a severe site or operational constraint prevents installation of a conventional septic tank and disposal works or any other on-site wastewater treatment facility allowed under this Article; or
 - 2. An applicant may install a sewage vault as a temporary measure if connection to a sewer or installation of another on-site wastewater treatment facility occurs within two years of the connection or installation.
- B. Performance.** An applicant shall:
 - 1. Not allow a discharge from a sewage vault to the native soil or land surface, and
 - 2. Pump and dispose of vault contents at a sewage treatment facility or other sewage disposal mechanism allowed by law.
- C. Notice of Intent to Discharge.** The applicant shall comply with the Notice of Intent to Discharge requirements in R18-9-A301(B) and R18-9-A309(B), except that a site investigation under R18-9-A309(B)(1) is not required if the reason for using a sewage vault is an operational constraint that exists irrespec-

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3). Amended by final rulemaking at 29 A.A.R. 1023 (May 12, 2023), effective June 19, 2023 (Supp. 23-2).

R18-9-E315. 4.15 General Permit: Aerobic System Less Than 3000 Gallons Per Day Design Flow

- A. A 4.15 General Permit** allows for the construction and use of an aerobic system that uses aeration for treatment.
 - 1. **Definition.** For purposes of this Section, an "aerobic system" means a treatment unit consisting of components that:
 - a. Mechanically introduce oxygen to wastewater,
 - b. Typically provide clarification of the wastewater after aeration, and
 - c. Convey the treated wastewater by pressure or gravity distribution to the disposal works.
 - 2. An applicant may use an aerobic system if:
 - a. Enhanced biological processing is needed to treat wastewater with high organic content,
 - b. A soil or site condition is not adequate for installation of a standard septic tank and disposal works under R18-9-E302,
 - c. A highly treated wastewater amenable to disinfection is needed, or
 - d. Nitrogen removal from the wastewater is needed and removal performance of the system is documented according to subsection (C)(6).
- B. Performance.**

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1. An applicant shall ensure that the aerobic system is designed so that the treated wastewater released to the native soil meets the following criteria:
 - a. TSS of 30 milligrams per liter, 30-day arithmetic mean;
 - b. BOD₅ of 30 milligrams per liter, 30-day arithmetic mean;
 - c. Total nitrogen (as nitrogen) of 53 milligrams per liter, five-month arithmetic mean, or as low as 15 milligrams, five-month arithmetic mean per liter if documented under subsection (C)(6); and
 - d. Total coliform level of 300,000 (Log₁₀ 5.5) colony forming units per 100 milliliters, 95th percentile.
 2. An applicant may use an aerobic system that meets the following less stringent performance criteria if the aerobic technology is listed by the Department under R18-9-A309(E) and the Department bases its review and listing on the technology being less costly and simpler to operate when compared to other aerobic technologies:
 - a. TSS of 60 milligrams per liter, 30-day arithmetic mean;
 - b. BOD₅ of 60 milligrams per liter, 30-day arithmetic mean;
 - c. Total nitrogen (as nitrogen) of 53 milligrams per liter, five-month arithmetic mean, or as low as 15 milligrams, five month arithmetic mean per liter, if documented under subsection (C)(6); and
 - d. Total coliform level of 1,000,000 (Log₁₀ 7) colony forming units per 100 milliliters, 95th percentile.
- C. Notice of Intent to Discharge.** In addition to the Notice of Intent to Discharge requirements specified in R18-9-A301(B) and R18-9-A309(B), an applicant shall submit:
1. The name and address of the aerobic system manufacturer;
 2. The model number of the aerobic system;
 3. Evidence of performance specified in subsection (B)(1) or (B)(2), as applicable;
 4. A list of pretreatment components needed to meet performance requirements;
 5. A copy of the manufacturer's warranty and operation and maintenance recommendations to achieve performance over a 20-year operational life; and
 6. If the aerobic system will be used for nitrogen removal from the wastewater, either:
 - a. Evidence of a valid product listing under R18-9-E309(E) indicating nitrogen removal performance, or
 - b. Specifications and third party test data corroborating nitrogen reduction to the intended level.
- D. Design requirements.** In addition to the applicable requirements in R18-9-A312, an applicant shall ensure that:
1. The wastewater is delivered to the aerobic treatment unit by gravity flow either directly or by a lift pump;
 2. An interceptor or other pretreatment device is incorporated if necessary to meet the performance criteria specified in subsection (B)(1) or (2), or if recommended by the manufacturer for pretreatment if a garbage disposal appliance is used;
 3. A clarifier is provided after aeration for any treatment technology that achieves performance that is equal to or better than the performance criteria specified in subsection (B)(1); and
 4. Ports for inspection and monitoring are provided to verify performance.
- E. Installation requirements.** In addition to the applicable requirements in R18-9-A313(A), an applicant shall ensure that:
1. The installation of the aerobic treatment components conforms to manufacturer's specifications that do not conflict with Articles 1 and 3 of this Chapter and to the design documents specified in the Construction Authorization issued under R18-9-A301(D)(1)(c); and
 2. Excavation and foundation work, and backfill placement is performed to prevent differential settling and adverse drainage conditions.
- F. Operation and maintenance requirements.** The permittee shall:
1. Follow the applicable requirements in R18-9-A313(B), and
 2. Ensure that filters are cleaned and replaced as necessary.
- G. Reference design.**
1. An applicant may use an aerobic system that achieves the applicable performance requirements by following a reference design on file with the Department.
 2. An applicant using a reference design shall submit, with the Notice of Intent to Discharge, supplemental information specific to the proposed installation on a form approved by the Department.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-E316. 4.16 General Permit: Nitrate-Reactive Media Filter, Less Than 3000 Gallons Per Day Design Flow

- A. A 4.16 General Permit** allows for the construction and use of a nitrate-reactive media filter receiving pretreated wastewater.
1. Definition. "Nitrate-reactive media filter" means a treatment technology characterized by:
 - a. The application of pretreated, nitrified wastewater to a packed bed filter in a containment structure. A packed bed filter consists of nitrate-reactive media that receives pretreated wastewater under appropriate design and operational conditions, and
 - b. The ability of the nitrate-reactive filter to further treat the nitrified wastewater by removing total nitrogen by chemical and physical processes.
 2. An applicant shall use a nitrate-reactive media filter with a treatment or disposal works to pretreat and dispose of the wastewater.
 3. An applicant may use a nitrate-reactive media filter if nitrogen reduction is required under this Article.
- B. Restrictions.** The applicant shall not use any product to supply pretreated wastewater to the nitrate-reactive media filter unless:
1. The product meets the pretreatment requirements for the filter based on product performance information in the product listing, and
 2. The product is listed by the Department as a reviewed product under R18-9-A309(E).
- C. Performance.** An applicant shall ensure that a nitrate-reactive media filter is designed so that it produces treated wastewater that does not exceed the following criteria:
1. TSS of 30 milligrams per liter, 30-day arithmetic mean;
 2. BOD₅ of 30 milligrams per liter, 30-day arithmetic mean;
 3. Total nitrogen (as nitrogen) of 10 milligrams per liter, five-month arithmetic mean; and
 4. Total coliform level of 1,000,000 (Log₁₀ 6) colony forming units per 100 milliliters, 95th percentile.

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- D. Notice of Intent to Discharge.** In addition to the Notice of Intent to Discharge requirements specified in R18-9-A301(B) and R18-9-A309(B), an applicant shall submit:
1. The name and address of the filter manufacturer;
 2. The filter model number;
 3. The manufacturer's requirements for pretreated wastewater supplied to the nitrate-reactive media filter;
 4. The manufacturer's specifications for design, installation, and operation for the nitrate-reactive media filter system and appurtenances;
 5. The manufacturer's warranty for the nitrate-reactive media filter system and appurtenances;
 6. The manufacturer's operation and maintenance recommendations to achieve a 20-year operational life for the nitrate-reactive media filter system and appurtenances; and
 7. The manufacturer name and model number for all appurtenances that significantly contribute to achieving the performance required in subsection (C).
- E. Design requirements.** In addition to the applicable design requirements specified in R18-9-A312, an applicant shall ensure that:
1. The nitrate-reactive media filter and appurtenances conform with manufacturer's specifications;
 2. The loading rate of pretreated wastewater to the nitrate-reactive media inlet surface meets the manufacturer's specification and does not exceed 5.00 gallons per day per square foot of media inlet surface area, and
 3. The bed packed with nitrate reactive media is at least 24 inches thick.
- F. Installation requirements.** In addition to the applicable requirements in R18-9-A313(A), an applicant shall ensure that:
1. The nitrate-reactive media filter and appurtenances are installed according to manufacturer's specifications to achieve proper wastewater treatment, hydraulic performance, and operational life; and
 2. Anti-buoyancy devices are installed when high water table or extreme soil saturation conditions are likely during operational life of the facility.
- G. Operation and maintenance requirements.** In addition to the applicable requirements in R18-9-A313(B) and the manufacturer's specifications for the nitrite-reactive media filter, the permittee shall not dispose of corrosives or other materials that are known to damage the nitrate-reactive media filter system into the on-site wastewater treatment facility.
- Historical Note**
- New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (Supp. 05-3).
- R18-9-E317. 4.17 General Permit: Cap System, Less Than 3000 Gallons Per Day Design Flow**
- A.** A 4.17 General Permit allows for the use of a cap fill cover over a conventional trench disposal works receiving wastewater treated to a level equal to or better than that specified in R18-9-E302(B).
1. **Definition.** For purposes of this Section, a "cap system" means a disposal technology characterized by:
 - a. A soil cap, consisting of engineered fill placed over a trench that is not as deep as a trench allowed by R18-9-E302; and
 - b. A design that compensates for reduced trench depth by maintaining and enhancing the infiltration of wastewater into native soil through the trench side-walls.
 2. An applicant may use a cap system if:
 - a. There is little native soil overlying fractured or excessively permeable rock, or
 - b. A high water table does not allow the minimum vertical separation to be met by a system authorized by R18-9-E302.
 - B. Performance.** An applicant shall ensure that the design soil absorption rate and vertical separation complies with this Chapter for a trench, based on the following performance, unless additional pretreatment is provided:
 1. TSS of 75 milligrams per liter, 30-day arithmetic mean;
 2. BOD₅ of 150 milligrams per liter, 30-day arithmetic mean;
 3. Total nitrogen (as nitrogen) of 53 milligrams per liter, five-month arithmetic mean; and
 4. Total coliform level of 100,000,000 (Log₁₀ 8) colony forming units per 100 milliliters, 95th percentile.
 - C. Notice of Intent to Discharge.** In addition to the Notice of Intent to Discharge requirements in R18-9-A301(B) and R18-9-A309(B), an applicant shall submit specifications for the proposed cap fill material.
 - D. Design requirements.** In addition to the applicable requirements in R18-9-A312, an applicant shall ensure that:
 1. The soil texture from the natural grade to the depth of the layer or the water table that limits the soil for unsaturated wastewater flow is no finer than silty clay loam;
 2. Cap fill material used is free of debris, stones, frozen clods, or ice, and is the same as or one soil group finer than that of the disposal site material, except that the applicant shall not use fill material finer than clay loam as an additive;
 3. **Trench construction.**
 - a. The trench bottom is at least 12 inches below the bottom of the disposal pipe and not more than 24 inches below the natural grade, and the trench bottom and disposal pipe are level;
 - b. The aggregate cover over the disposal pipe is 2 inches thick and the top of the aggregate cover is level and not more than 9 inches above the natural grade;
 - c. The cap fill cover above the top of the aggregate cover is at least 9 inches but not more than 18 inches thick. The applicant shall ensure that:
 - i. The cap surface is protected to prevent erosion and sloped to route surface drainage around the ends of the trench; and
 - ii. If the top of the aggregate is at or below the original ground surface, the cap surface has side slopes not more than one vertical to three horizontal; or
 - iii. If the top of the aggregate is above the original ground surface, the horizontal extent of the finished fill edges is at least 10 feet beyond the nearest trench sidewall or endwall;
 - d. The criteria for trench length, bottom width and spacing, and disposal pipe size is the same as that for the trench system prescribed in R18-9-E302;
 - e. Permeable geotextile fabric is placed on the aggregate top, trench end, and sidewalls extending above natural grade;
 - f. The native soil within the disposal site and the adjacent downgradient area to a 50-foot horizontal dis-

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tance does not exceed a 12 percent slope if the top of the aggregate cover extends above the natural grade at any location along the trench length. The applicant shall ensure that the slope within the disposal site and the adjacent downgradient area to a 50-foot horizontal distance does not exceed 20 percent if the top of the aggregate cover does not extend above the natural grade;

- g. The fill material is compacted to a density of 90 percent of the native soil if the invert elevation of the disposal pipe is at or above the natural grade at any location along the trench length;
 - h. At least one observation port is installed to the bottom of each cap fill trench;
 - i. The effective absorption area for each trench is the sum of the trench bottom area and the sidewall area. The height of the sidewall used for calculating the sidewall area is the vertical distance between the trench bottom and the lowest point of the natural land surface along the trench length; and
 - j. If the applicant uses correction factors for soil absorption rate under R18-9-A312(D)(3) and minimum vertical separation under R18-9-A312(E), additional wastewater pretreatment is provided.
- E. Installation requirements. In addition to the applicable requirements in R18-9-A313(A), an applicant shall prepare the disposal site when high soil moisture is not present and equipment operations do not create platy soil conditions. The applicant shall:
- 1. Plow or scarify the fill area to disrupt the vegetative mat while avoiding smearing,
 - 2. Construct trenches as specified in subsection (D)(3),
 - 3. Scarify the site and apply part of the cap fill to the fill area and blend the fill with the scarified native soil within the contact layers, and
 - 4. Follow the construction design specified in the Construction Authorization issued under R18-9-A301(D)(1)(c).
- F. Operation and maintenance requirements. In addition to the applicable requirements in R18-9-A313(B), the permittee shall inspect and repair the cap fill and other surface features as needed to ensure proper disposal function, proper drainage of surface water, and prevention of damaging loads on the cap.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-E318. 4.18 General Permit: Constructed Wetland, Less Than 3000 Gallons Per Day Design Flow

- A. A 4.18 General Permit allows for the use of a constructed wetland receiving wastewater treated to a level equal to or better than that specified in R18-9-E302(B).
- 1. Definition. "Constructed wetland" means a treatment technology characterized by a lined excavation, filled with a medium for growing plants and planted with marsh vegetation. The treated wastewater flows horizontally through the medium in contact with the aquatic plants.
 - a. As the wastewater flows through the wetland system, additional treatment is provided by filtering, settling, volatilization, and evapotranspiration.
 - b. The wetland system allows microorganisms to break down organic material and plants to take up nutrients and other pollutants.

- c. The wastewater treated by a wetland system is discharged to a subsurface soil disposal system.
 - 2. An applicant may use a constructed wetland if further wastewater treatment is needed before disposal.
- B. Performance. An applicant shall ensure that a constructed wetland is designed so that it produces treated wastewater that meets the following criteria:
- 1. TSS of 20 milligrams per liter, 30-day arithmetic mean;
 - 2. BOD₅ of 20 milligrams per liter, 30-day arithmetic mean;
 - 3. Total nitrogen (as nitrogen) of 45 milligrams per liter, five-month arithmetic mean; and
 - 4. Total coliform level of 100,000 (Log₁₀ 5) colony forming units per 100 milliliters, 95th percentile.
- C. Notice of Intent to Discharge. The applicant shall comply with the Notice of Intent to Discharge requirements specified in R18-9-A301(B) and R18-9-A309(B).
- D. Design, installation, operation, and maintenance requirements. The permittee shall comply with the applicable design, installation, operation, and maintenance requirements in R18-9-A312, R18-9-A313(A), and R18-9-A313(B).
- E. Reference design.
- 1. An applicant may use a constructed wetland that achieves the performance requirements in subsection (B) by following a reference design on file with the Department.
 - 2. The applicant shall file a form provided by the Department for supplemental information about the proposed constructed wetland with the applicant's submittal of the Notice of Intent to Discharge.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-E319. 4.19 General Permit: Sand-Lined Trench, Less Than 3000 Gallons Per Day Design Flow

- A. A 4.19 General Permit allows for the use of a sand-lined trench receiving wastewater treated to a level equal to or better than that specified in R18-9-E302(B).
- 1. Definition. For purposes of this Section, a "sand-lined trench" means a disposal technology characterized by:
 - a. Engineered placement of sand or equivalently graded glass in trenches excavated in native soil,
 - b. Wastewater dispersed throughout the media by pressure distribution technology as specified in R18-9-E304 using a timer-controlled pump in periodic uniform doses that maintain unsaturated flow conditions, and
 - c. Wastewater treated during travel through the media and absorbed into the native soil at the bottom of the trench.
 - 2. An applicant may use a sand-lined trench if:
 - a. The native soil is excessively permeable,
 - b. There is little native soil overlying fractured or excessively permeable rock, or
 - c. Reduction in setback distances, or minimum vertical separation is desired.
- B. Performance. An applicant shall ensure that a sand-lined trench is designed so that treated wastewater released to the native soil meets the following criteria:
- 1. TSS of 20 milligrams per liter, 30-day arithmetic mean;
 - 2. BOD₅ of 20 milligrams per liter, 30-day arithmetic mean;
 - 3. Total nitrogen (as nitrogen) of 53 milligrams per liter, five-month arithmetic mean; and

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4. Total coliform level of 100,000 (\log_{10} 5) colony forming units per 100 milliliters, 95th percentile.
- C. Notice of Intent to Discharge. In addition to the Notice of Intent to Discharge requirements in R18-9-A301(B) and R18-9-A309(B), an applicant shall submit specifications for the proposed media in the trench.
- D. Design requirements. In addition to the applicable requirements in R18-9-A312, an applicant shall ensure that:
 1. The media used in the trench is mineral sand, crushed glass, or cinder sand and that:
 - a. The media conforms to "Standard Specifications for Concrete Aggregates, C33-03," which is incorporated by reference in R18-9-E308(D)(2), "Standard Test Method for Materials Finer than 75- μ m (No. 200) Sieve in Mineral Aggregates by Washing, C117-04 (2004)," published by the American Society for Testing and Materials, or an equivalent method approved by the Department. This material is incorporated by reference and does not include any later amendments or editions of the incorporated material. Copies of the incorporated material are available for inspection at the Arizona Department of Environmental Quality, 1110 W. Washington, Phoenix, AZ 85007 or may be obtained from the American Society for Testing and Materials International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959; and
 - b. Sieve analysis complies with the "Standard Test Method for Materials Finer than 75- μ m (No. 200) Sieve in Mineral Aggregates by Washing, C11704," which is incorporated by reference in subsection (D)(1)(a), or an equivalent method approved by the Department;
 2. Trenches.
 - a. Distribution pipes are capped on the end;
 - b. The spacing between trenches is at least two times the distance between the bottom of the distribution pipe and the bottom of the trench or 5 feet, whichever is greater;
 - c. The inlet filter media surface, wastewater distribution pipe, and bottom of the trench are level and the maximum effluent loading rate is not more than 1.0 gallon per day per square foot of sand media inlet surface;
 - d. The depth of sand below the gravel layer containing the distribution system is at least 24 inches;
 - e. The gravel layer containing the distribution system is 5 to 12 inches thick, at least 36 inches wide, and level;
 - f. Permeable geotextile fabric is placed at the base of and along the sides of the gravel layer, as necessary. The applicant shall ensure that:
 - i. Geotextile fabric is placed on top of the gravel layer, and
 - ii. Any cover soil placed on top of the geotextile fabric is capable of maintaining vegetative growth while allowing passage of air;
 - g. At least one observation port is installed to the bottom of each sand lined trench;
 - h. If the trench is installed in excessively permeable soil or rock, at least 1 foot of loamy sand is placed in the trench below the filter media. The minimum vertical separation distance is measured from the bottom of the loamy sand; and
 - i. The trench design is based on the design flow, native soil absorption area at the trench bottom, minimum vertical separation below the trench bottom, design effluent infiltration rate at the top of the sand fill, and the adjusted soil absorption rate for the final effluent quality; and
 3. The dosing system consists of a timer-controlled pump, electrical components, and distribution network and that:
 - a. Orifice spacing on the distribution piping does not exceed 4 square feet of media infiltrative surface area per orifice, and
 - b. The dosing rate is at least four doses per day and not more than 24 doses per day.
- E. Installation requirements. In addition to the applicable requirements in R18-9-A313(A), an applicant shall ensure that the filter media is placed in the trench to prevent differential settling and promote a uniform density throughout of 1.3 to 1.4 grams per cubic centimeter.
- F. Operation and maintenance requirements. In addition to the applicable requirements in R18-9-A313(B), the permittee shall ensure that:
 1. The septic tank filter and pump tank are inspected and cleaned;
 2. The dosing tank pump screen, pump switches, and floats are cleaned yearly and any residue is disposed of lawfully; and
 3. Lateral lines are flushed and the liquid waste discharged into the treatment system headworks.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-E320. 4.20 General Permit: Disinfection Devices, Less Than 3000 Gallons Per Day Design Flow

- A. A 4.20 General Permit allows for the use of a disinfection device to reduce the level of harmful organisms in wastewater, provided the wastewater is pretreated to equal or better than the performance criteria in R18-9-E315(B)(1)(a). An applicant may use a disinfection device if:
 1. The disinfection device kills the microorganisms by exposing the wastewater to heat, ultraviolet radiation, or a chemical disinfectant.
 2. Some means of disinfection is required before discharge.
 3. A reduction in harmful microorganisms, as represented by the total coliform level, is needed for surface or near surface disposal of the wastewater or reduction of the minimum vertical separation distance specified in R18-9-A312(E) is desired.
- B. Restrictions.
 1. Unless the disinfection device is designed to operate without electricity, an applicant shall not install the device if electricity is not permanently available at the site.
 2. The 4.20 General Permit does not authorize a disinfection device that releases chemical disinfectants or disinfection byproducts harmful to plants or wildlife in the discharge area or causes a violation of an Aquifer Water Quality Standard.
- C. Performance. An applicant shall ensure that:
 1. A fail-safe wastewater control or operational process is incorporated to prevent a release of inadequately treated wastewater;

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2. The performance of a disinfection device meets the level of disinfection needed for the type of disposal and produces effluent that:
 - a. Is nominally free of coliform bacteria;
 - b. Is clear and odorless, and
 - c. Has a dissolved oxygen content of at least 6 milligrams per liter;
- D. Design requirements. An applicant shall ensure that an on-site wastewater treatment facility with a disposal works designed to discharge to the land surface includes disinfection technology that conforms with the following requirements:
 1. Chlorine disinfection.
 - a. Available chlorine is maintained as indicated in the following table:

pH of Wastewater (s.u.)	Required Concentration of Available Chlorine in Wastewater (mg/L)	
	Wastewater to the Disinfection Device Meets a TSS of 30 mg/L and BOD ₅ of 30 mg/L	Wastewater to the Disinfection Device Meets a TSS of 20 mg/L and BOD ₅ of 20 mg/L
6	15 – 30	6 – 10
7	20 – 35	10 – 20
8	30 – 45	20 – 35

- b. The minimum chlorine contact time is 15 minutes for wastewater at 70°F and 30 minutes for wastewater at 50°F, based on a flow equal to four times the daily design flow;
 2. Contact chambers are watertight and made of plastic, fiberglass, or other durable material and are configured to prevent short-circuiting; and
 3. For a device that disinfects by another method other than chlorine disinfection, dose and contact time are determined to reliably produce treated wastewater that is nominally free of coliform bacteria, based on a flow equal to four times the daily design flow.
- E. Operation and maintenance. A permittee shall ensure that:
1. If the disinfection device relies on the addition of chemicals for disinfection, the device is operated to minimize the discharge of disinfection chemicals while achieving the required level of disinfection; and
 2. The disinfection device is inspected and maintained at least once every three months by a qualified person.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3). Amended by final rulemaking at 29 A.A.R. 1023 (May 12, 2023), effective June 19, 2023 (Supp. 23-2).

R18-9-E321. 4.21 General Permit: Surface Disposal, Less Than 3000 Gallons Per Day Design Flow

- A. A 4.21 General Permit allows for surface application of treated wastewater that is nominally free of coliform bacteria produced by the treatment works of an on-site wastewater treatment facility.
- B. Performance. An applicant shall ensure that the treated wastewater distributed for surface application meets the following criteria:
1. TSS of 30 milligrams per liter, 30-day arithmetic mean;
 2. BOD₅ of 30 milligrams per liter, 30-day arithmetic mean;
 3. Total nitrogen (as nitrogen) of 53 milligrams per liter, five-month arithmetic mean;
 4. Is nominally free of total coliform bacteria as indicated by a total coliform level of Log₁₀ 0 colony forming units per 100 milliliters, 95th percentile.
- C. Restrictions. The applicant shall not install the disposal works if weather records indicate that:

A.A.R. 4544, effective November 12, 2005 (Supp. 05-3).

1. Average minimum temperature in any month is 20°F or less, or
 2. Over 1/3 of the average annual precipitation falls in a 30-day period.
- D. Design requirements. An applicant shall ensure that:
1. The land surface application rate does not exceed the lowest application rate as determined under R18-9-A312(D) minus no greater than 50 percent of the evapotranspiration that may occur during the month with the least evapotranspiration in any soil zone within the top 5 feet of soil;
 2. The design incorporates sprinklers, bubbler heads, or other dispersal components that optimize wastewater loading rates and prevent ponding on the land surface;
 3. The design specifies containment berms:
 - a. Compacted to a minimum of 95 percent Proctor;
 - b. Designed to contain the runoff of the 10-year, 24-hour storm event in addition to the daily design flow; and
 - c. Designed to remain intact in the event of a more severe rainfall event; and
 4. The design incorporates placement of signage on hose bibs, human ingress points to the surface disposal area, and at intervals around the perimeter of the surface disposal area to provide notification of use of treated wastewater and a warning against ingestion.
- E. Installation requirements. An applicant shall ensure that installation of the wastewater dispersal components conforms to manufacturer's specifications that do not conflict with this Article and to the design documents specified in the Construction Authorization issued under R18-9-A301(D)(1)(c).
- F. Operation and maintenance. In addition to the requirements specified in R18-9-A313(B), the permittee shall operate and maintain the surface disposal works to:
1. Prevent treated wastewater from coming into contact with drinking fountains, water coolers, or eating areas;
 2. Contain all treated wastewater within the bermed area; and
 3. Ensure that hose bibs discharging treated wastewater are secured to prevent use by the public.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Section repealed; new Section made by final rulemaking at 11

R18-9-E322. 4.22 General Permit: Subsurface Drip Irrigation

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Disposal, Less Than 3000 Gallons Per Day Design Flow

- A.** A 4.22 General Permit allows for the construction and use of a subsurface drip irrigation disposal works that receives high quality wastewater from an on-site wastewater treatment facility to dispense the wastewater to an irrigation system that is buried at a shallow depth in native soil. A 4.22 General Permit includes a pressure distribution system under R18-9-E304.
1. The subsurface drip irrigation disposal works is designed to disperse the treated wastewater into the soil under unsaturated conditions by pressure distribution and timed dosing. The applicant shall ensure that the pressure distribution system meets the requirements specified in R18-9-E304, and the Department shall consider whether the requirements of R18-9-E304 are met when processing the application under R18-9-A301(B).
 2. A subsurface drip irrigation disposal works reduces the downward percolation of wastewater by enhancing evapotranspiration to the atmosphere.
 3. An applicant may use a subsurface drip irrigation disposal works to overcome site constraints, such as high groundwater, shallow soils, slowly permeable soils, or highly permeable soils, or if water conservation is needed.
 4. The subsurface drip irrigation disposal works includes pipe, pressurization and dosing components, controls, and appurtenances to reliably deliver treated wastewater to driplines using supply and return manifold lines.
- B.** Performance. An applicant shall ensure that:
1. Treated wastewater that meets the following criteria is delivered to a subsurface drip irrigation disposal works:
 - a. Performance Category A.
 - i. TSS of 20 milligrams per liter, 30-day arithmetic mean;
 - ii. BOD₅ of 20 milligrams per liter, 30-day arithmetic mean;
 - iii. Total nitrogen (as nitrogen) of 53 milligrams per liter, five-month arithmetic mean; and
 - iv. Total coliform level of one colony forming unit per 100 milliliters, 95th percentile; or
 - b. Performance Category B.
 - i. TSS of 30 milligrams per liter, 30-day arithmetic mean;
 - ii. BOD₅ of 30 milligrams per liter, 30-day arithmetic mean;
 - iii. Total nitrogen (as nitrogen) of 53 milligrams per liter, five-month arithmetic mean; and
 - iv. Total coliform level of 300,000 (Log₁₀ 5.5) colony forming units per 100 milliliters, 95th percentile; and
 2. The subsurface drip irrigation works is designed to meet the following performance criteria:
 - a. Prevention of ponding on the land surface, and
 - b. Incorporation of a fail-safe wastewater control or operational process to prevent inadequately treated wastewater from being discharged.
- C.** Notice of Intent to Discharge. In addition to the Notice of Intent to Discharge requirements in R18-9-A301(B), R18-9-A309(B), and R18-9-E304, the applicant shall submit:
1. Documentation of the pretreatment method proposed to achieve the wastewater criteria specified in subsection (B)(1), such as the type of pretreatment system and the manufacturer's warranty;
 2. Initial filter and drip irrigation flushing settings;
 3. Site evapotranspiration calculations if used to reduce the size of the disposal works; and
 4. If supplemental irrigation water is introduced to the subsurface drip irrigation disposal works, an identification of the cross-connection controls, backflow controls, and supplemental water sources.
- D.** Design requirements. In addition to the applicable design requirements specified in R18-9-A312, an applicant shall ensure that:
1. The design requirements of R18-9-E304 are followed, except that:
 - a. The requirement for quick disconnects in R18-9-E304(D)(1)(c) is not applicable, and
 - b. The applicant may provide the reserve volume specified in R18-9-E304(D)(3)(a)(iv) in an oversized treatment tank or a supplemental storage tank;
 2. Drip irrigation components and appurtenances are properly placed.
 - a. Performance category A subsurface drip irrigation disposal works. The applicant shall ensure that:
 - i. Driplines and emitters are placed to prevent ponding on the land surface, and
 - ii. Cover material and placement depth follow manufacturer's requirements to prevent physical damage or ultraviolet degradation of components and appurtenances; or
 - b. Performance category B subsurface drip irrigation disposal works. The applicant shall ensure that:
 - i. Driplines and emitters are placed at least 6 inches below the surface of the native soil;
 - ii. A cover of soil or engineered fill is placed on the surface of the native soil to achieve a total emitter burial depth of at least 12 inches;
 - iii. Cover material and placement depth follow manufacturer's requirements to prevent physical damage or ultraviolet degradation of components and appurtenances; and
 - iv. The drip irrigation disposal works is not used for irrigating food crops;
 3. Wastewater is filtered upstream of the dripline emitters to remove particles 100 microns in size and larger;
 4. A pressure regulator is provided to limit the pressure of wastewater in the drip irrigation disposal works;
 5. Wastewater pipe meets the approved pressure rating in "Standard Specification for Poly (Vinyl Chloride) (PVC) Plastic Pipe, Schedules 40, 80, and 120, D1785-04a (2004)," or "Standard Specification for Chlorinated Poly (Vinyl Chloride) (CPVC) Plastic Pipe, Schedules 40 and 80, F441/F441M-02 (2002)," published by the American Society for Testing and Materials. This material is incorporated by reference and does not include any later amendments or editions of the incorporated material. Copies of the incorporated material are available for inspection at the Arizona Department of Environmental Quality, 1110 W. Washington, Phoenix, AZ 85007 or may be obtained from the American Society for Testing and Materials International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959;
 6. The system design flushes the subsurface drip irrigation disposal works components with wastewater at a minimum velocity of 2 feet per second, unless the manufacturer's manual and warranty specify another flushing practice. The applicant shall ensure that piping and appurtenances allow the wastewater to be pumped in a

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- line flushing mode of operation with discharge returned to the treatment system headworks;
7. Air vacuum release valves are installed to prevent water and soil drawback into the emitters;
 8. Driplines.
 - a. Driplines are placed from 12 to 24 inches apart unless other configurations are allowed by the manufacturer's specifications;
 - b. Dripline installation and design requirements, including the allowable deflection, follow manufacturer's requirements;
 - c. The maximum length of a single dripline follows manufacturer's specifications to provide even distribution;
 - d. The dripline incorporates a herbicide to prevent root intrusion for at least 10 years;
 - e. The dripline incorporates a bactericide to reduce bacterial slime buildup;
 - f. Disinfection does not reduce the life of the bactericide or herbicide in the dripline;
 - g. Any return flow from a drip irrigation disposal works to the treatment works does not impair the treatment performance; and
 - h. When dripline installation is under subsection (E)(1)(b) or (c), backfill consists of the excavated soil or similar soil obtained from the site that is screened for removal of debris and rock larger than 1/2-inch;
 9. Emitters.
 - a. Emitters are spaced no more than 2 feet apart, and
 - b. Emitters are designed to discharge from 0.5 to 1.5 gallons per hour;
 10. A suitable backflow prevention system is installed if supplemental water for irrigation is introduced to the pumping system. The applicant shall not introduce supplemental water to the treatment works;
 11. The drip irrigation disposal works is installed in soils classified as:
 - a. Sandy clay loam, clay loam, silty clay loam, or finer with weak platy structure or in soil with a percolation rate from 45 to 120 minutes per inch;
 - b. Sandy clay loam, clay loam, silty clay loam, or silt loam with massive structure or in soil with a percolation rate from 31 to 120 minutes per inch; and
 - c. Other soils if an appropriate site-specific SAR is determined;
 12. The minimum vertical separation distances are 1/2 of those specified in R18-9-A312(E)(2) if the design evapotranspiration rate during the wettest 30-day period of the year is 50 percent or more of design flow, except that the applicant shall not use a minimum vertical separation distance less than 1 foot;
 13. In areas where freezing occurs, the irrigation system is protected as recommended by the manufacturer;
 14. If drip irrigation components are used for a disposal works using a shaded trench constructed in native soil, the following requirements are met:
 - a. The trench is between 12 and 24 inches wide;
 - b. The trench bottom is between 12 and 30 inches below the original grade of native soil and level to within 2 inches per 100 feet of length;
 - c. Two driplines are positioned in the bottom of the trench, not more than 4 inches from each sidewall;
 - d. The trench with the positioned driplines is filled to a depth of 6 to 10 inches with decomposed granite or C-33 sand or a mixture of both, with mixture composition, if applicable, and placement specified on the construction drawing;
 - e. A minimum of 8 inches of backfill is placed over the decomposed granite or C-33 sand fill to an elevation of 1 to 3 inches above the native soil finished grade;
 - f. Observation ports are placed at both ends of each shaded trench to confirm the saturated wastewater level during operation; and
 - g. A separation distance of 24 inches or more is maintained between the nearest sidewall of an adjacent trench; and
 15. The soil absorption area used for design of a drip irrigation works is calculated using:
 - a. For a design that uses the shaded trench method described in subsection (D)(14), the bottom and sidewall area of the shaded trench not more than 4 square feet per linear foot of trench; or
 - b. For all other designs, the number of emitters times an area for each emitter where the emitter area is a square centered on each emitter with the side dimension equal to the emitter separation distance selected by the designer in accordance with R18-9-E322(D)(9)(a), excluding all areas of overlap of adjacent squares.
- E. Installation requirements.** In addition to the applicable requirements in R18-9-A313(A) and R18-9-E304, the applicant shall ensure that:
1. The dripline is installed by:
 - a. A plow mechanism that cuts a furrow, dispenses pipe, and covers the dripline in one operation;
 - b. A trencher that digs a trench 4 inches wide or less;
 - c. Digging the trench with hand tools to minimize trench width and disruption to the native soil; or
 - d. Without trenching, removing surface vegetation, scarifying the soil parallel with the contours of the land surface, placing the pipe grid, and covering with fill material, unless prohibited in subsection (D)(2)(b)(ii);
 2. Drip irrigation pipe is stored to preserve the herbicidal and bactericidal characteristics of the pipe;
 3. Pipe deflection conforms to the manufacturer's requirements and installation is completed without kinking to prevent flow restriction;
 4. A shaded trench drip irrigation disposal works is installed as specified in the design documents used for the Construction Authorization; and
 5. The pressure piping and electrical equipment are installed according to the Construction Authorization in R18-9-A301(D)(1)(c) and any local building codes.
- F. Operation and maintenance requirements.** In addition to the applicable requirements in R18-9-A313(B) and R18-9-E304, the permittee shall:
1. Test any fail-safe wastewater control or operational process quarterly to ensure proper operation to prevent discharge of inadequately treated wastewater, and
 2. Maintain the herbicidal and bacteriological capability of the drip irrigation disposal works.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November

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12, 2005 (05-3).

R18-9-E323. 4.23 General Permit: 3000 to less than 24,000 Gallons Per Day Design Flow

- A. A 4.23 General Permit allows for the construction and use of an on-site wastewater treatment facility with a design flow from 3000 gallons per day to less than 24,000 gallons per day or more than one on-site wastewater treatment facility on a property or on adjacent properties under common ownership with a combined design flow from 3000 to less than 24,000 gallons per day if all of the following apply:
1. Except as specified in subsection (A)(3), the treatment and disposal works consists of technologies or designs that would otherwise be covered under other general permits, but are either sized larger to accommodate increased flows or, will be located at a site that cumulatively accommodates flows between 3000 gallons per day to less than 24,000 gallons per day;
 2. The on-site wastewater treatment facility complies with all applicable requirements of Articles 1, 2, and 3 of this Chapter;
 3. The facility is not a system or a technology that would otherwise be covered by one of the following general permits available for a design flow of less than 3000 gallons per day:
 - a. An aerobic system as described in R18-9-E315;
 - b. A disinfection device described in R18-9-E320, except that an ultraviolet radiation disinfection device is allowed; or
 - c. A seepage pit or pits described in R18-9-E302; and
 4. The discharge of total nitrogen to groundwater is controlled.
 - a. An applicant shall:
 - i. Demonstrate that the nitrogen loading calculated over the property served by the on-site wastewater treatment facility, including streets, common areas, and other non-contributing areas, is not more than 0.088 pounds (39.9 grams) of total nitrogen per day per acre calculated at a horizontal plane immediately beneath the zone of active treatment of the on-site wastewater treatment facility including its disposal field; or
 - ii. Justify a nitrogen loading that is equally protective of aquifer water quality as the nitrogen loading specified in subsection (A)(4)(a)(i) based on site-specific hydrogeological or other factors.
 - b. For purposes of the demonstration in subsection (A)(4)(a)(i), the applicant may assume that 0.0333 pounds (15.0 grams) of total nitrogen per day per person is contributed to raw sewage and may determine the nitrogen concentration in the treated wastewater at a horizontal plane immediately beneath the zone of active treatment of the on-site wastewater treatment facility including its disposal field.
- B. Notice of Intent to Discharge. In addition to the Notice of Intent to Discharge requirements specified in R18-9-A301(B) and R18-9-A309(B), an applicant shall submit:
1. A performance assurance plan consisting of tasks, schedules, and estimated annual costs for operating, maintaining, and monitoring performance over a 20-year operational life;
 2. Design documents and the performance assurance plan, signed, dated, and sealed by an Arizona-registered professional engineer;
 3. Any documentation submitted under the alternative design procedure in R18-9-A312(G) that pertains to achievement of better performance levels than those specified in the general permit for the corresponding facility with a design flow of less than 3000 gallons per day, or for any other alternative design, construction, or operational change proposed by the applicant; and
 4. A demonstration of total nitrogen discharge control specified in subsection (A)(4).
- C. Design requirements. The applicant shall comply with the applicable requirements in R18-9-A312 and the applicable general permits for the treatment works and disposal works used in the design of the on-site wastewater treatment facility.
- D. Installation requirements. The applicant shall comply with the applicable requirements in R18-9-A313(A) and the applicable general permits for the treatment works and disposal works used in the design of the on-site wastewater treatment facility.
- E. Operation and maintenance requirements. The applicant shall comply with the applicable requirements in R18-9-A313(B) and the applicable general permits for the treatment works and disposal works used in the design of the on-site wastewater treatment facility.
- F. Additional Discharge Authorization requirements. In addition to any other requirements, the applicant shall submit the following information before the Discharge Authorization is issued.
1. A signed, dated, and sealed Engineer's Certificate of Completion in a format approved by the Department affirming that:
 - a. The project was completed in compliance with the requirements of this Section and as described in the plans and specifications, or
 - b. Any changes are reflected in as-built plans submitted with the Engineer's Certificate of Completion.
 2. The name of the service provider or certified operator that is responsible for implementing the performance assurance plan.
- G. Reporting requirement. The permittee shall provide the Department with the following information on the anniversary date of the Discharge Authorization:
1. A form signed by the certified operator or service provider that:
 - a. Provides any data or documentation required by the performance assurance plan,
 - b. Certifies compliance with the requirements of the performance assurance plan, and
 - c. Describes any additions to the facility during the year that increased flows and certifies that the flow did not exceed 24,000 gallons per day during any day; and
 2. Any applicable fee required by 18 A.A.C. 14.
- H. Facility expansion. If an expansion of an on-site wastewater treatment facility or site operating under this Section involves the installation of a separate on-site wastewater treatment facility on the property with a design flow of less than 3000 gallons per day, the applicant shall submit the applicable Notice of Intent to Discharge and fee required under 18 A.A.C. 14 for the separate on-site wastewater treatment facility in order to add the facility to the existing site operating under this Section.

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1. The applicant shall indicate in the Notice of Intent to Discharge the Department's file number and the issuance date of the Discharge Authorization previously issued by the Director under this Section for the property.
2. Upon satisfactory review, the Director shall reissue the Discharge Authorization for this Section, with the new issuance date and updated information reflecting the expansion.
3. If the expansion causes the accumulative design flow from on-site wastewater treatment facilities on the property to equal or exceed 24,000 gallons per day, the Director shall not reissue the Discharge Authorization, but

shall require the applicant to submit an application for an individual permit addressing all proposed and operating facilities on the property.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3). Amended by final rulemaking at 29 A.A.R. 1023 (May 12, 2023), effective June 19, 2023 (Supp. 23-2).

Table 1. Unit Design Flows

Wastewater Source (Add together all wastewater source line items applicable to the facility per applicable unit.)	Applicable Unit	Sewage Design Flow per Applicable Unit, Gallons Per Day
Airport For each passenger (average daily number), add For each employee, add	Passenger (average daily number) Employee	4 15
Auto Wash	Facility	Per manufacturer, if consistent with this Chapter
Bar/Lounge	Seat	30
Barber Shop	Chair	35
Beauty Parlor	Chair	100
Bowling Alley (snack bar only)	Lane	75
Camp Day camp, no cooking facilities Campground, overnight, flush toilets Campground, overnight, flush toilets and shower Campground, luxury Camp, youth, summer, or seasonal	Camping unit Camping unit Camping unit Person Person	30 75 150 100-150 50
Church Without kitchen With kitchen	Person (maximum attendance) Person (maximum attendance)	5 7
Country Club	Resident Member Nonresident Member	100 10
Dance Hall	Patron	5
Dental Office	Chair	500
Dog Kennel	Animal, maximum occupancy	15
Dwelling For determining design flow for sewage treatment facilities under R18-9-B202(A)(9)(a) and sewage collection systems under R18-9-E301(D) and R18-9-B301(K), excluding peaking factor.	Person	80

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Dwelling For on-site wastewater treatment facilities per R18-9-E302 through R18-9-E323:		
Apartment Building		
1 bedroom	Apartment	200
2 bedroom	Apartment	300
3 bedroom	Apartment	400
4 bedroom	Apartment	500
Seasonal or Summer Dwelling (with recorded seasonal occupancy restriction)	Resident	100
Single Family Dwellings (for both conventional and alternative systems)	see R18-9-A314(4)(a)	see R18-9-A314(4)(a)
Other than Single Family Dwelling, the greater flow value based on:		
Bedroom count		
1-2 bedrooms	Bedroom	300
Each bedroom over 2	Bedroom	150
Fixture count	Fixture unit	25
Fire Station	Employee	45
Hospital		
All flows	Bed	250
Kitchen waste only	Bed	25
Laundry waste only	Bed	40
Hotel/motel (assuming outsourced linen laundry service)		
Without kitchen	Bed (2 person)	50
With kitchen	Bed (2 person)	60
Industrial facility		
Without showers	Employee	25
With showers	Employee	35
Cafeteria, add	Employee	5
Institutions		
Resident	Person	75
Nursing home	Person	125
Rest home	Person	125
Laundry		
Self service	Wash cycle	50
Commercial	Washing machine	Per manufacturer, if consistent with this Chapter
Office Building	Employee	20
Park (temporary use)		
Picnic, with showers, flush toilets	Parking space	40
Picnic, with flush toilets only	Parking space	20
Recreational vehicle, no water or sewer connections	Vehicle space	75
Recreational vehicle, with water and sewer connections	Vehicle space	100
Mobile home/Trailer	Space	250
Restaurant/Cafeteria		
For each employee, add	Employee	20
With toilet, add	Customer	7
Kitchen waste – full plated service, add	Meal	6
Kitchen waste – disposable service, add	Meal	2
Garbage disposal, add	Meal	1
Cocktail lounge, add	Customer	2
Restroom, public	Toilet	200
School		
Staff and office	Person	20
Elementary, add	Student	15
Middle and High, add	Student	20
with gym & showers, add	Student	5
with cafeteria, add	Student	3
Boarding, total flow	Person	100

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Service Station with toilets	First bay Each additional bay	1000 500
Shopping Center, no food or laundry	Square foot of retail space	0.1
Store		
For each employee, add	Employee	20
Public restroom, add	Square foot of retail space	0.1
Swimming Pool, Public	Person	10
Theater		
Indoor	Seat	5
Drive-in	Car space	10

Note: Unit flow rates published in standard texts, literature sources, or relevant area or regional studies are considered by the Department, if appropriate to the project.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3). Amended by final rulemaking at 29 A.A.R. 1023 (May 12, 2023), effective June 19, 2023 (Supp. 23-2).

ARTICLE 4. NITROGEN MANAGEMENT GENERAL PERMITS**R18-9-401. Definitions**

In addition to the definitions established in A.R.S. §§ 49-101 and 49-201 and A.A.C. R18-9-101, the following terms apply to this Article:

1. "Application of nitrogen fertilizer" means any use of a substance containing nitrogen for the commercial production of a crop or plant. The commercial production of a crop or plant includes commercial sod farms and nurseries.
2. "Contact stormwater" means stormwater that comes in contact with animals or animal wastes within a concentrated animal feeding operation.
3. "Crop or plant needs" means the amount of water and nitrogen required to meet the physiological demands of a crop or plant to achieve a defined yield.
4. "Crop or plant uptake" means the amount of water and nitrogen that can be physiologically absorbed by the roots and vegetative parts of a crop or plant following the application of water.
5. "Impoundment" means any structure, other than a tank or a sump, designed and maintained to contain liquids. A structure that stores or impounds only non-contact stormwater is not an impoundment under this Article.
6. "Liner" or "lining system" means any natural, amendment, or synthetic material used to reduce seepage of impounded liquids into a vadose zone or aquifer.
7. "NRCS guidelines" means the United States Department of Agriculture, Natural Resources Conservation Service, National Engineering Handbook, Part 651 Agricultural Waste Management Field Handbook, Chapter 10, 651.1080, Appendix 10D – Geotechnical, Design, and Construction Guideline (November 1997). This material is incorporated by reference and does not include any later amendments or editions of the incorporated material. Copies of the incorporated material are available for inspection at the Arizona Department of Environmental Quality, 1110 W. Washington, Phoenix, AZ 85007 or may be obtained from the United States Department of Agriculture, Natural Resources Conservation Service at <ftp://ftp.wcc.nrcs.usda.gov/downloads/wastemgmt/AWMFH/awmfh-chap10-app10d.pdf>.

Historical Note

Adopted effective January 4, 1991 (Supp. 91-1). Section R18-9-401 renumbered from R18-9-201 and amended by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-402. Nitrogen Management General Permits: Nitrogen Fertilizers

An owner or operator may apply a nitrogen fertilizer under this general permit without submitting a notice to the Director, if the owner or operator complies with the following best management practices:

1. Limit application of the fertilizer so that it meets projected crop or plant needs;
2. Time application of the fertilizer to coincide to maximum crop or plant uptake;
3. Apply the fertilizer by a method designed to deliver nitrogen to the area of maximum crop or plant uptake;
4. Manage and time application of irrigation water to minimize nitrogen loss by leaching and runoff; and
5. Use tillage practices that maximize water and nitrogen uptake by a crop or plant.

Historical Note

Adopted effective January 4, 1991 (Supp. 91-1). Section R18-9-402 renumbered from R18-9-202 and amended by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-403. Nitrogen Management General Permits: Concentrated Animal Feeding Operations

A. An owner or operator may discharge from a concentrated animal feeding operation without submitting a notice to the Director, if the owner or operator complies with the following best management practices:

1. Harvest, stockpile, and dispose of animal manure from a concentrated animal feeding operation to minimize discharge of any nitrogen pollutant by leaching and runoff;
2. Control and dispose of nitrogen-contaminated water resulting from an activity associated with a concentrated animal feeding operation, up to a 25-year, 24-hour storm event equivalent, to minimize the discharge of any nitrogen pollutant;

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3. Following the requirements in subsection (B), construct and maintain a lining for an impoundment, used to contain process wastewater or contact stormwater from a concentrated animal feeding operation to minimize the discharge of any nitrogen pollutant; and
4. Close a facility in a manner that will minimize the discharge of any nitrogen pollutant. If a liner was used in an impoundment:
 - a. Remove liquids and any solid residue on the liner and dispose appropriately;
 - b. Inspect any synthetic liner for evidence of holes, tears, or defective seams that could have leaked. If evidence of leakage is discovered:
 - i. Remove the liner in the area of suspected leakage,
 - ii. Sample potentially impacted soil, and
 - iii. Properly dispose of impacted soil or restore to background nitrogen levels;
 - c. Cover the liner in place or remove it for disposal or reuse if the impoundment is an excavated impoundment,
 - d. Remove and dispose of the liner elsewhere if the impoundment is bermed;
 - e. Grade the facility to prevent the impoundment of water; and
 - f. Notify the Department within 60 days following closure.
- B. Lining requirements for concentrated animal feeding operation impoundments.**
 1. New impoundments. The owner or operator shall:
 - a. Follow the NRCS guidelines for any newly constructed impoundment or an impoundment first used after November 12, 2005, and
 - b. Use a coefficient of permeability of 1×10^{-7} centimeters per second or less as acceptable liner performance. The owner or operator may include up to 1 order of magnitude reduction in permeability from manure sealing in impoundments that hold wastes having manure as a significant component.
 2. Impoundments already in use.
 - a. The owner or operator shall maintain the existing seal for any impoundment first used before November 12, 2005.
 - b. If any of the following conditions exist at a concentrated animal feeding operation, the Director shall send a notice requiring the owner or operator to reassess the performance of the lining system:
 - i. The concentrated animal feeding operation is located within a Nitrogen Management Area designated under R18-9-A317; or
 - ii. Existing conditions or trends in nitrogen loading to an aquifer will cause or contribute to an exceedance of an Aquifer Water Quality Standard for a nitrogen pollutant at the point of compliance determined under A.R.S. § 49-244, based on the following information:
 - (1) Existing contamination of groundwater by nitrogen species;
 - (2) Existing and potential impact to groundwater by sources of nitrogen other than the concentrated animal feeding operation;
 - (3) Characteristics of the soil surface, vadose zone, and aquifer;
 - (4) Depth to groundwater;
- (5) The estimated operational life of the impoundment;
- (6) Location and characteristics of existing and potential drinking water supplies;
- (7) Construction material and design of existing impoundment structure; and
- (8) Any other information relevant to determining the severity of actual or potential nitrogen impact on the aquifer.
- c. The owner or operator shall, within 90 days of the Director's notice, submit either:
 - i. A report to the Department demonstrating consistency with NRCS guidelines and the acceptable liner performance criteria established in subsection (B)(1)(b); or
 - ii. Plans and a schedule to upgrade the liner for the impoundment to meet the NRCS guidelines and the acceptable liner performance criteria in subsection (B)(1)(b). The Director may provide additional time for the submittal of the plans and a schedule for upgrade, if the owner or operator demonstrates that technical or financial assistance to develop the plans is needed.
- d. Preliminary decision.
 - i. Within 90 days from the date of receipt, the Director shall review the report or the plans submitted under subsection (B)(2)(c) and provide to the owner or operator a preliminary decision on the submittal.
 - ii. The owner or operator may, within 30 days of the preliminary decision, submit written comments and supporting information to the Director on the preliminary decision.
 - iii. The Director shall evaluate any comments on the preliminary decision and supporting information and, within 90 days of receipt of the comments and information, make a final decision.
- e. Final decision.
 - i. If the Director determines that the owner or operator has demonstrated that the lining system meets NRCS guidelines and the acceptable performance criteria in subsection (B)(1)(b), no additional action is necessary.
 - ii. If the Director approves the plans and schedules under subsection (B)(2)(c)(ii), the owner or operator shall implement the plans within the time-frame specified in the approved schedule.
 - iii. If the Director determines that the owner or operator failed to demonstrate that the lining system meets NRCS guidelines and the acceptable performance criteria in subsection (B)(1)(b) or that the schedule to upgrade the lining is not acceptable, the owner or operator shall upgrade the lining system within a time-frame specified by the Director.
 - iv. The owner or operator may appeal the Director's decision under A.R.S. Title 41, Chapter 6, Article 10.
3. Notification requirement. The owner or operator of any lined impoundment shall either:
 - a. Notify the Department of the type of liner that was used to line each impoundment by February 19 of each year following either:

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- i. The first use of an impoundment not used before November 12, 2005; or
 - ii. Completion of a liner upgrade required under this Section for an impoundment used before November 12, 2005; or
 - b. Include the information required in subsections (B)(3)(a)(i) and (ii) in the next annual report submitted for the AZPDES Concentrated Animal Feeding Operation General Permit, issued under 18 A.A.C. 9, Article 9, Part C.
- 2. Installs rangeland improvements, such as fences, water developments, trails, and corrals to help achieve Surface Water Quality Standards;
 - 3. Implements land treatments to help achieve Surface Water Quality Standards;
 - 4. Implements supplemental feeding, salting, and parasite control measures to help achieve Surface Water Quality Standards.
- B. The person to whom a permit is issued shall make the following information available to the Department, at the person's place of business, within 10 business days of Department notice:
 - 1. The name and address of the person grazing livestock, and
 - 2. The best management practices selected for livestock grazing.

Historical Note

Adopted effective January 4, 1991 (Supp. 91-1). Section R18-9-403 renumbered from R18-9-203 and amended by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

R18-9-404. Revocation of Coverage under a Nitrogen Management General Permit

- A. The Director may revoke coverage under a nitrogen management general permit and require the permittee to obtain an individual permit under 18 A.A.C. 9, Article 2, if the Director determines that the permittee failed to comply with the best management practices under R18-9-403.
- B. Notification.
 - 1. If coverage under the nitrogen management general permit is revoked under subsection (A), the Director shall notify the permittee by certified mail of the decision according to the notification and hearing procedures in A.R.S. Title 41, Chapter 6, Article 10. The notification shall include:
 - a. A brief statement of the reason for the decision,
 - b. The effective revocation date of the general permit coverage, and
 - c. A statement of whether the discharge shall cease immediately or whether the discharge may continue until the individual permit is issued, and
 - 2. If the Director requires a person to obtain an individual permit, the notification shall include:
 - a. An individual permit application form, and
 - b. A deadline between 90 and 180 days after receipt of the notification for filing the application.
- C. When the Director issues an individual permit to an owner or operator of a facility covered under a nitrogen management general permit, the coverage under the nitrogen management general permit is superseded by the individual permit allowing the discharge.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

ARTICLE 5. GRAZING BEST MANAGEMENT PRACTICES**R18-9-501. Surface Water Quality General Grazing Permit**

- A. A person who engages in livestock grazing and applies any of the following voluntary best management practices to maintain soil cover and prevent accelerated erosion, nitrogen discharges, and bacterial impacts to surface water greater than the natural background amount is issued a Surface Water Quality General Grazing Permit:
 - 1. Manages the location, timing, and intensity of grazing activities to help achieve Surface Water Quality Standards;

Historical Note

New Section made by final rulemaking at 7 A.A.R. 1768, effective April 5, 2001 (Supp. 01-2).

ARTICLE 6. UNDERGROUND INJECTION CONTROL**R18-9-601. Repealed****Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 758, effective January 16, 2001 (Supp. 01-1). Section repealed by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-602. Repealed**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 758, effective January 16, 2001 (Supp. 01-1). Section repealed by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-603. Repealed**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 758, effective January 16, 2001 (Supp. 01-1). Section repealed by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

PART A. GENERAL PROVISIONS**R18-9-A601. Definitions**

The following terms apply to this Article:

- 1. "Abandoned well" means a well whose use has been permanently discontinued or which is in a state of disrepair such that it cannot be used for its intended purpose or for observation purposes.
- 2. "Administrator" means the Administrator of the United States Environmental Protection Agency (EPA), or an authorized representative.
- 3. "Application" means the ADEQ prescribed method, such as a form, for applying for a permit, including any additions, revisions or modifications thereof.
- 4. "Appropriate Act and regulations" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA); or Safe Drinking Water Act (SDWA), whichever is applicable; and applicable regulations promulgated under those statutes.
- 5. "Aquifer" means a geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

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6. "Area of review" means the area surrounding an injection well described according to the criteria set forth in R18-9-B612 or in the case of an area permit, the project area plus a circumscribing area the width of which is either 1/4 of a mile or a number calculated according to the criteria set forth in R18-9-B612.
7. "Arizona UIC Memorandum of Agreement" means the agreement between the Administrator and the Director that coordinates EPA and ADEQ activities, responsibilities, and programs under the Arizona UIC Program.
8. "Arizona UIC Program" means the UIC program administered by the Director and approved by EPA according to 42 U.S.C. § 300h-1.
9. "Casing" means a pipe or tubing of appropriate material, of varying diameter and weight, lowered into a borehole during or after drilling to support the sides of the hole and prevent the walls from caving; to prevent loss of drilling mud into porous ground; or to prevent water, gas, or other fluid from entering or leaving the hole.
10. "Catastrophic collapse" means the sudden and utter failure of overlaying strata caused by removal of underlying materials.
11. "Cementing" means the operation whereby a cement slurry is pumped into a drilled hole and/or forced behind the casing.
12. "Cesspool" means a drywell that receives untreated sanitary waste containing human excreta, and which sometimes has an open bottom and/or perforated sides.
13. "Confining zone" means a geological formation, group of formations, or parts of a formation that is capable of limiting fluid movement above an injection zone.
14. "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.
15. "Conventional mine" means an open pit or underground excavation for the production of minerals.
16. "Director" means the Director of the Arizona Department of Environmental Quality or the Director's designee.
17. "Disposal well" means a well that is used for the disposal of waste into a subsurface stratum.
18. "Draft permit" means a document prepared under R18-9-C618 indicating the Director's tentative decision to issue, renew, modify, revoke and reissue, or terminate a permit. A notice of intent to terminate a permit, and a notice of intent to deny a permit, as discussed in R18-9-C631 are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination, of a permit is not a draft permit, except as discussed in R18-9-C631(B).
19. "Drilling mud" means a heavy suspension used in drilling an injection well, introduced down the drill pipe and through the drill bit.
20. "Drywell" means a well, other than an improved sinkhole or subsurface fluid distribution system, completed above the water table so that its bottom and sides are typically dry except when receiving fluids.
21. "Effective date of the Arizona UIC Program" means the date that the Arizona UIC Program is approved or established by the Administrator.
22. "Emergency permit" means a UIC permit issued in accordance with R18-9-C625.
23. "Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency.
24. "Exempted aquifer" means an aquifer or its portion that meets the criteria in the definition of underground source of drinking water (USDW) but has been exempted according to the procedures in R18-9-A605.
25. "Existing injection well" means an injection well other than a new injection well.
26. "Experimental technology" means a technology which has not been proven feasible under the conditions in which it is being tested.
27. "Facility" or "activity" means any UIC injection well subject to regulation under this Article.
28. "Fault" means a surface or zone of rock fracture along which there has been displacement.
29. "Final permit decision" means the Director's decision to issue, renew, modify, revoke and reissue, deny or terminate a permit as described in R18-9-C627.
30. "Flow rate" means the volume per time unit given the flow of gases or other fluid substance which emerges from an orifice, pump, turbine, or passes along a conduit or channel.
31. "Fluid" means any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state.
32. "Formation" means a body of consolidated or unconsolidated rock characterized by a degree of lithologic homogeneity which is prevailing, but not necessarily, tabular and is mappable on the earth's surface or traceable in the subsurface.
33. "Formation fluid" means fluid present in a formation under natural conditions as opposed to introduced fluids, such as drilling mud.
34. "Generator" means any person, by site location, whose act or process produces hazardous waste identified or listed in A.A.C. Title 18, Chapter 8 (Hazardous Waste Management).
35. "Geologic sequestration" means the long-term containment of a gaseous, liquid, or supercritical carbon dioxide stream in subsurface geologic formations. This term does not apply to carbon dioxide capture or transport.
36. "Ground water" means water below the land surface in a zone of saturation.
37. "Hazardous waste" means a hazardous waste as defined in A.R.S. § 49-921.
38. "Improved sinkhole" means a naturally occurring karst depression or other natural crevice found in volcanic terrain and other geologic settings which have been modified by man for the purpose of directing and emplacing fluids into the subsurface.
39. "Indian lands" means Indian country as defined in 18 U.S.C. 1151.
40. "Indian Tribe" means any Indian Tribe having a Federally recognized governing body carrying out substantial governmental duties and powers over a defined area.
41. "Injection well" means a well into which fluids are being injected.
42. "Injection zone" means a geological formation group of formations, or part of a formation receiving fluids through a well.
43. "Lithology" means the description of rocks on the basis of their physical and chemical characteristics.
44. "Major facility" means any UIC facility or activity classified as such by the Administrator in conjunction with the Director.
45. "New injection wells" means an injection well which began injection after the effective date of the Arizona UIC Program.

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46. "Owner" or "operator" means the owner or operator of any facility or activity subject to regulation under the Arizona UIC program.
47. "Packer" means a device lowered into a well to produce a fluid-tight seal.
48. "Permit" means an authorization issued by the Director pursuant to this Article. 'Permit' includes an area permit under R18-9-C624 and an emergency permit under R18-9-C625. 'Permit' does not include UIC authorization by rule or any permit which has not yet been subject to a final permit decision, such as a 'draft permit.'
49. "Person" means an individual, employee, officer, managing body, trust, firm, joint-stock company, consortium, public or private corporation, Partnership, association or state, a political subdivision of this state, a commission, the United States government or any federal facility, interstate body, Tribal agency, or other entity.
50. "Plugging" means the act or process of stopping the flow of water, oil or gas into or out of a formation through a borehole or well penetrating that formation.
51. "Plugging record" means a systematic listing of permanent or temporary abandonment of water, oil, gas, test, exploration and waste injection wells, and may contain a well log, description of amounts and types of plugging material used, the method employed for plugging, a description of formations which are sealed and a graphic log of the well showing formation location, formation thickness, and location of plugging structures.
52. "Pressure" means the total load or force per unit area acting on a surface.
53. "Project" means a group of wells in a single operation.
54. "Radioactive Waste" means any waste which contains radioactive material in concentrations which exceed those listed in 10 CFR part 20, appendix B, table II column 2.
55. "RCRA" means the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580, as amended by Pub. L. 95-609, Pub. L. 96-510, 42 U.S.C. 6901 et seq.).
56. "Sanitary waste" means liquid or solid wastes originating solely from humans and human activities, such as wastes collected from toilets, showers, wash basins, sinks used for cleaning domestic areas, sinks used for food preparation, clothes washing operations, and sinks or washing machines where food and beverage serving dishes, glasses, and utensils are cleaned. Sources of these wastes may include single or multiple residences, hotels and motels, restaurants, bunkhouses, schools, ranger stations, crew quarters, guard stations, campgrounds, picnic grounds, day-use recreation areas, other commercial facilities, and industrial facilities provided the waste is not mixed with industrial waste.
57. "Schedule of compliance" means a schedule of remedial measures included in a permit including an enforceable sequence of interim requirements leading to compliance with this Article.
58. "SDWA" or "Safe Drinking Water Act" means the Safe Drinking Water Act (Pub. L. 93-523, as amended; 42 U.S.C. 300f et seq.).
59. "Septic system" means a well that is used to emplace sanitary waste below the surface and is typically comprised of a septic tank and subsurface fluid distribution system or disposal system.
60. "Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.
61. "Stratum" means a single sedimentary bed or layer, or series of layers that consists of generally the same kind of rock material regardless of thickness. The plural of stratum is strata.
62. "Subsidence" means the lowering of the natural land surface in response to earth movements; lowering fluid pressures; removal of underlying support material by mining or solution of solids, either artificially or from natural causes; compaction due to wetting; oxidation of organic matter in soils; or added load on the land surface.
63. "Subsurface fluid distribution system" means an assemblage of perforated pipes, drain tiles, or other similar mechanisms intended to distribute fluids below the surface of the ground.
64. "Surface casing" means the first string of well casing to be installed in the well.
65. "Total dissolved solids" or "TDS" means the total dissolved (filterable) solids as determined by use of the method specified in A.A.C. R9-14-610 or R9-14-611.
66. "Transferee" means the owner or operator receiving ownership and/or operational control of the well.
67. "Transferor" means the owner or operator transferring ownership and/or operational control of the well.
68. "Underground injection" means a well injection; which excludes the underground injection of natural gas for purposes of storage and the underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities.
69. "Underground Injection Control" or "UIC" means the Underground Injection Control program under Part C of the Safe Drinking Water Act, including the Arizona UIC Program.
70. "USDW," "USDWs," or "Underground source of drinking water" means an aquifer or aquifers or its portion that:
 - a. Supplies any public water system; or
 - b. Contains a sufficient quantity of ground water to supply a public water system; and
 - i. Currently supplies drinking water for human consumption; or
 - ii. Contains fewer than 10,000 mg/l total dissolved solids; and
 - c. Is not an exempted aquifer.
71. "Well" means a bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; or a dug hole whose depth is greater than the largest surface dimension; or, an improved sinkhole; or a subsurface fluid distribution system.
72. "Well injection" means the subsurface emplacement of fluids through a well.
73. "Well plug" means a watertight and gastight seal installed in a borehole or well to prevent movement of fluids.
74. "Well monitoring" means the measurement, by on-site instruments or laboratory methods, of the quality of water in a well.
75. "Well stimulation" means several processes used to clean the well bore, enlarge channels and increase pore space in the interval to be injected thus making it possible for wastewater to move more readily into the formation and includes surging, jetting, blasting, acidizing, or hydraulic fracturing.

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Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-A602. Applicability

- A.** This Article becomes effective upon the date of the Environmental Protection Agency's approval of the Arizona UIC Program. Upon that date, the Department shall, under A.R.S. Title 49, Chapter 2, Articles 3.3, 4 and Article 6 of this Chapter, administer and enforce any permit which has been previously authorized or issued in this state under the Federal UIC program.
- B.** This Article and 40 CFR Part 145, Subpart C provide the minimum requirements of the State of Arizona's Underground Injection Control (UIC) program under A.R.S. Title 49, Chapter 2, Article 3.3 (Underground Injection Control Permit Program) and pursuant to Part C of the Safe Drinking Water Act (SDWA) (Pub. L. 93-523, as amended; 42 U.S.C. 300h et seq.).
- C.** Underground injection is prohibited in lands under the jurisdiction of the State of Arizona unless:
 - 1. Authorized by permit or rule under this Article in accordance with 42 U.S.C. 300h et seq., or
 - 2. Authorized by OGCC pursuant to regulations approved by EPA.
- D.** Any injection activity authorized by permit or rule under this Article shall prohibit the movement of fluid containing any contaminant into underground sources of drinking water (USDWs), where the presence of that contaminant may cause a violation of this Article or may adversely affect the health of persons.
- E.** Injection wells regulated under this Article are categorized into six classes based on characteristics of the injection well activity. Owners or operators of injection wells regulated under all six classes must be authorized by permit (all classes) or rule (Class V only if no permit is required) pursuant to the requirements of this Article.
- F.** Specific inclusions. The following wells are included among those types of injection activities which are covered by the UIC regulations in this Article. (This list is not intended to be exclusive but is for clarification only.)
 - 1. Any injection well located on a drilling platform inside the State's territorial waters.
 - 2. Any dug hole or well that is deeper than its largest surface dimension, where the principal function of the hole is emplacement of fluids.
 - 3. Any well used by generators of hazardous waste, or by owners or operators of hazardous waste management facilities, to dispose of fluids containing hazardous waste. This includes the disposal of hazardous waste into what would otherwise be septic systems and cesspools, regardless of their capacity.
 - 4. Any septic tank, cesspool, or other well used by a multiple dwelling, or community, or other large system for the injection of wastes.
- G.** Specific exclusions. The following are not covered by these regulations:
 - 1. Septic systems or similar waste disposal systems if such systems:
 - a. Are used solely for the disposal of sanitary waste, and
 - b. Have a design capacity of less than 3,000 gallons per day.

- 2. Injection wells used for injection of hydrocarbons which are of pipeline quality and are gases at standard temperature and pressure for the purpose of storage.
- 3. Any dug hole, drilled hole, or bored shaft which is not used for the subsurface emplacement of fluids.
- 4. Injection wells authorized by OGCC pursuant to regulations approved by EPA, in accordance with 42 U.S.C. 300h et seq.
- H.** Safe Drinking Water Act exemptions. The following activities are exempt from the Arizona UIC Program:
 - 1. The underground injection of natural gas for purposes of storage.
 - 2. The underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities.
- I.** The Director may identify aquifers and portions of aquifers which are actual or potential sources of drinking water, to assist in carrying out the Director's duty pursuant to this Article. Any aquifer meeting the criteria under R18-9-A601(70) shall be protected as an USDW, even if it has not been explicitly identified pursuant to this Section.
- J.** The Director may also designate aquifers or portions of aquifers as exempt from the program using the criteria in R18-9-A605 and R18-9-A606, subject to EPA approval. Any aquifer or portion thereof within the State that has previously been designated exempt by EPA pursuant to 40 CFR § 144.7 shall be part of the Arizona UIC program upon the effective date of the Arizona UIC program.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-A603. Confidentiality of Information

- A.** In accordance with A.R.S. § 49-205, any information submitted to the Director pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, the Director may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in A.R.S. § 49-205 (Availability of information to the public).
- B.** Claims of confidentiality for the following information will be denied:
 - 1. The name and address of any permit applicant or permittee.
 - 2. Information which deals with the existence, absence, or level of contaminants in drinking water.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-A604. Classification of Wells

- A.** Class I wells are:
 - 1. Wells used by generators of hazardous waste or owners or operators of hazardous waste management facilities to inject hazardous waste beneath the lowermost formation

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that contains, within one-quarter mile of the well bore, an USDW.

2. Other industrial and municipal disposal wells which inject fluids beneath the lowermost formation that contains, within one-quarter mile of the well bore, an USDW.
 3. Radioactive waste disposal wells which inject fluids beneath the lowermost formation that contains, within one-quarter mile of the well bore, an USDW.
- B.** Class II wells are injection wells that inject fluids:
1. That are brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection.
 2. For enhanced recovery of oil or natural gas.
 3. For storage of hydrocarbons which are liquid at standard temperatures and pressure.
- C.** Class III wells are injection wells used for the extraction of minerals, including:
1. Sulfur mining by the Frasch process.
 2. In-situ production of uranium or other metals from those ore bodies not conventionally mined. Solution mining of conventional mines such as stopes leaching is included in Class V.
 3. Solution mining of salts or potash.
- D.** Class IV wells are injection wells that either:
1. Inject hazardous or radioactive wastes into or above a formation with an USDW located within one-quarter mile of the well bore, or
 2. Inject hazardous wastes and cannot be classified under subsection (A)(1), or (D)(1) (e.g., wells used to dispose of hazardous wastes into or above a formation which contains an aquifer which has been previously exempted or exempted pursuant to R18-9-A606).
- E.** Class V wells are injection wells not included in Class I, II, III, IV, or VI.
1. Class V wells include but are not limited to:
 - a. Air conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling in a heat pump.
 - b. Cesspools including multiple dwelling, community or regional cesspools, or other devices that receive wastes which have an open bottom and sometimes have perforated sides. The UIC requirements do not apply to single family residential cesspools nor to non-residential cesspools which receive solely sanitary wastes and have the capacity to serve fewer than 20 persons a day.
 - c. Cooling water return flow wells used to inject water previously used for cooling.
 - d. Drainage wells used to drain surface fluid, primarily storm runoff, into a subsurface formation.
 - e. Dry wells used for the injection of wastes into a subsurface formation.
 - f. Recharge wells used to replenish the water in an aquifer.
 - g. Salt water intrusion barrier wells used to inject water into a fresh water aquifer to prevent the intrusion of salt water into the fresh water.
 - h. Sand backfill and other backfill wells used to inject a mixture of water and sand, mill tailings or other solids into mined out portions of subsurface mines, except for radioactive wastes.
 - i. Septic system wells used to inject the waste or effluent from a multiple dwelling, business establishment, community or regional business establishment septic tank.
 - j. Subsidence control wells, other than those used in oil or natural gas production, that inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with freshwater overdraft.
 - k. Injection wells associated with the recovery of geothermal energy for heating, aquaculture, and production of electric power.
 - l. Wells used for solution mining of conventional mines such as stopes leaching.
 - m. Wells used to inject spent brine into the same formation from which it was withdrawn after extraction of halogens or their salts.
 - n. Injection wells used in experimental technologies.
 - o. Injection wells used for in situ recovery of lignite, coal, tar sands, and oil shale.
2. Class V wells do not include single-family residential septic system wells or non-residential septic system wells used solely for the disposal of sanitary waste with a design capacity of less than 3,000 gallons per day.
- F.** Class VI wells are:
1. Not experimental in nature that are used for geologic sequestration of carbon dioxide beneath the lowermost formation containing a USDW;
 2. Wells used for geologic sequestration of carbon dioxide that have been granted a waiver of the injection depth requirements pursuant to requirements at R18-9-J670; or
 3. Wells used for geologic sequestration of carbon dioxide that have received an expansion to the areal extent of an existing Class II enhanced oil recovery or enhanced gas recovery aquifer exemption pursuant to R18-9-A605 of this Chapter and R18-9-A604.

Historical Note

New Section made by final rulemaking at 28 A.A.R.
1903 (August 5, 2022), effective September 6, 2022
(Supp. 22-3).

R18-9-A605. Identification of Underground Sources of Drinking Water and Exempt Aquifers

- A.** The Director may identify, by narrative description, illustration, maps, or other means, and shall protect as USDWs, all aquifers and parts of aquifers that meet the definition of USDW in R18-9-A601(70) except to the extent there is an applicable aquifer exemption under subsection (B) or an expansion to the areal extent of an existing Class II enhanced oil recovery or enhanced gas recovery aquifer exemption for the exclusive purpose of Class VI injection for geologic sequestration under subsection (D). Other than EPA-approved aquifer exemption expansions that meet the criteria set forth in R18-9-A606(4), new aquifer exemptions shall not be issued for Class VI injection wells. Even if an aquifer has not been specifically identified by the Director, it is an USDW if it meets the definition in R18-9-A601(70).
- B.** Aquifer exemptions procedure:
1. The Director may identify, by narrative description, illustrations, maps, or other means, and describe in geographic and/or geometric terms, such as vertical and lateral limits and gradient, that are clear and definite, all aquifers or parts thereof that the Director proposes to designate as exempted aquifers using the criteria in R18-9-A606.

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2. No designation of an exempted aquifer submitted as part of Arizona's UIC program shall be final until approved by EPA as part of the Arizona UIC Program. No designation of an expansion to the areal extent of a Class II enhanced oil recovery or enhanced gas recovery aquifer exemption for the exclusive purpose of Class VI injection for geologic sequestration shall be final until approved by the EPA as a substantial revision of the Arizona UIC Program in accordance with 40 CFR 145.32.
 3. Subsequent to the program approval or promulgation, the Director may, after notice and opportunity for public hearing, identify additional exempted aquifers.
 4. Exemption of aquifers identified:
 - a. Under R18-9-A606(2) shall be treated as a program revision under 40 CFR 145.32;
 - b. Under R18-9-A606(3) shall become final if the Director submits the exemption in writing to the Administrator and the Administrator has not disapproved the designation within 45 days.
- C. Additional aquifer exemption requirements:**
1. For Class III wells, the Director shall require an applicant for a permit which necessitates an aquifer exemption under R18-9-A606(2)(a) to furnish the data necessary to demonstrate that the aquifer is expected to be mineral or hydrocarbon producing. Information contained in the mining plan for the proposed project, such as a map and general description of the mining zone, general information on the mineralogy and geochemistry of the mining zone, analysis of the amenability of the mining zone to the proposed mining method, and a time-table of planned development of the mining zone shall be considered by the Director in addition to the information required by R18-9-C616(D).
 2. For Class II wells, a demonstration of commercial producibility shall be made as follows:
 - a. For a Class II well to be used for enhanced oil recovery processes in a field or project containing aquifers from which hydrocarbons were previously produced, commercial producibility shall be presumed by the Director upon a demonstration by the applicant of historical production having occurred in the project area or field.
 - b. For Class II wells not located in a field or project containing aquifers from which hydrocarbons were previously produced, information such as logs, core data, formation description, formation depth, formation thickness and formation parameters such as permeability and porosity shall be considered by the Director, to the extent such information is available.
- D. Owners or operators of Class II enhanced oil recovery or enhanced gas recovery wells may request that the Director approve an expansion to the areal extent of an aquifer exemption already in place for a Class II enhanced oil recovery or enhanced gas recovery well for the exclusive purpose of Class VI injection for geologic sequestration. Such requests must be treated as a substantial program revision to the Arizona UIC program under 40 CFR 145.32 and will not be final until approved by EPA.**
1. The owner or operator of a Class II enhanced oil recovery or enhanced gas recovery well that requests an expansion of the areal extent of an existing aquifer exemption for the exclusive purpose of Class VI injection for geologic sequestration must define, by narrative description, illustrations, maps or other means, and describe in geographic and/or geometric terms, such as vertical and lateral limits and gradient, that are clear and definite, all aquifers or parts thereof that are requested to be designated as exempted using the criteria in R18-9-A606.
 2. In evaluating a request to expand the areal extent of an aquifer exemption of a Class II enhanced oil recovery or enhanced gas recovery well for the purpose of Class VI injection, the Director must determine that the request meets the criteria for exemptions in R18-9-A606. In making the determination, the Director shall consider:
 - a. Current and potential future use of the USDWs to be exempted as drinking water resources;
 - b. The predicted extent of the injected carbon dioxide plume, and any mobilized fluids that may result in degradation of water quality, over the lifetime of the geologic sequestration project, as informed by computational modeling performed pursuant to R18-9-J659(C)(1), in order to ensure that the proposed injection operation will not at any time endanger USDWs including non-exempted portions of the injection formation;
 - c. Whether the areal extent of the expanded aquifer exemption is of sufficient size to account for any possible revisions to the computational model during reevaluation of the area of review, pursuant to R18-9-J659(E); and
 - d. Any information submitted to support a waiver request made by the owner or operator under R18-9-J670 if appropriate.

Historical Note

New Section made by final rulemaking at 28 A.A.R.
1903 (August 5, 2022), effective September 6, 2022
(Supp. 22-3).

R18-9-A606. Criteria for Exempted Aquifers

An aquifer or a portion thereof which meets the criteria for an "USDW" in R18-9-A601(70) may be determined under R18-9-A605 to be an "exempted aquifer" for Class I-V wells if it meets the criteria in subsections (A)(1) through (A)(3). Class VI wells must meet the criteria under subsection (A)(4).

1. It does not currently serve as a source of drinking water; and
2. It cannot now and will not in the future serve as a source of drinking water because:
 - a. It is mineral hydrocarbon or geothermal energy producing, or can be demonstrated by a permit applicant as part of a permit application for a Class II or Class III operation to contain minerals or hydrocarbons that considering their quantity and location are expected to be commercially producible;
 - b. It is situated at a depth or location which makes recovery of water for drinking water purposes economically or technically impractical;
 - c. It is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption; or
 - d. It is located over a Class III well mining area subject to subsidence or catastrophic collapse; or
3. The total dissolved solids content of the ground water is more than 3,000 and less than 10,000 mg/l and it is not reasonably expected to supply a public water system.
4. The areal extent of an aquifer exemption for a Class II enhanced oil recovery or enhanced gas recovery well may be expanded for the exclusive purpose of Class VI injection.

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tion for geologic sequestration under R18-9-A605(D) if it meets the following criteria:

- a. It does not currently serve as a source of drinking water; and
- b. The total dissolved solids content of the ground water is more than 3,000 mg/l and less than 10,000 mg/l; and
- c. It is not reasonably expected to supply a public water system.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

PART B. GENERAL PROGRAM REQUIREMENTS**R18-9-B607. Prohibition of Unauthorized Injection**

Any underground injection, except into a well authorized by rule or authorized by permit under the Arizona UIC program, is prohibited. The construction of any well required to have a permit is prohibited until the permit has been issued.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-B608. Prohibition of Movement of Fluid into Underground Sources of Drinking Water

- A. No owner or operator shall construct, operate, maintain, convert, plug, abandon, or conduct any other injection activity in a manner that allows the movement of fluid containing any contaminant into USDWs, if the presence of that contaminant may cause a violation of any primary drinking water regulation under this Article, as shown in Table 1, or may otherwise adversely affect the health of persons. The applicant for a permit shall have the burden of showing that the requirements of this subsection are met.
- B. For Class I, II, III, and VI wells, if any water quality monitoring of an USDW indicates the movement of any contaminant into the USDW, except as authorized under this Article, the Director shall prescribe such additional requirements for construction, corrective action, operation, monitoring, or reporting (including closure of the injection well) as are necessary to prevent such movement. In the case of wells authorized by permit, these additional requirements shall be imposed by modifying the permit in accordance with R18-9-C632 or the permit may be terminated under R18-9-C634 if cause exists, or appropriate enforcement action may be taken if the permit has been violated. In the case of Class V wells authorized by rule see R18-9-I650 through R18-9-I655 in Part I of this Article.
- C. For Class V wells, if at any time the Director learns that a Class V well may cause a violation of primary drinking water regulations under this Article, they shall:
 1. Require the injector to obtain an individual permit;
 2. Order the injector to take such actions (including, where required, closure of the injection well) as may be necessary to prevent the violation; or
 3. Take enforcement action.
- D. Whenever the Director learns that a Class V well may be otherwise adversely affecting the health of persons, they may prescribe such actions as may be necessary to prevent the adverse effect, including any action authorized under subsection (C).
- E. Notwithstanding any other provision of this Section, the Director may take emergency action upon receipt of informa-

tion that a contaminant which is present in or likely to enter a public water system or USDW may present an imminent and substantial endangerment to the health of persons.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-B609. Prohibition of Hazardous Waste Injection and Class IV Wells

- A. Hazardous Waste Injection.
 1. The following are prohibited, except as provided in subsection (B)(3):
 - a. The construction of any well for the purpose of hazardous waste injection.
 - b. The operation of any well for the purpose of hazardous waste injection.
 2. The owner or operator of a well for the purpose of hazardous waste injection shall close the well in accordance with this subsection.
 3. The owner or operator of a well for the purpose of hazardous waste injection shall comply with the following requirements regarding closure of the well.
 - a. Prior to abandoning any well for the purpose of hazardous waste injection, the owner or operator shall plug or otherwise close the well in a manner acceptable to the Director.
 - b. The owner or operator of a well for the purpose of hazardous waste injection must notify the Director of intent to abandon the well at least 30 days prior to abandonment.
- B. Class IV.
 1. The following are prohibited, except as provided in subsection (B)(3):
 - a. The construction of any Class IV well.
 - b. The operation or maintenance of any Class IV well.
 2. The owner or operator of a Class IV well shall comply with the requirements of R18-9-H649 regarding closure of Class IV wells.
 3. Wells used to inject contaminated groundwater that has been treated and is being reinjected into the same formation that it was drawn are not prohibited by this Section if such injection is approved by the Administrator or the Director pursuant to subsections (B)(3)(a), (b) or (c):
 - a. Provisions for cleanup of releases under CERCLA, or
 - b. The requirements and provisions under RCRA, or
 - c. The requirements and provisions under other applicable state laws for corrective and remedial action.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-B610. Waiver of Requirement by Director

- A. When injection does not occur into, through, or above an USDW, the Director may authorize a well or project with less stringent requirements for area of review, construction, mechanical integrity, operation, monitoring, and reporting than required under this Article or R18-9-D636 to the extent that reduction in requirements will not result in an increased risk of movement of fluids into an USDW.
- B. When injection occurs through or above an USDW, but the radius of endangering influence when computed under R18-9-

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B612(A) is smaller or equal to the radius of the well, the Director may authorize a well or project with less stringent requirements for operation, monitoring, and reporting than required under R18-9-D636 to the extent that a reduction in requirements will not result in an increased risk of movement of fluids into an USDW.

- C. When reducing requirements under this Section, the Director shall prepare a fact sheet under R18-9-C619 explaining the reasons for the action.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-B611. Records

The Director may require, by written notice on a selective well-by-well basis, an owner or operator of an injection well to establish and maintain records, make reports, conduct monitoring, and provide other information as is deemed necessary to determine whether the owner or operator has acted or is acting in compliance with this Article and Part C of the SDWA or its implementing regulations.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-B612. Area of Review

- A. The area of review for each injection well or each field, project or area of the State shall be determined according to this Section. The Director may solicit input from the owners or operators of injection wells within the State as to which method is most appropriate for each geographic area or field.
- B. Where the area of review is determined according to the zone of endangering influence:
1. The zone of endangering influence shall be:
 - a. In the case of application or applications for well permit or permits under R18-9-C616 that area the radius of which is the lateral distance in which the pressures in the injection zone may cause the migration of the injection and/or formation fluid into an USDW; or
 - b. In the case of an application for an area permit under R18-9-C624, the project area plus a circumscribing area the width of which is the lateral distance from the perimeter of the project area, in which the pressures in the injection zone may cause the migration of the injection and/or formation fluid into an USDW.
 2. Computation of the zone of endangering influence may be based upon the parameters listed in the following equation and should be calculated for an injection time period equal to the expected life of the injection well or pattern. The following modified Theis equation illustrates one form which the mathematical model may take.

$$r = \left(\frac{2.25KHt}{510^x} \right)^{1/2}$$

where:

$$X = \frac{4\pi KH(h_w - h_{bo} \times S_p G_b)}{2.3Q}$$

r = Radius of endangering influence from injection well (length)

K = Hydraulic conductivity of the injection

zone (length/time)

H = Thickness of the injection zone (length)

t = Time of injection (time)

S = Storage coefficient (dimensionless)

Q = Injection rate (volume/time)

h_{bo} = Observed original hydrostatic head of injection zone (length) measured from the base of the lowermost USDW

h_w = Hydrostatic head of USDW (length) measured from the base of the lowest USDW

$S_p G_b$ = Specific gravity of fluid in the injection zone (dimensionless)

π = 3.142 (dimensionless)

- b. The equation in subsection (B)(2)(a) is based on the following assumptions:
1. The injection zone is homogeneous and isotropic;
 2. The injection zone has infinite area extent;
 3. The injection well penetrates the entire thickness of the injection zone;
 4. The well diameter is infinitesimal compared to "r" when injection time is longer than a few minutes; and
 5. The emplacement of fluid into the injection zone creates instantaneous increase in pressure.
- C. Where Fixed Radius is used, the following shall apply:
1. In the case of application of applications for well permit or permits under R18-9-C616 a fixed radius around the well of not less than one-quarter mile may be used.
 2. In the case of an application for an area permit under R18-9-C624, a fixed radius width of not less than one-quarter mile for circumscribing area may be used.
 3. In determining the fixed radius, the following factors shall be taken into consideration: Chemistry of injected and formation fluids; hydrogeology; population and ground-water use and dependence; and historical practices in the area.
- D. If the area of review is determined by a mathematical model according to subsection (B), the permissible radius is the result of such calculation even if it is less than one-fourth mile.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-B613. Mechanical Integrity

- A. An injection well has mechanical integrity if:
1. There is no significant leak in the casing, tubing or packer; and
 2. There is no significant fluid movement into an USDW through vertical channels adjacent to the injection well bore.
- B. One of the following methods must be used to evaluate the absence of significant leaks under subsection (A)(1):
1. Following an initial pressure test, monitoring of the tubing-casing annulus pressure with sufficient frequency to be representative, as determined by the Director, while maintaining an annulus pressure different from atmospheric pressure measured at the surface;
 2. Pressure test with liquid or gas; or
 3. Records of monitoring showing the absence of significant changes in the relationship between injection pressure

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and injection flow rate for the following Class II enhanced recovery wells:

- a. Existing wells completed without a packer provided that a pressure test has been performed and the data is available and provided further that one pressure test shall be performed at a time when the well is shut down and if the running of such a test will not cause further loss of significant amounts of oil or gas; or
 - b. Existing wells constructed without a long string casing, but with surface casing which terminates at the base of fresh water provided that local geological and hydrological features allow such construction and provided further that the annular space shall be visually inspected. For these wells, the Director shall prescribe a monitoring program which will verify the absence of significant fluid movement from the injection zone into an USDW.
- C. One of the following methods must be used to determine the absence of significant fluid movement under subsection (A)(2):
1. The results of a temperature or noise log;
 2. For Class II only, cementing records demonstrating the presence of adequate cement to prevent such migration;
 3. For Class III wells where the nature of the casing precludes the use of the logging techniques prescribed at subsection (C)(1), cementing records demonstrating the presence of adequate cement to prevent such migration; or
 4. For Class III wells where the Director elects to rely on cementing records to demonstrate the absence of significant fluid movement, the monitoring program prescribed by R18-9-G647(B) shall be designed to verify the absence of significant fluid movement.
- D. The Director may allow the use of a test to demonstrate mechanical integrity other than those listed in subsections (B) and (C)(2) with the written approval of the Administrator.
- E. In conducting and evaluating the tests enumerated in this Section or others to be allowed by the Director, the owner or operator and the Director shall apply methods and standards generally accepted in the industry. When the owner or operator reports the results of mechanical integrity tests to the Director, they shall include a description of the test or tests and the method or methods used. In making the evaluation, the Director shall review monitoring and other test data submitted since the previous evaluation.
- F. The Director may require additional or alternative tests if the results presented by the owner or operator under subsection (E) are not satisfactory to the Director to demonstrate that there is no movement of fluid into or between USDWs resulting from the injection activity.

Historical Note

New Section made by final rulemaking at 28 A.A.R.
1903 (August 5, 2022), effective September 6, 2022
(Supp. 22-3).

R18-9-B614. Plugging and Abandoning Class I, II, III, IV, and V Wells

- A. Requirements for Class I, II and III wells.
1. Prior to abandoning Class I, II and III wells, the well shall be plugged with cement in a manner which will not allow the movement of fluids either into or between USDWs. The Director may allow Class III wells to use other plugging materials if the Director is satisfied that such materi-

als will prevent movement of fluids into or between USDWs.

2. Placement of the cement plugs shall be accomplished by one of the following:
 - a. The Balance method;
 - b. The Dump Bailer method;
 - c. The Two-Plug method; or
 - d. An alternative method approved by the Director, which will reliably provide a comparable level of protection to USDWs.
 3. The well to be abandoned shall be in a state of static equilibrium with the mud weight equalized top to bottom, either by circulating the mud in the well at least once or by a comparable method prescribed by the Director, prior to the placement of the cement plug or plugs.
 4. The plugging and abandonment plan required under R18-9-D635(15) and R18-9-D636(A)(5) shall, in the case of a Class III project which underlies or is in an aquifer which has been exempted under R18-9-A606, also demonstrate adequate protection of USDWs. The Director shall prescribe aquifer cleanup and monitoring where it is deemed necessary and feasible to insure adequate protection of USDWs.
- B. Requirements for Class IV wells. Prior to abandoning a Class IV well, the owner or operator shall close the well in accordance with R18-9-H649.
- C. Requirements for Class V wells.
1. Prior to abandoning a Class V well, the owner or operator shall close the well in a manner that prevents the movement of fluid containing any contaminant into an USDW, if the presence of that contaminant may cause a violation of any primary drinking water regulation under Table 1 of this Article or may otherwise adversely affect the health of persons.
 2. The owner or operator shall dispose of or otherwise manage any soil, gravel, sludge, liquids, or other materials removed from or adjacent to the well in accordance with all applicable Federal, State, and local regulations and requirements.

Historical Note

New Section made by final rulemaking at 28 A.A.R.
1903 (August 5, 2022), effective September 6, 2022
(Supp. 22-3).

R18-9-B615. Transitioning from Class II to Class VI Injection Well

- A. Owners and operators that are injecting carbon dioxide for the primary purpose of long-term storage into an oil and gas reservoir must apply for and obtain a Class VI geologic sequestration permit when there is an increased risk to the USDWs compared to Class II operations. In determining if there is an increased risk to USDWs, the owner or operator must consider the factors specified in subsection (B).
- B. The Director shall determine when there is an increased risk to USDWs compared to Class II operations and a Class VI permit is required. In order to make this determination the Director shall consider the following:
1. Increase in reservoir pressure within the injection zone or zones;
 2. Increase in carbon dioxide injection rates;
 3. Decrease in reservoir production rates;
 4. Distance between the injection zone or zones and USDWs;
 5. Suitability of the Class II area of review delineation;

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6. Quality of abandoned well plugs within the area of review;
7. The owner's or operator's plan for recovery of carbon dioxide at the cessation of injection;
8. The source and properties of injected carbon dioxide; and
9. Any additional site-specific factors as determined by the Director.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

PART C. AUTHORIZATION BY PERMIT FOR UNDERGROUND INJECTION**R18-9-C616. Individual Permits; Application for Individual Permits**

- A.** Unless an underground injection well is authorized by rule under R18-9-I650, all injection activities including construction of an injection well are prohibited until the owner or operator is authorized by permit. Authorization by rule for a well or project that has submitted a permit application terminates for the well or project upon the effective date of the permit. Procedures for applications, issuance, and administration of emergency permits are found exclusively under R18-9-C625.
- B.** When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit.
- C.** Any person who performs or proposes an underground injection for which a permit is or will be required shall submit an application to the Director in accordance with the Arizona UIC program as follows:
 1. For existing wells, as expeditiously as practicable.
 2. For new injection wells, except new wells authorized by an existing area permit under R18-9-C624(C), at a reasonable time before construction is expected to begin.
- D.** All applicants for Class I, II, III, and V permits shall provide the following information to the Director, using the application form provided by the Director. Applicants for Class VI permits shall follow the criteria provided in R18-9-J657.
 1. Activities conducted by the applicant which require a permit;
 2. Name, mailing address, and location of the facility for which the application is submitted;
 3. Up to four NAICS codes which best reflect the principal products or services provided by the facility;
 4. The operator's name, address, telephone number, ownership status, and status as Federal, State, private, public, or other entity;
 5. A listing of all state and federal environmental permits or construction approvals received or applied for and other relevant environmental permits;
 6. A topographic map (or other map if a topographic map is unavailable) extending one mile beyond the property boundaries of the source depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, and other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant within a quarter mile of the facility property boundary;
 7. A brief description of the nature of the business;
 8. A plugging and abandonment plan that meets the requirements of R18-9-B614 and is acceptable to the Director;

9. A listing of any historic property or potential historic property as defined by R12-8-301.

- E.** Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted under this Section for a period of at least three years from the date the application is signed.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-C617. Signatories

- A.** All permit applications, except those submitted for Class II wells, shall be signed as follows:
 1. For a corporation: by a responsible corporate officer. For the purpose of this Section, a responsible corporate officer means:
 - a. A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or
 - b. The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 2. For a Partnership or sole proprietorship: by a general Partner or the proprietor, respectively; or
 3. For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this Section, a principal executive officer of a Federal agency includes:
 - a. The chief executive officer of the agency; or
 - b. A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.
- B.** All reports required by permits, other information requested by the Director, and all permit applications submitted for Class II wells under R18-9-C616 shall be signed by a person described in subsection (A), or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 1. The authorization is made in writing by a person described in subsection (A);
 2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility; and
 3. The written authorization is submitted to the Director.
- C.** If an authorization under subsection (B) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of subsection (B) must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.
- D.** Any person signing a document under subsection (A) or (B) shall make the following certification: *I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry*

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of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-C618. Draft Permits

- A. Once an application is complete, the Director shall tentatively decide whether to prepare a draft permit or to deny the application.
- B. If the Director tentatively decides to deny the permit application, they shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit prepared under this Section. If the Director's final decision is that the tentative decision to deny the permit application was incorrect, they shall withdraw the notice of intent to deny and proceed to prepare a draft permit under subsection (D).
- C. If the Director decides to prepare a draft permit, it shall contain the following information, to the extent applicable:
 1. All conditions under R18-9-D635;
 2. All compliance schedules under R18-9-D637;
 3. All monitoring requirements under R18-9-D638; and
 4. Permit conditions under R18-9-D636.
- D. All draft permits prepared under this Section shall be accompanied by a brief summary of the basis for the draft permit conditions or the intent to deny, including references to applicable statutory or regulatory provisions and a fact sheet pursuant to R18-9-C619. The Director shall provide the applicant with the draft permit and the fact sheet and allow reasonable time for informal comment by the applicant prior to publicly noticing the draft permit and fact sheet. The Director shall give notice of opportunity for a public hearing and public comment, issue a final permit decision, and respond to comments.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-C619. Fact Sheet

- A. A fact sheet shall be prepared for every draft permit for a UIC facility or activity. The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit. The Director shall send the fact sheet to the applicant and, on request, to any other person.
- B. The fact sheet shall include, when applicable:
 1. A brief description of the type of facility or activity that is the subject of the draft permit.
 2. The type and quantity of wastes, fluids, or pollutants that are proposed to be or are being injected.
 3. A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record.
 4. Reasons why any requested variance or alternatives to required standards do or do not appear justified.

5. A description of the procedures for reaching a final decision on the draft permit, including:
 - a. The beginning and ending dates of the comment period under R18-9-C620 and the address where comments will be received;
 - b. Procedures for requesting a hearing and the nature of that hearing; and
 - c. Any other procedures by which the public may Participate in the final decision.
6. The name and telephone number of a person to contact for additional information.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-C620. Public Notice of Permit Actions and Public Comment Period

- A. The Director shall give public notice that the following actions have occurred:
 1. A draft permit that has been prepared under R18-9-C618, and
 2. A hearing has been scheduled under R18-9-C622.
- B. Public notices may describe more than one permit or permit action.
- C. Public notice of the preparation of a draft permit required under subsection (A):
 1. Shall allow at least 30 days for public comment; and
 2. Shall be given at least 30 days before the hearing date.
- D. Public notice of activities described in subsection (A) shall be given by the following methods:
 1. Delivery of a copy of the notice to:
 - a. The applicant;
 - b. Any affected federal, state, tribal, or local agency, or council of government;
 - c. Federal and state agencies with jurisdiction over fish, shellfish, and wildlife resources, and the State Historic Preservation Office;
 - d. Any person who requested, in writing, notification of the activity;
 - e. Any persons on a contact list developed from past permit proceedings and public outreach; and
 - f. For Class VI injection well UIC permits, mailing or e-mailing a notice to State and local oil and gas regulatory agencies and State agencies regulating mineral exploration and recovery and all agencies that oversee injection wells in the State.
 2. For Major Facilities only, newspaper publication in accordance with A.A.C. R18-1-401(A)(1).
- E. All public notices issued under this Part shall contain the following information:
 1. Name and address of the Department;
 2. Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;
 3. A brief description of the business conducted at the facility or activity described in the permit application or the draft permit;
 4. Name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit or draft general permit, as the case may be, fact sheet, and the application;
 5. A brief description of the comment procedures, the time and place of any hearing, including a statement of proce-

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dures to request a hearing, unless a hearing has already been scheduled, and other procedures that the public may use to participate in the final permit decision; and

6. Any additional information considered necessary to the permit decision.
- F. In addition to the general public notice described in subsection (E), the public notice of hearing under R18-9-C622 shall contain the following information:
 1. Reference to the date of previous public notices relating to the permit;
 2. Date, time, and place of the hearing; and
 3. A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.
- G. In addition to the general public notice described in subsection (E), the Director shall deliver a copy of the fact sheet, permit application, and draft permit to all persons identified in subsections (D)(1)(a), (b), and (c).

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-C621. Public Comments and Requests for Public Hearings

During the public comment period provided under R18-9-C620, any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in R18-9-C623.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-C622. Public Hearings

- A. The Director shall hold a public hearing whenever they find, on the basis of a request, a significant degree of public interest in a draft permit or permits.
- B. The Director may also hold a public hearing at their discretion such as when a hearing might clarify one or more issues involved in the permit decision. The Director may designate a presiding officer if a hearing is held.
- C. Public notice of the hearing shall be given as specified in R18-9-C620.
- D. Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under R18-9-C620 shall automatically be extended to the close of any public hearing under this Section. The hearing officer may also extend the comment period by so stating at the hearing.
- E. An audio recording or written transcript of the hearing shall be made available to the public upon request.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-C623. Response to Comments

- A. At the time that any final permit is issued under R18-9-C627, the Director shall issue a response to comments. This response shall:
 1. Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and
 2. Briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any hearing.
- B. The response to comments shall be available to the public.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-C624. Area Permits

- A. The Director may issue a permit on an area basis, rather than for each well individually, provided that the permit is for injection wells:
 1. Described and identified by location in permit application or applications if they are existing wells, except that the Director may accept a single description of wells with substantially the same characteristics;
 2. Within the same well field, facility site, reservoir, project, or similar unit located in Arizona;
 3. Operated by a single owner or operator;
 4. Used to inject fluids other than hazardous waste; and
 5. Other than Class VI wells.
- B. Area permits shall specify:
 1. The area within which underground injections are authorized; and
 2. The requirements for construction, monitoring, reporting, operation, and abandonment, for all wells authorized by the permit.
- C. The area permit may authorize the permittee to construct and operate, convert, or plug and abandon wells within the permit area provided:
 1. The permittee notifies the Director at such time as the permit requires;
 2. The additional well satisfies the criteria in subsection (A) and meets the requirements specified in the permit under subsection (B); and
 3. The cumulative effects of drilling and operation of additional injection wells are considered by the Director during evaluation of the area permit application and are acceptable to the Director.
- D. If the Director determines any well that is constructed pursuant to subsection (C) does not satisfy any of the requirements of subsections (C)(1) and (2) the Director may modify the permit under R18-9-C632, terminate under R18-9-C634, or take enforcement action. If the Director determines that cumulative effects are unacceptable, the permit may be modified under R18-9-C632.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-C625. Emergency Permits

- A. Notwithstanding any other provision of this Article, the Director may temporarily permit a specific underground injection if:
 1. An imminent and substantial endangerment to the health of persons will result unless a temporary emergency permit is granted; or

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2. A substantial and irretrievable loss of oil or gas resources will occur unless a temporary emergency permit is granted to a Class II well; and
 - a. Timely application for a permit could not practically have been made; and
 - b. The injection will not result in the movement of fluids into USDWs; or
 3. A substantial delay in production of oil or gas resources will occur unless a temporary emergency permit is granted to a new Class II well and the temporary authorization will not result in the movement of fluids into an USDW.
- B. Requirements for issuance.**
1. Any temporary permit under subsection (A)(1) shall be for no longer term than required to prevent the hazard.
 2. Any temporary permit under subsection (A)(2) shall be for no longer than 90 days, except that if a permit application has been submitted prior to the expiration of the 90-day period, the Director may extend the temporary permit until final action on the application.
 3. Any temporary permit under subsection (A)(3) shall be issued only after a complete permit application has been submitted and shall be effective until final action on the application.
 4. Notice of any temporary permit under this Section shall be published in accordance with R18-9-C621 within 10 days of the issuance of the permit.
 5. The temporary permit under this Section may be either oral or written. If oral, it must be followed within five calendar days by a written temporary emergency permit.
 6. The Director shall condition the temporary permit in any manner they determine is necessary to ensure that the injection will not result in the movement of fluids into an USDW.
- B. The notice shall include:**
1. If applicable, the reasons for the denial, revocation or termination, including reference to the statutes or rules on which the decision is based.
 2. A description of the party's right to request a hearing and a reference to the procedures for appealing the final permit decision, including the number of days within which an appeal may be filed and the name and telephone number of the Department contact person who can answer questions regarding the appeals process.
 3. A reference to the applicant's right to request an informal settlement conference under A.R.S. § 41-1092.06.
- C. If the final permit decision is based on a determination by the Director that the applicable criteria under R18-9-A606 are not satisfied, then that determination may be included as part of the appeal.**
- D. The final permit decision shall take effect 30 days after its issuance in accordance with the notification requirements of subsection A unless stayed pursuant to A.R.S. Title 41, Chapter 6, Article 10, or A.R.S. Title 49, Chapter 2, Article 7.**
- E. If, under this Article, the issuance, modification, or revocation and reissuance of a permit necessitates a new aquifer exemption or enlargement of a previously approved aquifer exemption, then the issuance, modification, or revocation and reissuance of the permit is appealable, but shall not become effective unless the new aquifer exemption or enlargement of the previously approved aquifer exemption has been approved by the Administrator.**
- F. If, under this Article, the issuance, modification, or revocation and reissuance of a permit necessitates an injection depth waiver pursuant to R18-9-J670 of this Article then the issuance, modification, or revocation and reissuance of the permit is appealable, but shall not become effective until the Director is in receipt of written concurrence from the Administrator.**

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-C626. Effect of a Permit

- A.** Except for Class II and III wells, compliance with a permit during its term constitutes compliance, for purposes of enforcement, with this Article and Part C of the SDWA. However, a permit may be modified, revoked and reissued, or terminated during its term for cause as set forth in R18-9-C632 and R18-9-C634.
- B.** The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.
- C.** The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-C627. Final Permit Decision and Notification

- A.** Issuance of a final permit decision by the Director shall be accompanied by the permit and an updated fact sheet per R18-9-C619, if applicable, and a notification to the applicant and each person who has submitted written comments or requested notice of the final permit decision. The notice and hearing procedures are subject to either A.R.S. Title 41, Chapter 6, Article 10, or A.R.S. Title 49, Chapter 2, Article 7.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-C628. Permit Duration

- A.** Permits for Class I and Class V wells shall be effective for a fixed term not to exceed 10 years. UIC permits for Class II and III wells shall be issued for a period up to the operating life of the facility. UIC permits for Class VI wells shall be issued for the operating life of the facility and the post-injection site care period. The Director shall review each issued Class II, III, and VI well UIC permit at least once every five years to determine whether it should be modified, revoked and reissued, terminated, or a minor modification made as provided in R18-9-C632.
- B.** Except as provided in R18-9-C629, the term of a permit shall not be extended by modification beyond the maximum duration specified in this Section.
- C.** The Director may issue any permit for a duration that is less than the full allowable term under this Section.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-C629. Continuation of Expiring Permits

- A.** The conditions of an expiring permit continue in force under A.R.S. § 41-1092.11(A) until the effective date of a new permit if:

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1. The permittee has submitted a timely application that is a complete application for a new permit; and
 2. The Director, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the prior permit.
- B.** Permits continued under this Section remain fully effective and enforceable.
- C.** When the permittee is not in compliance with the conditions of the expiring or expired permits the Director may choose to do any or all of the following:
1. Initiate enforcement action based upon the permit that has been continued;
 2. Issue a notice of intent to deny the new permit. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;
 3. Issue a new permit under this Article with appropriate conditions; or
 4. Take other action as authorized under this Article.
- D.** Upon the effective date of EPA's approval of Arizona's UIC program, the Department shall administer any permit authorized or issued under the EPA UIC program in the state of Arizona, excluding Indian lands. The Director may continue expired or expiring EPA-issued UIC permits until the effective date of a new state-issued UIC permit.

Historical Note

New Section made by final rulemaking at 28 A.A.R.
1903 (August 5, 2022), effective September 6, 2022
(Supp. 22-3).

R18-9-C630. Permit Transfer

- A.** Except as provided in subsection (B), a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued under R18-9-C632(F)(2), or a minor modification made under R18-9-C633(4), to identify the new permittee and incorporate such other requirements as may be necessary under this Article the Safe Drinking Water Act.
- B.** As an alternative to transfers under subsection (A), any UIC permit for a well not injecting hazardous waste or injecting carbon dioxide for geological sequestration may be automatically transferred to a new permittee if:
1. The current permittee notifies the Director at least 30 days in advance of the proposed transfer date referred to in subsection (B)(2);
 2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer or permit responsibility, coverage, and liability between them, and the notice demonstrates that the financial responsibility requirements of R18-9-D636(A)(6) will be met by the new permittee; and
 3. The Director does not notify the existing permittee and the proposed new permittee of the Director's intent to modify or revoke and reissue the permit. A modification under this Section may also be a minor modification under R18-9-C633. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in subsection (B)(2).

Historical Note

New Section made by final rulemaking at 28 A.A.R.
1903 (August 5, 2022), effective September 6, 2022

(Supp. 22-3).

R18-9-C631. Modification; Revocation and Reissuance; or Termination of Permits

- A.** Permits may only be modified or revoked and reissued pursuant to R18-9-C632 or terminated pursuant to R18-9-C634 either at the request of any interested person, including the permittee, or upon the Director's initiative. All requests shall be made in writing and shall contain facts or reasons supporting the request.
- B.** If the Director decides a request to modify, revoke and reissue, or terminate is not justified, they shall send the requestor a brief written response giving a reason for the decision. Denial of a request to terminate does not require a notice of intent to deny. Denial of a request for modification or revocation and reissuance requires a notice of intent to deny only when the request is made by the permittee, the scope of the request has not previously been requested and denied and the request is not for a minor modification. A notice of intent to deny is a type of draft permit which shall follow the same procedures as any draft permit prepared pursuant to R18-9-C618.
- C.** If the Director preliminarily decides to modify or revoke and reissue a permit under R18-9-C632, they shall prepare a draft permit under R18-9-C618 incorporating the proposed changes and notify the permittee in writing of the reason for the preliminary decision to modify or revoke and reissue a permit with reference to the statute or rule on which the decision is based. The Director may request additional information and, in the case of a modified permit, may require the submission of an updated application. The Director shall require the submission of a new application in the case of revoked and reissued permits.
- D.** In a permit modification under this Section, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this Section, the entire permit is reopened just as if the permit had expired and was being reissued. During any modification or revocation and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is issued.
- E.** Minor modifications pursuant to R18-9-C633 are not subject to the requirements of this Section.
- F.** If the Director preliminarily decides to terminate under R18-9-C634(A)(1), (2) or (3), the Director shall issue a notice of intent to terminate that identifies the reason for the preliminary decision to terminate with reference to the statute or rule on which the decision is based. A notice of intent to terminate is not required when a permittee requests termination under R18-9-C634(A)(4). A notice of intent to terminate is a type of draft permit which shall follow the same procedures as any draft permit prepared pursuant to R18-9-C618.

Historical Note

New Section made by final rulemaking at 28 A.A.R.
1903 (August 5, 2022), effective September 6, 2022
(Supp. 22-3).

R18-9-C632. Modification; Revocation and Reissuance of Permits

- A.** When the Director receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit, receives a request for modification or revocation and reissuance under R18-9-C631, or conducts a review of the permit file) they may determine whether or not one or more of the causes listed in subsections

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(E) and (F) for modification or revocation and reissuance or both exist.

- B. If cause exists, the Director may modify or revoke and reissue the permit accordingly, subject to the limitations of subsection (G), and may request an updated application if necessary.
- C. If cause does not exist under this Section or R18-9-C633, the Director shall not modify or revoke and reissue the permit.
- D. If a permit modification satisfies the criteria in R18-9-C633 for "minor modifications" the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures under this Article must be followed.
- E. For Class II, Class III or Class VI wells the following may be causes for revocation and reissuance as well as modification; and for all other wells the following may be cause for revocation or reissuance as well as modification when the permittee requests or agrees:
 - 1. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.
 - 2. Permits other than for Class II and III wells may be modified during their terms for this cause only if the information was not available at the time of permit issuance, other than revised regulations, guidance, or test methods, and would have justified the application of different permit conditions at the time of issuance. For UIC area permits under R18-9-C624, this cause shall include any information indicating that cumulative effects on the environment are unacceptable.
 - 3. The standards or regulations on which the permit was based have been changed by promulgation of new regulations or by judicial decision after the permit was issued. Permits other than those for Class II, Class III or Class VI wells may be modified during their permit terms for this cause only as follows:
 - a. For promulgation of amended standards or regulations, when:
 - i. The permit condition requested to be modified was based on a regulation promulgated under this Article;
 - ii. ADEQ has revised, withdrawn, or modified that portion of the regulation on which the permit condition was based; and
 - iii. A permittee requests modification in accordance with R18-9-C631 within 90 days after the ADEQ action on which the request is based.
 - b. For judicial decisions, a court of competent jurisdiction has remanded and stayed ADEQ promulgated regulations if the remand and stay concern that portion of the regulations on which the permit condition was based and a request is filed by the permittee in accordance with R18-9-C631 within 90 days of judicial remand.
 - 4. The Director determines if good cause exists for modification of a compliance schedule. Good cause includes unforeseen circumstances, like a strike, a flood, a materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy. See also R18-9-C633 (minor modifications).

- 5. Additionally, for Class VI wells, whenever the Director determines that permit changes are necessary based on:
 - a. Area of review reevaluations under R18-9-J659(E)(1);
 - b. Any amendments to the testing and monitoring plan under R18-9-J665(10);
 - c. Any amendments to the injection well plugging plan under R18-9-J667(C);
 - d. Any amendments to the post-injection site care and site closure plan under R18-9-J668(A)(3);
 - e. Any amendments to the emergency and remedial response plan under R18-9-J669(D); or
 - f. A review of monitoring and/or testing results conducted in accordance with permit requirements.

- F. The following are causes to modify or, alternatively, revoke and reissue a permit:
 - 1. Cause exists for termination under R18-9-C634, and the Director determines that modification or revocation and reissuance is appropriate.
 - 2. The Director has received notification of a proposed transfer of the permit. A permit also may be modified to reflect a transfer after the effective date of an automatic transfer under R18-9-C630(B) but will not be revoked and reissued after the effective date of the transfer except upon the request of the new permittee.
 - 3. A determination that the waste being injected is a hazardous waste as defined in A.R.S. § 49-921 either because the definition has been revised, or because a previous determination has been changed.
- G. Suitability of the facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance.

Historical Note

New Section made by final rulemaking at 28 A.A.R.
1903 (August 5, 2022), effective September 6, 2022
(Supp. 22-3).

R18-9-C633. Minor Modifications of Permits

Upon the consent of the permittee, the Director may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this Section, without following the procedures of this Article. Any permit modification not processed as a minor modification under this Section must be made for cause and with a draft permit and public notice as required by R18-9-C632. Minor modifications may only:

- 1. Correct typographical errors;
- 2. Require more frequent monitoring or reporting by the permittee;
- 3. Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;
- 4. Allow for a change in ownership or operational control of a facility where the Director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Director;
- 5. Change quantities or types of fluids injected which are within the capacity of the facility as permitted and, in the

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judgment of the Director, would not interfere with the operation of the facility or its ability to meet conditions described in the permit and would not change its classification;

6. Change construction requirements approved by the Director pursuant to R18-9-D636(A)(1), provided that any such alteration shall comply with the requirements of this Article;
7. Amend a plugging and abandonment plan that has been updated under R18-9-D636(A)(5); or
8. Amend a Class VI injection well testing and monitoring plan, plugging plan, post-injection site care and site closure plan, or emergency and remedial response plan where the modifications merely clarify or correct the plan, as determined by the Director.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-C634. Termination of Permits

- A. The Director may terminate a permit during its term, or deny a permit renewal application for the following causes:
 1. Noncompliance by the permittee with any condition of the permit;
 2. The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or
 3. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or
 4. The permittee has requested termination of their permit due to the completion of the terms and conditions therein, including proper abandonment or plugging pursuant to R18-9-B614.
- B. The Director shall follow the applicable procedures as required under R18-9-C631(F) in terminating any permit under this Section.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

PART D. PERMIT CONDITIONS FOR UNDERGROUND INJECTION**R18-9-D635. Conditions Applicable to All Permits**

The following conditions apply to all UIC permits. All conditions applicable to all permits shall be incorporated into the permits issued under this Article, either expressly or referenced by specific citation. If incorporated by reference, a specific citation to this Section must be given in the permit.

1. The permittee must comply with all conditions of any permit issued under this Article. Any permit noncompliance constitutes a violation of this Article and is grounds for enforcement action; for permit modification, revocation and reissuance, or termination; or for denial of a permit renewal application unless otherwise authorized in an emergency permit under R18-9-C625.
2. If the permittee wishes to continue any activity regulated by permit under this Article after the expiration date of this permit, the permittee must apply for and obtain a new permit.

3. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
4. The permittee shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this permit.
5. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control, and related appurtenances, that are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.
6. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
7. This permit does not convey property rights of any sort, or any exclusive privilege.
8. The permittee shall furnish to the Director, within a time specified, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.
9. The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:
 - a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
 - b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
 - c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
 - d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by this Article the SDWA, any substances or parameters at any location.
10. Monitoring and records.
 - a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
 - b. The permittee shall retain records of all monitoring information, including the following:
 - i. Calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from

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- the date of the sample, measurement, report, or application. This period may be extended by request of the Director at any time; and
- ii. The nature and composition of all injected fluids until three years after the completion of any plugging and abandonment procedures specified under R18-9-D636(A)(5), or under this Article as appropriate. The Director may require the owner or operator to deliver the records to the Director at the conclusion of the retention period.
 - c. Records of monitoring information shall include:
 - i. The date, exact place, and time of sampling or measurements;
 - ii. The individual or individuals who performed the sampling or measurements;
 - iii. The date or dates analyses were performed;
 - iv. The individual or individuals who performed the analyses;
 - v. The analytical techniques or methods used; and
 - vi. The results of such analyses.
 - d. Owners or operators of Class VI wells shall retain records as specified in Part J of this Article, including R18-9-J659(G), R18-9-J666(6), R18-9-J667(D), R18-9-J668(F), and R18-9-J668(H).
11. All applications, reports, or information submitted to the Director shall be signed and certified as required under R18-9-C617.
 12. Reporting requirements.
 - a. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility.
 - b. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.
 - c. This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under this Article.
 - d. Monitoring results shall be reported at the intervals specified in this permit.
 - e. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 30 days following each schedule date.
 - f. The permittee shall report any noncompliance that may endanger health or the environment within 24 hours, including:
 - i. Any monitoring or other information that indicates any contaminant may cause an endangerment to a USDW; or
 - ii. Any noncompliance with a permit condition or malfunction of the injection system that may cause fluid migration into or between USDWs. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause, the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
 - g. The permittee shall report all instances of noncompliance not reported under subsections (A)(12)(a), (d), (e), and (f), at the time monitoring reports are submitted. The reports shall contain the information listed in subsection (A)(12)(f).
 - h. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.
 13. Except for all new wells authorized by an area permit under R18-9-C624(C), a new injection well may not commence injection until construction is complete; and:
 - a. The permittee has submitted notice of completion of construction to the Director; and
 - b. Either of the following apply:
 - i. The Director has inspected or otherwise reviewed the new injection well and finds it is in compliance with the conditions of the permit; or
 - ii. The permittee has not received notice from the Director of the intent to inspect or otherwise review the new injection well within 13 days of the date of the notice under subsection (A)(13)(a), in which case prior inspection or review is waived and the permittee may commence injection. The Director shall include in the notice a reasonable time period in which the well shall be inspected.
 14. The permittee shall notify the Director at such times as the permit requires before conversion or abandonment of the well or in the case of area permits before closure of the project.
 15. A Class I, II, or III permit shall include, and a Class V permit may include, conditions that meet the requirements of R18-9-B614 to ensure that plugging and abandonment of the well will not allow the movement of fluids into or between USDWs. Where the plan meets the requirements of R18-9-B614, the Director shall incorporate the plan into the permit as a permit condition. Where the Director's review of an application indicates that the permittee's plan is inadequate, the Director may require the applicant to revise the plan, prescribe conditions meeting the requirements of this subsection, or deny the permit. A Class VI permit shall include conditions that meet the requirements set forth in R18-9-J667. Where the plan meets the requirements of R18-9-J667, the Director shall incorporate it into the permit as a permit condition. For purposes of this subsection, temporary or intermittent cessation of injection operations is not abandonment.
 16. Within 60 days after plugging a well or at the time of the next quarterly report, whichever is less, the owner or operator shall submit a report to the Director. If the quarterly report is due less than 15 days before completion of plugging, then the report shall be submitted within 60 days. The report shall be certified as accurate by the per-

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son who performed the plugging operation. Such report shall consist of either:

- a. A statement that the well was plugged in accordance with the plan previously submitted to the Director; or
 - b. Where actual plugging differed from the plan previously submitted, an updated version of the plan on the form supplied by the Director, specifying the differences.
17. Duty to establish and maintain mechanical integrity.
- a. The owner or operator of a Class I, II, III or VI well permitted under this Article shall establish mechanical integrity prior to commencing injection or on a schedule determined by the Director. Thereafter the owner or operator of Class I, II, and III wells must maintain mechanical integrity as defined in R18-9-B613 and the owner or operator of Class VI wells must maintain mechanical integrity as defined in R18-9-J664.
 - b. When the Director determines that a Class I, II, III or VI well lacks mechanical integrity pursuant to R18-9-B613 or R18-9-J664 for Class VI, written notice of the determination will be given to the owner or operator. Unless the Director requires immediate cessation, the owner or operator shall cease injection into the well within 48 hours of receipt of the Director's determination. The Director may allow plugging of the well pursuant to the requirements of R18-9-B614 or require the permittee to perform such additional construction, operation, monitoring, reporting, and corrective action as is necessary to prevent the movement of fluid into or between USDWs caused by the lack of mechanical integrity. The owner or operator may resume injection upon written notification from the Director that the owner or operator has demonstrated mechanical integrity pursuant to R18-9-B613.
 - c. The Director may allow the owner or operator of a well that lacks mechanical integrity pursuant to R18-9-B613(A)(1) to continue or resume injection, if the owner or operator has made a satisfactory demonstration that there is no movement of fluid into or between USDWs.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-D636. Establishing Permit Conditions

- A. In addition to conditions required in R18-9-D635, the Director shall establish conditions, as required on a case-by-case basis under R18-9-C628 (Permit Duration), R18-9-D637 (Schedules of Compliance), and R18-9-D638 (Requirements for Recording and Reporting Monitoring Results). Permits for owners or operators of Class VI injection wells shall include conditions meeting the requirements of Part J of this Article. Permits for other wells shall contain the following requirements, when applicable.
1. Construction requirements as set forth in this Article. Existing wells shall achieve compliance with such requirements according to a compliance schedule established as a permit condition. The owner or operator of a proposed new injection well shall submit plans for testing, drilling, and construction as part of the permit appli-

cation. Except as authorized by an area permit, no construction may commence until a permit has been issued containing construction requirements. New wells shall be in compliance with these requirements prior to commencing injection operations. Changes in construction plans during construction may be approved by the Director as minor modifications as defined under R18-9-C633. No such changes may be physically incorporated into construction of the well prior to approval of the modification by the Director.

2. Corrective action as set forth in R18-9-D639 and R18-9-J659.
3. Operation requirements as set forth in this Article; the permit shall establish any maximum injection volumes and/or pressures necessary to assure that fractures are not initiated in the confining zone, that injected fluids do not migrate into any USDW, that formation fluids are not displaced into any USDW, and to assure compliance with the operating requirements under this Article.
4. Monitoring and reporting requirements as set forth in this Article. The permittee shall be required to identify types of tests and methods used to generate the monitoring data. Monitoring of the nature of injected fluids shall comply with an analytical method prescribed in A.A.C. R9-14-610, or an alternative analytical method approved under A.A.C. R9-14-610(C), or as approved by the Director. A test result from a sample taken to determine compliance with a national primary drinking water standard is valid only if the sample is analyzed by a laboratory that is licensed by the Arizona Department of Health Services, an out-of-state laboratory licensed under A.R.S. § 36-495.14, or a laboratory exempted under A.R.S. § 36-495.02, for the analysis performed.
5. After a cessation of operations for two years the owner or operator shall plug and abandon the well in accordance with the plan unless they:
 - a. Provide notice to the Director; and
 - b. Describe actions or procedures, satisfactory to the Director, that the owner or operator will take to ensure that the well will not endanger USDWs during the period of temporary abandonment. These actions and procedures shall include compliance with the technical requirements applicable to active injection wells unless waived by the Director.
6. Financial responsibility.
 - a. The permittee, including the transferor of a permit, is required to demonstrate and maintain financial responsibility and resources to close, plug, and abandon the underground injection operation in a manner prescribed by the Director until:
 - i. The well has been plugged and abandoned in accordance with an approved plugging and abandonment plan pursuant to R18-9-D635(15), R18-9-B614, and R18-9-J667, and submitted a plugging and abandonment report pursuant to R18-9-D635(16); or
 - ii. The well has been converted in compliance with the requirements of R18-9-D635(14); or
 - iii. The transferor of a permit has received notice from the Director that the owner or operator receiving transfer of the permit, the new permittee, has demonstrated financial responsibility for the well.

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- b. The permittee shall show evidence of such financial responsibility to the Director by the submission of a surety bond, or other adequate assurance, such as a financial statement or other materials acceptable to the Director. For Class VI wells, the permittee shall show evidence of such financial responsibility to the Director by the submission of a qualifying instrument, such as a financial statement or other materials acceptable to the Director. The owner or operator of a Class VI well must comply with the financial responsibility requirements set forth in R18-9-J660.
- 7. A permit for any Class I, II, III or VI well or injection project that lacks mechanical integrity shall include, and for any Class V well may include, a condition prohibiting injection operations until the permittee shows to the satisfaction of the Director under R18-9-B613 or R18-9-J664 for Class VI, that the well has mechanical integrity.
- 8. The Director shall impose on a case-by-case basis such additional conditions as are necessary to prevent the migration of fluids into USDWs.
- B.** In addition to conditions required in all permits, the Director shall establish conditions in permits as required on a case-by-case basis, to provide for and assure compliance with all applicable requirements of this Article. Applicable requirements include, but are not limited to:
 - 1. State statutory or regulatory requirements in effect prior to final administrative disposition of a permit; or
 - 2. Any requirement in effect prior to the modification or revocation and reissuance of a permit, to the extent allowed under R18-9-C632.
- C.** New or reissued permits, and to the extent allowed under R18-9-C632 modified or revoked and reissued permits, shall incorporate each of the applicable requirements referenced in this Section.
- D.** All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements must be given in the permit.
- E.** Permits shall provide language on duration, expiration and termination.
- 3. The permit shall be written to require that if subsection (A)(1) is applicable, progress reports be submitted no later than 30 days following each interim date and the final date of compliance.
- B.** A permit applicant or permittee may cease conducting regulated activities at a given time by plugging and abandonment rather than continue to operate and meet permit requirements as follows:
 - 1. If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:
 - a. The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or
 - b. The permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit.
 - 2. If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit shall contain a schedule leading to termination that will ensure timely compliance with the applicable requirements.
 - 3. If the permittee is undecided whether to cease conducting regulated activities, the Director may issue or modify a permit to contain two schedules as follows:
 - a. Both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date that ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities;
 - b. One schedule shall lead to timely compliance with applicable requirements;
 - c. The second schedule shall lead to cessation of the regulated activities by a date that ensures timely compliance with applicable requirements; and
 - d. Each permit containing two schedules shall include a requirement that after the permittee has made a final decision under subsection (B)(3)(a) it shall follow the schedule leading to compliance if the decision is to continue conducting the regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities.
 - 4. The applicant's or permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the Director, such as a resolution of the board of Directors of a corporation.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-D637. Compliance Schedule

- A.** A permit may, when appropriate, specify a schedule for compliance with this Article.
 - 1. Any compliance schedules shall require compliance as soon as possible, and in no case later than three years after the effective date of the permit.
 - 2. Except as provided in subsection (B)(1)(b), if a permit establishes a compliance schedule that exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.
 - a. The time between interim dates shall not exceed one year.
 - b. If the time necessary for completion of any interim requirement is more than one year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-D638. Requirements for Recording and Reporting Monitoring Results

All permits shall specify:

- 1. Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods, including biological monitoring methods when appropriate;
- 2. Required monitoring including type, intervals, and frequency sufficient to yield data that are representative of

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the monitored activity including when appropriate, continuous monitoring; and

3. Applicable reporting requirements based upon the impact of the regulated activity and as specified under this Article. Reporting shall be no less frequent than specified in the above rules.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-D639. Corrective Action

- A. Applicants for Class I, II, or III injection well permits shall identify the location of all known wells within the injection well's area of review that penetrates the injection zone, or in the case of Class II wells operating over the fracture pressure of the injection formation, all known wells within the area of review penetrating formations affected by the increase in pressure. For such wells that are improperly sealed, completed, or abandoned, the applicant shall also submit a plan consisting of such steps or modifications as are necessary to prevent movement of fluid into USDWs. Where the plan is adequate, the Director shall incorporate it into the permit as a condition. Where the Director's review of an application indicates that the permittee's plan is inadequate, the Director shall require the applicant to revise the plan, prescribe a plan for corrective action as a condition of the permit under subsection (B) through (E), or deny the application. The Director may disregard the provisions of R18-9-B612 and this Section when reviewing an application to permit an existing Class II well.
- B. Any permit issued for an existing injection well, other than Class II wells, requiring corrective action shall include a compliance schedule requiring any corrective action accepted or prescribed under subsection (A) to be completed as soon as possible.
- C. No owner or operator of a new injection well may begin injection until all required corrective action has been taken.
- D. The Director may require as a permit condition that injection pressure be so limited that pressure in the injection zone does not exceed hydrostatic pressure at the site of any improperly completed or abandoned well within the area of review. This pressure limitation shall satisfy the corrective action requirement. Alternatively, such injection pressure limitation can be part of a compliance schedule and last until all other required corrective action has been taken.
- E. When setting corrective action requirements for Class III wells, the Director shall consider the overall effect of the project on the hydraulic gradient in potentially affected USDWs, and the corresponding changes in potentiometric surface or surfaces and flow direction or directions rather than the discrete effect of each well. If a decision is made that corrective action is not necessary based on the determinations above, the monitoring program required in R18-9-G647(B) shall be designed to verify the validity of such determinations.
- F. In determining the adequacy of corrective action proposed by the applicant under this Section and in determining the additional steps needed to prevent fluid movement into USDWs, the following criteria and factors shall be considered by the Director:
 1. Nature and volume of injected fluid;
 2. Nature of native fluids or by-products of injection;
 3. Potentially affected population;
 4. Geology;
 5. Hydrology;

6. History of the injection operation;
7. Completion and plugging records;
8. Abandonment procedures in effect at the time the well was abandoned; and
9. Hydraulic connections with USDWs.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

PART E. CLASS I INJECTION WELL REQUIREMENTS

R18-9-E640. Class I; Construction Requirements

- A. All Class I wells shall be sited in such a fashion that they inject into a formation which is beneath the lowermost formation containing, within one-quarter mile of the well bore, an USDW.
- B. All Class I wells shall be cased and cemented to prevent the movement of fluids into or between USDWs. The casing and cement used in the construction of each newly drilled well shall be designed for the life expectancy of the well. In determining and specifying casing and cementing requirements, the following factors shall be considered:
 1. Depth to the injection zone;
 2. Injection pressure, external pressure, internal pressure, and axial loading;
 3. Hole size;
 4. Size and grade of all casing strings, such as wall thickness, diameter, nominal weight, length, joint Specification, and construction material;
 5. Corrosiveness of injected fluid, formation fluids, and temperatures;
 6. Lithology of injection and confining intervals; and
 7. Type or grade of cement.
- C. All Class I injection wells, except those municipal wells injecting non-corrosive wastes, shall inject fluids through tubing with a packer set immediately above the injection zone, or tubing with an approved fluid seal as an alternative. The tubing, packer, and fluid seal shall be designed for the expected service.
 1. The use of other alternatives to a packer may be allowed with the written approval of the Director. To obtain approval, the operator shall submit a written request to the Director, which shall set forth the proposed alternative and all technical data supporting its use. The Director shall approve the request if the alternative method will reliably provide a comparable level of protection to USDWs. The Director may approve an alternative method solely for an individual well or for general use.
 2. In determining and specifying requirements for tubing, packer, or alternatives the following factors shall be considered:
 - a. Depth of setting;
 - b. Characteristics of injection fluid such as chemical content, corrosiveness, and density;
 - c. Injection pressure;
 - d. Annular pressure;
 - e. Rate, temperature and volume of injected fluid; and
 - f. Size of casing.
- D. Appropriate logs and other tests shall be conducted during the drilling and construction of new Class I wells. A descriptive report interpreting the results of such logs and tests shall be prepared by a knowledgeable log analyst and submitted to the Director. At a minimum, such logs and tests shall include:

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1. Deviation checks on all holes constructed by first drilling a pilot hole, and then enlarging the pilot hole by reaming or another method. Such checks shall be at sufficiently frequent intervals to assure that vertical avenues for fluid migration in the form of diverging holes are not created during drilling.
2. Such other logs and tests as may be needed after taking into account the availability of similar data in the area of the drilling site, the construction plan, and the need for additional information that may arise from time to time as the construction of the well progresses. In determining which logs and tests shall be required, the following logs shall be considered for use in the following situations:
 - a. For surface casing intended to protect USDWs:
 - i. Resistivity, spontaneous potential, and caliper logs before the casing is installed; and
 - ii. A cement bond, temperature, or density log after the casing is set and cemented.
 - b. For intermediate and long strings of casing intended to facilitate injection:
 - i. Resistivity, spontaneous potential, porosity, and gamma ray logs before the casing is installed;
 - ii. Fracture finder logs; and
 - iii. A cement bond, temperature, or density log after the casing is set and cemented.
- E. At a minimum, the following information concerning the injection formation shall be determined or calculated for new Class I wells:
 1. Fluid pressure;
 2. Temperature;
 3. Fracture pressure;
 4. Other physical and chemical characteristics of the injection matrix; and
 5. Physical and chemical characteristics of the formation fluids.
3. A demonstration of mechanical integrity pursuant to R18-9-B613 at least once every five years during the life of the well; and
4. The type, number and location of wells within the area of review to be used to monitor any migration of fluids into and pressure in the USDWs, the parameters to be measured and the frequency of monitoring.
- C. Reporting requirements shall, at a minimum, include:
 1. Quarterly reports to the Director on:
 - a. The physical, chemical and other relevant characteristics of injection fluids;
 - b. Monthly average, maximum and minimum values for injection pressure, flow rate and volume, and annular pressure; and
 - c. The results of monitoring prescribed under subsection (B)(4).
 2. Reporting the results, with the first quarterly report after the completion, of:
 - a. Periodic tests of mechanical integrity;
 - b. Any other test of the injection well conducted by the permittee if required by the Director; and
 - c. Any well work over.
- D. Ambient monitoring.
 1. Based on a site-specific assessment of the potential for fluid movement from the well or injection zone and on the potential value of monitoring wells to detect such movement, the Director shall require the owner or operator to develop a monitoring program. At a minimum, the Director shall require monitoring of the pressure buildup in the injection zone annually, including at a minimum, a shut down of the well for a time sufficient to conduct a valid observation of the pressure fall-off curve.
 2. When prescribing a monitoring system the Director may also require:
 - a. Continuous monitoring for pressure changes in the first aquifer overlying the confining zone. When such a well is installed, the owner or operator shall, on a quarterly basis, sample the aquifer and analyze for constituents specified by the Director;
 - b. The use of indirect, geophysical techniques to determine the position of the waste front, the water quality in a formation designated by the Director, or to provide other site specific data;
 - c. Periodic monitoring of the ground water quality in the first aquifer overlying the injection zone;
 - d. Periodic monitoring of the ground water quality in the lowermost USDW; and
 - e. Any additional monitoring necessary to determine whether fluids are moving into or between USDWs.

Historical Note

New Section made by final rulemaking at 28 A.A.R.
1903 (August 5, 2022), effective September 6, 2022
(Supp. 22-3).

R18-9-E641. Class I; Operating, Monitoring, and Reporting Requirements

- A. Operating requirements shall, at a minimum, specify that:
 1. Except during stimulation injection pressure at the wellhead shall not exceed a maximum which shall be calculated so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone. In no case shall injection pressure initiate fractures in the confining zone or cause the movement of injection or formation fluids into an USDW.
 2. Injection between the outermost casing protecting USDWs and the well bore is prohibited.
 3. Unless an alternative to a packer has been approved under R18-9-E640(C), the annulus between the tubing and the long string of casings shall be filled with a fluid approved by the Director and a pressure, also approved by the Director, shall be maintained on the annulus.
- B. Monitoring requirements shall, at a minimum, include:
 1. The analysis of the injected fluids with sufficient frequency to yield representative data of their characteristics;
 2. Installation and use of continuous recording devices to monitor injection pressure, flow rate and volume, and the

Historical Note

New Section made by final rulemaking at 28 A.A.R.
1903 (August 5, 2022), effective September 6, 2022
(Supp. 22-3).

R18-9-E642. Class I; Information to be Considered by the Director

- A. This Section sets forth the information which must be considered by the Director in authorizing Class I wells.
 1. For an existing or converted new Class I well the Director may rely on the existing permit file for those items of information listed in subsections (B), (C) and (D) which are current and accurate in the file.

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2. For a newly drilled Class I well, the Director shall require the submission of all the information listed in subsections (B), (C) and (D) which are current and accurate in the file.
3. For both existing and new Class I wells certain maps, cross sections, tabulations of wells within the area of review and other data may be included in the application by reference provided they are current, readily available to the Director and sufficiently identified to be retrieved.
- B.** Prior to the issuance of a permit for an existing Class I well to operate or the construction or conversion of a new Class I well the Director shall consider the following:
 1. Information required in R18-9-C616;
 2. A map showing the injection well or wells for which a permit is sought and the applicable area of review. Within the area of review, the map must show the number, or name, and location of all producing wells, injection wells, abandoned wells, dry holes, surface bodies of water, springs, mines, quarries, water wells and other pertinent surface features including residences and roads. The map should also show faults, if known or suspected. Only information of public record is required to be included on this map;
 3. A tabulation of data on all wells within the area of review which penetrate into the proposed injection zone. Such data shall include a description of each well's type, construction, date drilled, location, depth, record of plugging and/or completion, and any additional information the Director may require;
 4. Maps and cross sections indicating the general vertical and lateral limits of all USDWs within the area of review, their position relative to the injection formation and the direction of water movement, where known, in each USDW which may be affected by the proposed injection;
 5. Maps and cross sections detailing the geologic structure of the local area;
 6. Generalized maps and cross sections illustrating the regional geologic setting;
 7. Proposed operating data:
 - a. Average and maximum daily rate and volume of the fluid to be injected;
 - b. Average and maximum injection pressure; and
 - c. Source and an analysis of the chemical, physical, radiological and biological characteristics of injection fluids;
 8. Proposed formation testing program to obtain an analysis of the chemical, physical and radiological characteristics of and other information on the receiving formation;
 9. Proposed stimulation program;
 10. Proposed injection procedure;
 11. Schematic or other appropriate drawings of the surface and subsurface construction details of the well.
 12. Contingency plans to cope with all shut-ins or well failures so as to prevent migration of fluids into any USDW;
 13. Plans, including maps, for meeting the monitoring requirements in R18-9-E641(B);
 14. For wells within the area of review which penetrate the injection zone but are not properly completed or plugged, the corrective action proposed to be taken under R18-9-D639;
 15. Construction procedures including a cementing and casing program, logging procedures, deviation checks, and a drilling, testing, and coring program; and
 16. A certificate that the applicant has assured, through a performance bond or other appropriate means, the resources necessary to close, plug or abandon the well as required by R18-9-D636(A)(6).
- C.** Prior to granting approval for the operation of a Class I well the Director shall consider the following information:
 1. All available logging and testing program data on the well;
 2. A demonstration of mechanical integrity pursuant to R18-9-B613;
 3. The anticipated maximum pressure and flow rate at which the permittee will operate;
 4. The results of the formation testing program;
 5. The actual injection procedure;
 6. The compatibility of injected waste with fluids in the injection zone and minerals in both the injection zone and the confining zone; and
 7. The status of corrective action on defective wells in the area of review.
- D.** Prior to granting approval for the plugging and abandonment of a Class I well the Director shall consider the following information:
 1. The type and number of plugs to be used;
 2. The placement of each plug including the elevation of the top and bottom;
 3. The type and grade and quantity of cement to be used;
 4. The method for placement of the plugs; and
 5. The procedure to be used to meet the requirements of R18-9-B614(C).

Historical Note

New Section made by final rulemaking at 28 A.A.R.
1903 (August 5, 2022), effective September 6, 2022
(Supp. 22-3).

PART F. CLASS II INJECTION WELL REQUIREMENTS**R18-9-F643. Class II; Construction Requirements**

- A.** All new Class II wells shall be sited in such a fashion that they inject into a formation which is separated from any USDW by a confining zone that is free of known open faults or fractures within the area of review.
- B.** All Class II injection wells:
 1. Shall be cased and cemented to prevent movement of fluids into or between USDWs. The casing and cement used in the construction of each newly drilled well shall be designed for the life expectancy of the well. In determining and specifying casing and cementing requirements, the following factors shall be considered:
 - a. Depth to the injection zone;
 - b. Depth to the bottom of all USDWs; and
 - c. Estimated maximum and average injection pressures.
 2. In addition the Director may consider information on:
 - a. Nature of formation fluids;
 - b. Lithology of injection and confining zones;
 - c. External pressure, internal pressure, and axial loading;
 - d. Hole size;
 - e. Size and grade of all casing strings; and
 - f. Class of cement.
- C.** The requirements in subsection (B) need not apply to existing or newly converted Class II wells located in existing fields if:
 1. Regulatory controls for casing and cementing existed for those wells at the time of drilling and those wells are in compliance with those controls; and

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2. Well injection will not result in the movement of fluids into an USDW so as to create a significant risk to the health of persons.
 - D. The requirements in subsection (B) need not apply to newly drilled wells in existing fields if:
 1. They meet the requirements of the State for casing and cementing applicable to that field at the time of submission of the State program to the Administrator; and
 2. Well injection will not result in the movement of fluids into an USDW so as to create a significant risk to the health of persons.
 - E. Appropriate logs and other tests shall be conducted during the drilling and construction of new Class II wells. A descriptive report interpreting the results of that portion of those logs and tests which specifically relate to (1) an USDW and the confining zone adjacent to it, and (2) the injection and adjacent formations shall be prepared by a knowledgeable log analyst and submitted to the Director. At a minimum, these logs and tests shall include:
 1. Deviation checks on all holes constructed by first drilling a pilot hole and then enlarging the pilot hole, by reaming or another method. Such checks shall be at sufficiently frequent intervals to assure that vertical avenues for fluid movement in the form of diverging holes are not created during drilling.
 2. Such other logs and tests as may be needed after taking into account the availability of similar data in the area of the drilling site, the construction plan, and the need for additional information that may arise from time to time as the construction of the well progresses. In determining which logs and tests shall be required the following shall be considered by the Director in setting logging and testing requirements:
 - a. For surface casing intended to protect USDWs in areas where the lithology has not been determined:
 - i. Electric and caliper logs before casing is installed; and
 - ii. A cement bond, temperature, or density log after the casing is set and cemented.
 - b. For intermediate and long strings of casing intended to facilitate injection:
 - i. Electric, porosity and gamma ray logs before the casing is installed;
 - ii. Fracture finder logs; and
 - iii. A cement bond, temperature, or density log after the casing is set and cemented.
 - F. At a minimum, the following information concerning the injection formation shall be determined or calculated for new Class II wells or projects:
 1. Fluid pressure;
 2. Estimated fracture pressure; and
 3. Physical and chemical characteristics of the injection zone.
- or propagate existing fractures in the confining zone adjacent to the USDWs. In no case shall injection pressure cause the movement of injection or formation fluids into an USDW.
2. Injection between the outermost casing protecting USDWs and the well bore shall be prohibited.
- B. Monitoring requirements shall, at a minimum, include:
1. Monitoring of the nature of injected fluids at time intervals sufficiently frequent to yield data representative of their characteristics;
 2. Observation of injection pressure, flow rate, and cumulative volume at least with the following frequencies:
 - a. Weekly for produced fluid disposal operations;
 - b. Monthly for enhanced recovery operations;
 - c. Daily during the injection of liquid hydrocarbons and injection for withdrawal of stored hydrocarbons; and
 - d. Daily during the injection phase of cyclic steam operations; and
 - e. Record one observation of injection pressure, flow rate and cumulative volume at reasonable intervals no greater than 30 days;
 3. A demonstration of mechanical integrity pursuant to R18-9-B613 at least once every five years during the life of the injection well;
 4. Maintenance of the results of all monitoring until the next permit review; and
 5. Hydrocarbon storage and enhanced recovery may be monitored on a field or project basis rather than on an individual well basis by manifold monitoring. Manifold monitoring may be used in cases of facilities consisting of more than one injection well, operating with a common manifold. Separate monitoring systems for each well are not required provided the owner/operator demonstrates that manifold monitoring is comparable to individual well monitoring.
- C. Reporting requirements.
1. Reporting requirements shall at a minimum include an annual report to the Director summarizing the results of monitoring required under subsection (B). Such summary shall include monthly records of injected fluids, and any major changes in characteristics or sources of injected fluid. Previously submitted information may be included by reference.
 2. Owners or operators of hydrocarbon storage and enhanced recovery projects may report on a field or project basis rather than an individual well basis where manifold monitoring is used.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-F644. Class II; Operating, Monitoring, and Reporting Requirements

- A. Operating requirements shall, at a minimum, specify that:
1. Injection pressure at the wellhead shall not exceed a maximum which shall be calculated so as to assure that the pressure during injection does not initiate new fractures

R18-9-F645. Class II; Information to be Considered by the Director

- A. This Section sets forth the information which must be considered by the Director in authorizing Class II wells. Certain maps, cross sections, tabulations of wells within the area of review, and other data may be included in the application by reference provided they are current, readily available to the Director and sufficiently identified to be retrieved.
- B. Prior to the issuance of a permit for an existing Class II well to operate or the construction or conversion of a new Class II well the Director shall consider the following:

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1. Information required in R18-9-C616.
 2. A map showing the injection well or project area for which a permit is sought and the applicable area of review. Within the area of review, the map must show the number or name and location of all existing producing wells, injection wells, abandoned wells, dry holes, and water wells. The map may also show surface bodies of waters, mines (surface and subsurface), quarries and other pertinent surface features including residences and roads, and faults if known or suspected. Only information of public record and pertinent information known to the applicant is required to be included on this map. This requirement does not apply to existing Class II wells.
 3. A tabulation of data reasonably available from public records or otherwise known to the applicant on all wells within the area of review included on the map required under subsection (B)(2) which penetrate the proposed injection zone or, in the case of Class II wells operating over the fracture pressure of the injection formation, all known wells within the area of review which penetrate formations affected by the increase in pressure. Such data shall include a description of each well's type, construction, date drilled, location, depth, record of plugging and completion, and any additional information the Director may require. In cases where the information would be repetitive and the wells are of similar age, type, and construction the Director may elect to only require data on a representative number of wells. This requirement does not apply to existing Class II wells.
 4. Proposed operating data:
 - a. Average and maximum daily rate and volume of fluids to be injected;
 - b. Average and maximum injection pressure; and
 - c. Source and an appropriate analysis of the chemical and physical characteristics of the injection fluid.
 5. Appropriate geological data on the injection zone and confining zone including lithologic description, geological name, thickness and depth.
 6. Geologic name and depth to bottom of all USDWs which may be affected by the injection.
 7. Schematic or other appropriate drawings of the surface and subsurface construction details of the well.
 8. In the case of new injection wells the corrective action proposed to be taken by the applicant under R18-9-D639.
 9. A certificate that the applicant has assured through a performance bond or other appropriate means, the resources necessary to close, plug or abandon the well as required by R18-9-D636(A)(6).
- C.** In addition the Director may consider the following:
1. Proposed formation testing program to obtain the information required by R18-9-F643(F);
 2. Proposed stimulation program;
 3. Proposed injection procedure;
 4. Proposed contingency plans, if any, to cope with well failures so as to prevent migration of contaminating fluids into an USDW;
 5. Plans for meeting the monitoring requirements of R18-9-F644(B).
- D.** Prior to granting approval for the operation of a Class II well the Director shall consider the following information:
1. All available logging and testing program data on the well;
 2. A demonstration of mechanical integrity pursuant to R18-9-B613;
 3. The anticipated maximum pressure and flow rate at which the permittee will operate;
 4. The results of the formation testing program;
 5. The actual injection procedure; and
 6. For new wells the status of corrective action on defective wells in the area of review.
- E.** Prior to granting approval for the plugging and abandonment of a Class II well the Director shall consider the following information:
1. The type, and number of plugs to be used;
 2. The placement of each plug including the elevation of top and bottom;
 3. The type, grade, and quantity of cement to be used;
 4. The method of placement of the plugs; and
 5. The procedure to be used to meet the requirements of R18-9-B614(A).

Historical Note

New Section made by final rulemaking at 28 A.A.R.
1903 (August 5, 2022), effective September 6, 2022
(Supp. 22-3).

PART G. CLASS III INJECTION WELL REQUIREMENTS**R18-9-G646. Class III; Construction Requirements**

- A.** All new Class III wells shall be cased and cemented to prevent the migration of fluids into or between USDWs. The Director may waive the cementing requirement for new wells in existing projects or portions of existing projects where they have substantial evidence that no contamination of USDWs would result. The casing and cement used in the construction of each newly drilled well shall be designed for the life expectancy of the well. In determining and specifying casing and cementing requirements, the following factors shall be considered:
1. Depth to the injection zone;
 2. Injection pressure, external pressure, internal pressure, axial loading, etc.;
 3. Hole size;
 4. Size and grade of all casing strings, such as wall thickness, diameter, nominal weight, length, joint specification, and construction material;
 5. Corrosiveness of injected fluids and formation fluids;
 6. Lithology of injection and confining zones; and
 7. Type and grade of cement.
- B.** Appropriate logs and other tests shall be conducted during the drilling and construction of new Class III wells. A descriptive report interpreting the results of such logs and tests shall be prepared by a knowledgeable log analyst and submitted to the Director. The logs and tests appropriate to each type of Class III well shall be determined based on the intended function, depth, construction and other characteristics of the well, availability of similar data in the area of the drilling site and the need for additional information that may arise from time to time as the construction of the well progresses. Deviation checks shall be conducted on all holes where pilot holes and reaming are used, unless the hole will be cased and cemented by circulating cement to the surface. Where deviation checks are necessary they shall be conducted at sufficiently frequent intervals to assure that vertical avenues for fluid migration in the form of diverging holes are not created during drilling.
- C.** Where the injection zone is a formation which is naturally water-bearing the following information concerning the injection zone shall be determined or calculated for new Class III wells or projects:
1. Fluid pressure;
 2. Fracture pressure; and

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3. Physical and chemical characteristics of the formation fluids.
- D. Where the injection formation is not a water-bearing formation, the information in subsection (C)(2) must be submitted.
- E. Where injection is into a formation which contains water with less than 10,000 mg/l TDS monitoring wells shall be completed into the injection zone and into any USDWs above the injection zone which could be affected by the mining operation. These wells shall be located in such a fashion as to detect any excursion of injection fluids, process by-products, or formation fluids outside the mining area or zone. If the operation may be affected by subsidence or catastrophic collapse the monitoring wells shall be located so that they will not be physically affected.
- F. Where injection is into a formation which does not contain water with less than 10,000 mg/l TDS, no monitoring wells are necessary in the injection stratum.
- G. Where the injection wells penetrate a USDW in an area subject to subsidence or catastrophic collapse an adequate number of monitoring wells shall be completed into the USDW to detect any movement of injected fluids, process by-products or formation fluids into the USDW. The monitoring wells shall be located outside the physical influence of the subsidence or catastrophic collapse.
- H. In determining the number, location, construction and frequency of monitoring of the monitoring wells the following criteria shall be considered:
 1. The population relying on the USDW affected or potentially affected by the injection operation;
 2. The proximity of the injection operation to points of withdrawal of drinking water;
 3. The local geology and hydrology;
 4. The operating pressures and whether a negative pressure gradient is being maintained;
 5. The nature and volume of the injected fluid, the formation water, and the process by-products; and
 6. The injection well density.
2. Monitoring of injection pressure and either flow rate or volume semi-monthly, or metering and daily recording of injected and produced fluid volumes as appropriate.
3. Demonstration of mechanical integrity pursuant to R18-9-B613 at least once every five years during the life of the well for salt solution mining.
4. Monitoring of the fluid level in the injection zone semi-monthly, where appropriate and monitoring of the parameters chosen to measure water quality in the monitoring wells required by R18-9-G646(E), semi-monthly.
5. Quarterly monitoring of wells required by R18-9-G646(G).
6. All Class III wells may be monitored on a field or project basis rather than an individual well basis by manifold monitoring. Manifold monitoring may be used in cases of facilities consisting of more than one injection well, operating with a common manifold. Separate monitoring systems for each well are not required provided the owner/operator demonstrates that manifold monitoring is comparable to individual well monitoring.
- C. Reporting requirements shall, at a minimum, include:
 1. Quarterly reporting to the Director on required monitoring;
 2. Results of mechanical integrity and any other periodic test required by the Director reported with the first regular quarterly report after the completion of the test; and
 3. Monitoring may be reported on a project or field basis rather than individual well basis where manifold monitoring is used.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-G648. Class III; Information to be Considered by the Director

- A. This Section sets forth the information which must be considered by the Director in authorizing Class III wells. Certain maps, cross sections, tabulations of wells within the area of review, and other data may be included in the application by reference provided they are current, readily available to the Director and sufficiently identified to be retrieved.
 - B. Prior to the issuance of a permit for an existing Class III well or area to operate or the construction of a new Class III well the Director shall consider the following:
 1. Information required in R18-9-C616;
 2. A map showing the injection well or project area for which a permit is sought and the applicable area of review. Within the area of review, the map must show the number or name and location of all existing producing wells, injection wells, abandoned wells, dry holes, public water systems and water wells. The map may also show surface bodies of waters, mines (surface and subsurface) quarries and other pertinent surface features including residences and roads, and faults if known or suspected. Only information of public record and pertinent information known to the applicant is required to be included on this map;
 3. A tabulation of data reasonably available from public records or otherwise known to the applicant on wells within the area of review included on the map required under subsection (B)(2) which penetrate the proposed injection zone. Such data shall include a description of each well's type, construction, date drilled, location,
- R18-9-G647. Class III; Operating, Monitoring, and Reporting Requirements**
- A. Operating requirements prescribed shall, at a minimum, specify that:
 1. Except during well stimulation, injection pressure at the wellhead shall be calculated so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone. In no case, shall injection pressure initiate fractures in the confining zone or cause the migration of injection or formation fluids into an USDW.
 2. Injection between the outermost casing protecting USDWs and the well bore is prohibited.
 - B. Monitoring requirements shall, at a minimum, specify:
 1. Monitoring of the nature of injected fluids with sufficient frequency to yield representative data on its characteristics. Whenever the injection fluid is modified to the extent that the analysis required by R18-9-G648(B)(7)(c) is incorrect or incomplete, a new analysis as required by R18-9-G648(B)(7)(c) shall be provided to the Director.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

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depth, record of plugging and completion, and any additional information the Director may require. In cases where the information would be repetitive and the wells are of similar age, type, and construction the Director may elect to only require data on a representative number of wells;

4. Maps and cross sections indicating the vertical limits of all USDWs within the area of review, their position relative to the injection formation, and the direction of water movement, where known, in every USDW which may be affected by the proposed injection;
 5. Maps and cross sections detailing the geologic structure of the local area;
 6. Generalized map and cross sections illustrating the regional geologic setting;
 7. Proposed operating data:
 - a. Average and maximum daily rate and volume of fluid to be injected;
 - b. Average and maximum injection pressure; and
 - c. Qualitative analysis and ranges in concentrations of all constituents of injected fluids. If the information is confidential pursuant to R18-9-A603 an applicant may, in lieu of the ranges in concentrations, choose to submit maximum concentrations which shall not be exceeded. In such a case the applicant shall retain records of the undisclosed concentrations and provide them upon request to the Director as part of any enforcement investigation.
 8. Proposed formation testing program to obtain the information required by R18-9-G646(C);
 9. Proposed stimulation program;
 10. Proposed injection procedure;
 11. Schematic or other appropriate drawings of the surface and subsurface construction details of the well;
 12. Plans (including maps) for meeting the monitoring requirements of R18-9-G647(B);
 13. Expected changes in pressure, native fluid displacement, direction of movement of injection fluid;
 14. Contingency plans to cope with all shut-ins or well failures so as to prevent the migration of contaminating fluids into USDWs;
 15. A certificate that the applicant has assured, through a performance bond, or other appropriate means, the resources necessary to close, plug, or abandon the well as required by R18-9-D636(A)(5); and
 16. The corrective action proposed to be taken under R18-9-D639.
- C. Prior to granting approval for the operation of a Class III well the Director shall consider the following information:
1. All available logging and testing data on the well;
 2. A satisfactory demonstration of mechanical integrity for all new wells and for all existing salt solution wells pursuant to R18-9-B613;
 3. The anticipated maximum pressure and flow rate at which the permittee will operate;
 4. The results of the formation testing program;
 5. The actual injection procedures; and
 6. The status of corrective action on defective wells in the area of review.
- D. Prior to granting approval for the plugging and abandonment of a Class III well the Director shall consider the following information:
1. The type and number of plugs to be used;

2. The placement of each plug including the elevation of the top and bottom;
3. The type, grade and quantity of cement to be used;
4. The method of placement of the plugs; and
5. The procedure to be used to meet the requirements of R18-9-B614(A).

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

PART H. CLASS IV INJECTION WELL REQUIREMENTS

R18-9-H649. Class IV; Closure Requirements and Remediation**A. Closure.**

1. Prior to abandoning any Class IV well, the owner or operator shall plug or otherwise close the well in a manner acceptable to the Director.
2. The owner or operator of a Class IV well must notify the Director of intent to abandon the well at least 30 days prior to abandonment.

B. Remediation. Injection wells used to inject contaminated groundwater that has been treated and is being injected into the same formation from which it was drawn are authorized by rule for the life of the well if such subsurface emplacement of fluids is approved by the Administrator or the Director pursuant to subsections (B)(1), (2) or (3):

1. Provisions for cleanup of releases under CERCLA, or
2. The requirements and provisions under RCRA, or
3. The requirements and provisions under other applicable state laws for corrective and remedial action.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

PART I. CLASS V INJECTION WELL REQUIREMENTS

R18-9-I650. Class V; General Requirements**A.** The following requirements apply to Class V Wells authorized by rule:

1. A Class V Injection well is authorized by rule subject to the conditions under this Section.
2. Well authorization under this Section expires upon the effective date of a permit issued pursuant to R18-9-I651, R18-9-C616, R18-9-C624, R18-9-C625, or upon proper closure of the well.
3. An owner or operator of a well that is authorized by rule pursuant to this Section is prohibited from injecting into the well:
 - a. Upon the effective date of an applicable permit denial;
 - b. Upon failure to submit a permit application in a timely manner pursuant to R18-9-I651 or R18-9-C616;
 - c. Upon failure to submit inventory information in a timely manner pursuant to R18-9-I652; or
 - d. Upon failure to comply with a request for information in a timely manner pursuant to R18-9-I653.
4. Submission of the following is required in order to transfer ownership of a well that is authorized by rule pursuant to this Section:
 - a. An inventory, and

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- b. Class V authorized by rule transfer fee pursuant to R18-14-111(3).
- B.** The following requirements apply for all Class V Wells:
1. With certain exceptions listed in subsection (B)(2), Class V injection activity is “authorized by rule,” meaning owners and operators must comply with all the requirements of this Article but do not have to get an individual permit. Well authorization expires once the injection well has been properly closed.
 2. A Class V well requires a permit and shall no longer be authorized by rule upon any of the following:
 - a. Failure to comply with the prohibition of movement standard in R18-9-B608(A).
 - b. The Director specifically requires a Class V permit for the well to operate pursuant to R18-9-I651. In which case rule authorization expires upon the effective date of the permit issued, or you are prohibited from injecting into your well upon:
 - i. Failure to submit a permit application in a timely manner as specified in a notice from the Director; or
 - ii. Upon the effective date of permit denial.
 - c. Failure to submit inventory information as required under R18-9-I652.
 - d. Failure to comply with the Director’s request for additional information under R18-9-I653 in a timely manner.
 3. Prior to abandoning a Class V well, the owner or operator shall meet the plugging requirements in R18-9-B614(C).
 4. In limited cases, the Director may authorize the conversion (reclassification) of a motor vehicle waste disposal well to another type of Class V well. Motor vehicle wells may only be converted if: all motor vehicle fluids are segregated by physical barriers and are not allowed to enter the well; and, injection of motor vehicle waste is unlikely based on a facility’s compliance history and records showing proper waste disposal. The use of a semi-permanent plug as the means to segregate waste is not sufficient to convert a motor vehicle waste disposal well to another type of Class V well.
2. An application form,
 3. A statement setting a deadline to file the application,
 4. A statement that on the effective date of issuance or denial of the individual or area UIC permit, coverage by rule will automatically terminate.
 5. The applicant’s right to appeal the individual permit requirement under A.R.S. § 49-323 and the name and telephone number of the Department contact person who can answer questions regarding the appeals process.
- C.** An owner or operator of a well authorized by rule may request to be excluded from the coverage of this Section by applying for an individual or area UIC permit. The owner or operator shall submit an application under R18-9-C616 with reasons supporting the request to the Director. The Director may grant any such requests.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-I652. Class V; Inventory Requirements for Class V Wells Authorized by Rule

- A.** The owner or operator of an injection well authorized by rule under R18-9-I650 shall submit inventory information to the Director. Such an owner or operator is prohibited from injecting into the well upon failure to submit inventory information for the well within the timeframe specified in subsection (D).
- B.** As part of the inventory, the Director shall require and the owner/operator shall provide at least the following information:
1. Facility name and location;
 2. Name and address of legal contact;
 3. Ownership of facility;
 4. Nature and type of injection well; and
 5. Operating status of injection well.
- C.** Upon approval of the Arizona UIC Program, the Director shall notify all known owners or operators of injection wells of their duty to submit inventory information in the manner specified by the Director.
- D.** The owner or operator of an injection well shall submit inventory information no later than one year after the effective date of the Arizona UIC program. The Director need not require inventory information from any facility with interim status under RCRA.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-I651. Class V; Requiring a Permit

- A.** The Director may require the owner or operator of any Class V injection well authorized by rule under this Article to apply for and obtain an individual or area UIC permit. Cases where individual or area UIC permits may be required include:
1. The injection well is not in compliance with any requirement under this Article or A.R.S. Title 49, Chapter 2, Article 3.3;
 2. The injection well is not or no longer is within the category of wells and types of well operations authorized in the rule; or
 3. The protection of USDWs requires that the injection operation be regulated by requirements, such as for corrective action, monitoring and reporting, or operation, which are not contained in the rule.
- B.** If an individual or area UIC permit is required, the Director shall notify the discharger in writing of the decision. The notice shall include:
1. A brief statement of the reasons for the decision,

R18-9-I653. Class V; Requiring Other Information

- A.** In addition to the inventory requirements under R18-9-I652, the Director may require the owner or operator of any well authorized by rule under this Article to submit information as deemed necessary by the Director to determine whether a well may be endangering an USDW in violation of R18-9-B608 of this Part.
- B.** Such information requirements may include, but are not limited to:
1. Performance of ground-water monitoring and the periodic submission of reports of such monitoring;
 2. An analysis of injected fluids, including periodic submission of such analyses; and
 3. A description of the geologic strata through and into which injection is taking place.

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- C. Any request for information under this Section shall be made in writing, and include a brief statement of the reasons for requiring the information. An owner and operator shall submit the information within the time period or time periods provided in the notice.
- D. An owner or operator of an injection well authorized by rule under this Part is prohibited from injecting into the well upon failure of the owner or operator to comply with a request for information within the time period or time periods specified by the Director pursuant to subsection (C). An owner or operator of a well prohibited from injection under this Section shall not resume injection except under a permit issued pursuant to R18-9-I651; R18-9-C616, R18-9-C624, or R18-9-C625.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-I654. Class V; Prohibition of Class V Cesspools and Motor Vehicle Waste Disposal Wells

The construction and operation of cesspools and motor vehicle waste disposal wells are prohibited.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-I655. Class V; Prohibition of Non-Experimental Class V Wells for Geologic Sequestration

The construction, operation or maintenance of any non-experimental Class V geologic sequestration well is prohibited.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

PART J. CLASS VI INJECTION WELL REQUIREMENTS

R18-9-J656. Class VI; Applicability

- A. This Part establishes criteria and standards for underground injection control programs to regulate any Class VI carbon dioxide geologic sequestration injection wells.
- B. This Part applies to any well used to inject carbon dioxide specifically for the purpose of geologic sequestration.
- C. This Part also applies to owners or operators of permit- or rule-authorized Class V experimental carbon dioxide injection projects who seek to apply for Class VI geologic sequestration permit for their well or wells. Owners or operators seeking to convert existing Class I, Class II, or Class V experimental wells to Class VI geologic sequestration wells must demonstrate to the Director that the wells were engineered and constructed to meet the requirements of R18-9-J661 and ensure protection of USDWs, in lieu of requirements at R18-9-J661 and R18-9-J662. A converted well must still meet all other requirements under Part F of this Article.
- D. The following definitions apply to this Part and govern for Class VI wells to the extent that these definitions conflict with those in R18-9-A601:
1. "Area of review" means the region surrounding the geologic sequestration project where USDWs may be endangered by the injection activity. The area of review is delineated using computational modeling that accounts for the physical and chemical properties of all phases of the injected carbon dioxide stream and displaced fluids,

and is based on available site characterization, monitoring, and operational data as set forth in R18-9-J659.

2. "Carbon dioxide plume" means the extent underground, in three dimensions, of an injected carbon dioxide stream.
3. "Carbon dioxide stream" means carbon dioxide that has been captured from an emission source, plus incidental associated substances derived from the source materials and the capture process, and any substances added to the stream to enable or improve the injection process. This Part does not apply to any carbon dioxide stream that meets the definition of a hazardous waste under A.R.S. § 49-921.
4. "Confining zone" means a geologic formation, group of formations, or part of a formation stratigraphically overlying the injection zone or zones that acts as barrier to fluid movement. For Class VI wells operating under an injection depth waiver, confining zone means a geologic formation, group of formations, or part of a formation stratigraphically overlying and underlying the injection zone or zones.
5. "Corrective action" means the use of Director-approved methods to ensure that wells within the area of review do not serve as conduits for the movement of fluids into USDWs.
6. "Geologic sequestration" means the long-term containment of a gaseous, liquid, or supercritical carbon dioxide stream in subsurface geologic formations. This term does not apply to carbon dioxide capture or transport.
7. "Geologic sequestration project" means an injection well or wells used to emplace a carbon dioxide stream beneath the lowermost formation containing a USDW; or, wells used for geologic sequestration of carbon dioxide that have been granted a waiver of the injection depth requirements pursuant to requirements at R18-9-J670; or, wells used for geologic sequestration of carbon dioxide that have received an expansion to the areal extent of an existing Class II enhanced oil recovery or enhanced gas recovery aquifer exemption pursuant to R18-9-A605 and R18-9-A606. It includes the subsurface three-dimensional extent of the carbon dioxide plume, associated area of elevated pressure, and displaced fluids, as well as the surface area above that delineated region.
8. "Injection zone" means a geologic formation, group of formations, or part of a formation that is of sufficient areal extent, thickness, porosity, and permeability to receive carbon dioxide through a well or wells associated with a geologic sequestration project.
9. "Post-injection site care" means appropriate monitoring and other actions, including corrective action, needed following cessation of injection to ensure that USDWs are not endangered, as required under R18-9-J668.
10. "Pressure front" means the zone of elevated pressure that is created by the injection of carbon dioxide into the subsurface. For the purposes of this Part, the pressure front of a carbon dioxide plume refers to a zone where there is a pressure differential sufficient to cause the movement of injected fluids or formation fluids into a USDW.
11. "Site closure" means the point/time, as determined by the Director following the requirements under R18-9-J668, at which the owner or operator of a geologic sequestration site is released from post-injection site care responsibilities.

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12. “Transmissive fault” or “fracture” means a fault or fracture that has sufficient permeability and vertical extent to allow fluids to move between formations.

Historical Note

New Section made by final rulemaking at 28 A.A.R.
1903 (August 5, 2022), effective September 6, 2022
(Supp. 22-3).

R18-9-J657. Class VI; Required Permit Information

- A.** This Section sets forth the information which must be considered by the Director in authorizing Class VI wells. For converted Class I, Class II, or Class V experimental wells, certain maps, cross sections, tabulations of wells within the area of review and other data may be included in the application by reference provided they are current, readily available to the Director, and sufficiently identified to be retrieved.
- B.** Prior to the issuance of a permit for the construction of a new Class VI well or the conversion of an existing Class I, Class II, or Class V well to a Class VI well, the owner or operator shall submit, pursuant to R18-9-J666, and the Director shall consider the following:
1. Information required in R18-9-C616(D)(1) through (9);
 2. A map showing the injection well for which a permit is sought and the applicable area of review consistent with R18-9-J659. Within the area of review, the map must show the number or name, and location of all injection wells, producing wells, abandoned wells, plugged wells or dry holes, deep stratigraphic boreholes, State- or EPA-approved subsurface cleanup sites, surface bodies of water, springs, mines (surface and subsurface), quarries, water wells, other pertinent surface features including structures intended for human occupancy, State, Tribal, and Territory boundaries, and roads. The map should also show faults, if known or suspected. Only information of public record is required to be included on this map;
 3. Information on the geologic structure and hydrogeologic properties of the proposed storage site and overlying formations, including:
 - a. Maps and cross sections of the area of review;
 - b. The location, orientation, and properties of known or suspected faults and fractures that may transect the confining zone or zones in the area of review and a determination that they would not interfere with containment;
 - c. Data on the depth, areal extent, thickness, mineralogy, porosity, permeability, and capillary pressure of the injection and confining zone or zones; including geology/facies changes based on field data which may include geologic cores, outcrop data, seismic surveys, well logs, and names and lithologic descriptions;
 - d. Geomechanical information on fractures, stress, ductility, rock strength, and in situ fluid pressures within the confining zone or zones;
 - e. Information on the seismic history including the presence and depth of seismic sources and a determination that the seismicity would not interfere with containment; and
 - f. Geologic and topographic maps and cross sections illustrating regional geology, hydrogeology, and the geologic structure of the local area.
 4. A tabulation of all wells within the area of review which penetrate the injection or confining zone or zones. Such data must include a description of each well's type, construction, date drilled, location, depth, record of plugging and/or completion, and any additional information the Director may require;
 5. Maps and stratigraphic cross sections indicating the general vertical and lateral limits of all USDWs, water wells and springs within the area of review, their positions relative to the injection zone or zones, and the direction of water movement, where known;
 6. Baseline geochemical data on subsurface formations, including all USDWs in the area of review;
 7. Proposed operating data for the proposed geologic sequestration site:
 - a. Average and maximum daily rate and volume and/or mass and total anticipated volume and/or mass of the carbon dioxide stream;
 - b. Average and maximum injection pressure;
 - c. The source or sources of the carbon dioxide stream; and
 - d. An analysis of the chemical and physical characteristics of the carbon dioxide stream.
 8. Proposed pre-operational formation testing program to obtain an analysis of the chemical and physical characteristics of the injection zone or zones and confining zone or zones and that meets the requirements at R18-9-J662;
 9. Proposed stimulation program, a description of stimulation fluids to be used and a determination that stimulation will not interfere with containment;
 10. Proposed procedure to outline steps necessary to conduct injection operation;
 11. Schematics or other appropriate drawings of the surface and subsurface construction details of the well;
 12. Injection well construction procedures that meet the requirements of R18-9-J661;
 13. Proposed area of review and corrective action plan that meets the requirements under R18-9-J659;
 14. A demonstration, satisfactory to the Director, that the applicant has met the financial responsibility requirements under R18-9-J660;
 15. Proposed testing and monitoring plan required by R18-9-J665;
 16. Proposed injection well plugging plan required by R18-9-J667(B);
 17. Proposed post-injection site care and site closure plan required by R18-9-J668(A);
 18. At the Director's discretion, a demonstration of an alternative post-injection site care timeframe required by R18-9-J668(C);
 19. Proposed emergency and remedial response plan required by R18-9-J669;
 20. A list of contacts, submitted to the Director, for those States, Tribes, and Territories identified to be within the area of review of the Class VI project based on information provided in subsection (B)(2);
 21. A listing of any historic property or potential historic property as defined by R12-8-301; and
 22. Any other information requested by the Director.
- C.** The Director shall notify, in writing, any States, Tribes, or Territories within the area of review of the Class VI project based on information provided in subsections (B)(2) and (B)(20) of the permit application.
- D.** Prior to granting approval for the operation of a Class VI well, the Director shall consider the following information:
1. The final area of review based on modeling, using data obtained during logging and testing of the well and the

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formation as required by subsections (D)(2), (3), (4), (6), (7), and (10);

2. Any relevant updates, based on data obtained during logging and testing of the well and the formation as required by subsections (D)(3), (4), (6), (7), and (10), to the information on the geologic structure and hydrogeologic properties of the proposed storage site and overlying formations, submitted to satisfy the requirements of subsection (B)(3);
 3. Information on the compatibility of the carbon dioxide stream with fluids in the injection zone or zones and minerals in both the injection and the confining zone or zones, based on the results of the formation testing program, and with the materials used to construct the well;
 4. The results of the formation testing program required at subsection (B)(8);
 5. Final injection well construction procedures that meet the requirements of R18-9-J661;
 6. The status of corrective action on wells in the area of review;
 7. All available logging and testing program data on the well required by R18-9-J662;
 8. A demonstration of mechanical integrity pursuant to R18-9-J664;
 9. Any updates to the proposed area of review and corrective action plan, testing and monitoring plan, injection well plugging plan, post-injection site care and site closure plan, or the emergency and remedial response plan submitted under subsection (B), which are necessary to address new information collected during logging and testing of the well and the formation as required by all subsections of this Section, and any updates to the alternative post-injection site care timeframe demonstration submitted under subsection (B), which are necessary to address new information collected during the logging and testing of the well and the formation as required by this Section; and
 10. Any other information requested by the Director.
- E. Owners or operators seeking a waiver of the requirement to inject below the lowermost USDW must also refer to R18-9-J670 and submit a supplemental report, as required at R18-9-J670. The supplemental report is not part of the permit application.

Historical Note

New Section made by final rulemaking at 28 A.A.R.
1903 (August 5, 2022), effective September 6, 2022
(Supp. 22-3).

R18-9-J658. Class VI; Minimum Criteria for Siting

- A. Owners or operators of Class VI wells must demonstrate to the satisfaction of the Director that the wells will be sited in areas with a suitable geologic system. The owners or operators must demonstrate that the geologic system comprises:
1. An injection zone or zones of sufficient areal extent, thickness, porosity, and permeability to receive the total anticipated volume of the carbon dioxide stream.
 2. Confining zone or zones free of transmissive faults or fractures and of sufficient areal extent and integrity to contain the injected carbon dioxide stream and displaced formation fluids and allow injection at proposed maximum pressures and volumes without initiating or propagating fractures in the confining zone or zones.
- B. The Director may require owners or operators of Class VI wells to identify and characterize additional zones that will

impede vertical fluid movement, are free of faults and fractures that may interfere with containment, allow for pressure dissipation, and provide additional opportunities for monitoring, mitigation, and remediation.

Historical Note

New Section made by final rulemaking at 28 A.A.R.
1903 (August 5, 2022), effective September 6, 2022
(Supp. 22-3).

R18-9-J659. Class VI; Area of Review and Corrective Action

- A. The area of review is the region surrounding the geologic sequestration project where USDWs may be endangered by the injection activity. The area of review is delineated using computational modeling that accounts for the physical and chemical properties of all phases of the injected carbon dioxide stream and is based on available site characterization, monitoring, and operational data.
- B. The owner or operator of a Class VI well must prepare, maintain, and comply with a plan to delineate the area of review for a proposed geologic sequestration project, periodically reevaluate the delineation, and perform corrective action that meets the requirements of this Section and is acceptable to the Director. The requirement to maintain and implement an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit. As a part of the permit application for approval by the Director, the owner or operator must submit an area of review and corrective action plan that includes the following information:
1. The method for delineating the area of review that meets the requirements of subsection (C), including the model to be used, assumptions that will be made, and the site characterization data on which the model will be based.
 2. A description of:
 - a. The minimum fixed frequency, not to exceed five years, at which the owner or operator proposes to reevaluate the area of review;
 - b. The monitoring and operational conditions that would warrant a reevaluation of the area of review prior to the next scheduled reevaluation as determined by the minimum fixed frequency established in subsection (B)(2)(a);
 - c. How monitoring and operational data will be used to inform an area of review reevaluation; and
 - d. How corrective action will be conducted to meet the requirements of subsection (D), including what corrective action will be performed prior to injection and what, if any, portions of the area of review will have corrective action addressed on a phased basis and how the phasing will be determined; how corrective action will be adjusted if there are changes in the area of review; and how site access will be guaranteed for future corrective action.
- C. Owners or operators of Class VI wells must perform the following actions to delineate the area of review and identify all wells that require corrective action:
1. Predict, using existing site characterization, monitoring and operational data, and computational modeling, the projected lateral and vertical migration of the carbon dioxide plume and formation fluids in the subsurface from the commencement of injection activities until the plume movement ceases, until pressure differentials sufficient to cause the movement of injected fluids or formation fluids into a USDW are no longer present, or until

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the end of a fixed time period as determined by the Director. The model must:

- a. Be based on detailed geologic data collected to characterize the injection zone zones, confining zone or zones and any additional zones; and anticipated operating data, including injection pressures, rates, and total volumes over the proposed life of the geologic sequestration project;
 - b. Take into account any geologic heterogeneities, other discontinuities, data quality, and their possible impact on model predictions; and
 - c. Consider potential migration through faults, fractures, and artificial penetrations.
2. Using methods approved by the Director, identify all penetrations, including active and abandoned wells and underground mines, in the area of review that may penetrate the confining zone or zones. Provide a description of each well's type, construction, date drilled, location, depth, record of plugging and/or completion, and any additional information the Director may require; and
 3. Determine which abandoned wells in the area of review have been plugged in a manner that prevents the movement of carbon dioxide or other fluids that may endanger USDWs, including use of materials compatible with the carbon dioxide stream.
- D.** Owners or operators of Class VI wells must perform corrective action on all wells in the area of review that are determined to need corrective action, using methods designed to prevent the movement of fluid into or between USDWs, including use of materials compatible with the carbon dioxide stream, where appropriate.
- E.** At the minimum fixed frequency, not to exceed five years, as specified in the area of review and corrective action plan, or when monitoring and operational conditions warrant, owners or operators must:
1. Reevaluate the area of review in the same manner specified in subsection (C)(1);
 2. Identify all wells in the reevaluated area of review that require corrective action in the same manner specified in subsection (C);
 3. Perform corrective action on wells requiring corrective action in the reevaluated area of review in the same manner specified in subsection (C); and
 4. Submit an amended area of review and corrective action plan or demonstrate to the Director through monitoring data and modeling results that no amendment to the area of review and corrective action plan is needed. Any amendments to the area of review and corrective action plan must be approved by the Director, must be incorporated into the permit, and are subject to the permit modification requirements under R18-9-C632 or R18-9-C633, as appropriate.
- F.** The emergency and remedial response plan and the demonstration of financial responsibility must account for the area of review delineated as specified in subsection (C)(1) or the most recently evaluated area of review delineated under subsection (E), regardless of whether or not corrective action in the area of review is phased.
- G.** All modeling inputs and data used to support area of review reevaluations under subsection (E) shall be retained for 10 years.

Historical Note

New Section made by final rulemaking at 28 A.A.R.
1903 (August 5, 2022), effective September 6, 2022

(Supp. 22-3).

R18-9-J660. Class VI; Financial Responsibility

- A.** The owner or operator must demonstrate and maintain financial responsibility as determined by the Director that meets the following conditions:
1. The financial responsibility instrument or instruments used must be from the following list of qualifying instruments:
 - a. Trust Funds;
 - b. Surety Bonds;
 - c. Letter of Credit;
 - d. Insurance;
 - e. Self Insurance (i.e., Financial Test and Corporate Guarantee);
 - f. Escrow Account;
 - g. Any other instrument or instruments satisfactory to the Director.
 2. The qualifying instrument or instruments must be sufficient to cover the cost of:
 - a. Corrective action under R18-9-J659;
 - b. Injection well plugging under R18-9-J667;
 - c. Post injection site care and site closure under R18-9-J668; and
 - d. Emergency and remedial response under R18-9-J669.
 3. The financial responsibility instrument or instruments must be sufficient to address endangerment of USDWs.
 4. The qualifying financial responsibility instrument or instruments must comprise protective conditions of coverage.
 - a. Protective conditions of coverage must include at a minimum cancellation, renewal, and continuation provisions, specifications on when the provider becomes liable following a notice of cancellation if there is a failure to renew with a new qualifying financial instrument, and requirements for the provider to meet a minimum rating, minimum capitalization, and ability to pass the bond rating when applicable.
 - i. Cancellation – for purposes of this Part, an owner or operator must provide that their financial mechanism may not cancel, terminate or fail to renew except for failure to pay such financial instrument. If there is a failure to pay the financial instrument, the financial institution may elect to cancel, terminate, or fail to renew the instrument by sending notice by certified mail to the owner or operator and the Director. The cancellation must not be final for 120 days after receipt of cancellation notice. The owner or operator must provide an alternate financial responsibility demonstration within 60 days of notice of cancellation, and if an alternate financial responsibility demonstration is not acceptable (or possible), any funds from the instrument being cancelled must be released within 60 days of notification by the Director.
 - ii. Renewal – for purposes of this Part, owners or operators must renew all financial instruments, if an instrument expires, for the entire term of the geologic sequestration project. The instrument may be automatically renewed as long as the owner or operator has the option of renewal

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- at the face amount of the expiring instrument. The automatic renewal of the instrument must, at a minimum, provide the holder with the option of renewal at the face amount of the expiring financial instrument.
- iii. Cancellation, termination, or failure to renew may not occur and the financial instrument will remain in full force and effect in the event that on or before the date of expiration: The Director deems the facility abandoned; or the permit is terminated or revoked or a new permit is denied; or closure is ordered by the Director or a U.S. district court or other court of competent jurisdiction; or the owner or operator is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or the amount due is paid.
5. The qualifying financial responsibility instrument or instruments must be approved by the Director.
 - a. The Director shall consider and approve the financial responsibility demonstration for all the phases of the geologic sequestration project prior to issue a Class VI permit under R18-9-J657.
 - b. The owner or operator must provide any updated information related to their financial responsibility instrument or instruments on an annual basis and if there are any changes, the Director must evaluate, within a reasonable time, the financial responsibility demonstration to confirm that the instrument or instruments used remain adequate for use. The owner or operator must maintain financial responsibility requirements regardless of the status of the Director's review of the financial responsibility demonstration.
 - c. The Director may disapprove the use of a financial instrument if they determine that it is not sufficient to meet the requirements of this Section.
 6. The owner or operator may demonstrate financial responsibility by using one or multiple qualifying financial instruments for specific phases of the geologic sequestration project.
 - a. In the event that the owner or operator combines more than one instrument for a specific geologic sequestration phase such combination must be limited to instruments that are not based on financial strength or performance, for example trust funds, surety bonds guaranteeing payment into a trust fund, letters of credit, escrow account, and insurance. In this case, it is the combination of mechanisms, rather than the single mechanism, which must provide financial responsibility for an amount at least equal to the current cost estimate.
 - b. When using a third-party instrument to demonstrate financial responsibility, the owner or operator must provide a proof that the third-party providers either have passed financial strength requirements based on credit ratings; or has met a minimum rating, minimum capitalization, and ability to pass the bond rating when applicable.
 - c. An owner or operator using certain types of third-party instruments must establish a standby trust to enable ADEQ to be party to the financial responsibility agreement without ADEQ being the beneficiary of any funds. The standby trust fund must be used along with other financial responsibility instruments (e.g., surety bonds, letters of credit, or escrow accounts) to provide a location to place funds if needed.
 - d. An owner or operator may deposit money to an escrow account to cover financial responsibility requirements; this account must segregate funds sufficient to cover estimated costs for Class VI (geologic sequestration) financial responsibility from other accounts and uses.
 - e. An owner or operator or its guarantor may use self insurance to demonstrate financial responsibility for geologic sequestration projects. In order to satisfy this requirement the owner or operator must meet a Tangible Net Worth of an amount approved by the Director, have a Net working capital and tangible net worth each at least six times the sum of the current well plugging, post injection site care and site closure cost, have assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current well plugging, post injection site care and site closure cost, and must submit a report of its bond rating and financial information annually. In addition the owner or operator must either: Have a bond rating test of AAA, AA, A, or BBB as issued by Standard & Poor's or Aaa, Aa, A, or Baa as issued by Moody's; or meet all of the following five financial ratio thresholds: A ratio of total liabilities to net worth less than 2.0; a ratio of current assets to current liabilities greater than 1.5; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; A ratio of current assets minus current liabilities to total assets greater than -0.1; and a net profit (revenues minus expenses) greater than 0.
 - f. An owner or operator who is not able to meet corporate financial test criteria may arrange a corporate guarantee by demonstrating that its corporate parent meets the financial test requirements on its behalf. The parent's demonstration that it meets the financial test requirement is insufficient if it has not also guaranteed to fulfill the obligations for the owner or operator.
 - g. An owner or operator may obtain an insurance policy to cover the estimated costs of geologic sequestration activities requiring financial responsibility. This insurance policy must be obtained from a third party provider.
- B. The requirement to maintain adequate financial responsibility and resources is directly enforceable regardless of whether the requirement is a condition of the permit.
 1. The owner or operator must maintain financial responsibility and resources until:
 - a. The Director receives and approves the completed post-injection site care and site closure plan; and
 - b. The Director approves site closure.
 2. The owner or operator may be released from a financial instrument in the following circumstances:
 - a. The owner or operator has completed the phase of the geologic sequestration project for which the financial instrument was required and has fulfilled all its financial obligations as determined by the Director, including obtaining financial responsibility

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for the next phase of the geologic sequestration project, if required; or

- b. The owner or operator has submitted a replacement financial instrument and received written approval from the Director accepting the new financial instrument and releasing the owner or operator from the previous financial instrument.
- C. The owner or operator must have a detailed written estimate, in current dollars, of the cost of performing corrective action on wells in the area of review, plugging the injection well or wells, post-injection site care and site closure, and emergency and remedial response.
 1. The cost estimate must be performed for each phase separately and must be based on the costs to the regulatory agency of hiring a third party to perform the required activities. A third party is a party who is not within the corporate structure of the owner or operator.
 2. During the active life of the geologic sequestration project, the owner or operator must adjust the cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument or instruments used to comply with subsection (A) and provide this adjustment to the Director. The owner or operator must also provide to the Director written updates of adjustments to the cost estimate within 60 days of any amendments to the area of review and corrective action plan as required under R18-9-J659, the injection well plugging plan under R18-9-J667, the post-injection site care and site closure plan as required under R18-9-J668, and the emergency and remedial response plan as required under R18-9-J669.
 3. The Director must approve any decrease or increase to the initial cost estimate. During the active life of the geologic sequestration project, the owner or operator must revise the cost estimate no later than 60 days after the Director has approved the request to modify the area of review and corrective action plan as required under R18-9-J659, the injection well plugging plan under R18-9-J667, the post-injection site care and site closure plan as required under R18-9-J668, and the emergency and response plan as required under R18-9-J669, if the change in the plan increases the cost. If the change to the plans decreases the cost, any withdrawal of funds must be approved by the Director. Any decrease to the value of the financial assurance instrument must first be approved by the Director. The revised cost estimate must be adjusted for inflation as specified at subsection (C)(2).
 4. Whenever the current cost estimate increases to an amount greater than the face amount of a financial instrument currently in use, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current cost estimate and submit evidence of such increase to the Director, or obtain other financial responsibility instruments to cover the increase. Whenever the current cost estimate decreases, the face amount of the financial assurance instrument may be reduced to the amount of the current cost estimate only after the owner or operator has received written approval from the Director.
- D. The owner or operator must notify the Director by certified mail of adverse financial conditions such as bankruptcy that may affect the ability to carry out injection well plugging and post-injection site care and site closure.
 1. In the event that the owner or operator or the third party provider of a financial responsibility instrument is going through a bankruptcy, the owner or operator must notify the Director by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the owner or operator as debtor, within 10 days after commencement of the proceeding.
 2. A guarantor of a corporate guarantee must make such a notification to the Director if they are named as debtor, as required under the terms of the corporate guarantee.
 3. An owner or operator who fulfills the requirements of subsection (A) by obtaining a trust fund, surety bond, letter of credit, escrow account, or insurance policy will be deemed to be without the required financial assurance in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee of the institution issuing the trust fund, surety bond, letter of credit, escrow account, or insurance policy. The owner or operator must establish other financial assurance within 60 days after such an event.
- E. The owner or operator must provide an adjustment of the cost estimate to the Director within 60 days of notification by the Director, if the Director determines during the annual evaluation of the qualifying financial responsibility instrument or instruments that the most recent demonstration is no longer adequate to cover the cost of corrective action as required under R18-9-J659, injection well plugging under R18-9-J667, post-injection site care and site closure as required under R18-9-J668, and emergency and remedial response as required under R18-9-J669.
- F. The Director must approve the use and length of pay-in-periods for trust funds or escrow accounts.

Historical Note

New Section made by final rulemaking at 28 A.A.R.
1903 (August 5, 2022), effective September 6, 2022
(Supp. 22-3).

R18-9-J661. Class VI; Injection Well Construction Requirements

- A. The owner or operator must ensure that all Class VI wells are constructed and completed to:
 1. Prevent the movement of fluids into or between USDWs or into any unauthorized zones;
 2. Permit the use of appropriate testing devices and work-over tools; and
 3. Permit continuous monitoring of the annulus space between the injection tubing and long string casing.
- B. Casing and Cementing of Class VI Wells.
 1. Casing and cement or other materials used in the construction of each Class VI well must have sufficient structural strength and be designed for the life of the geologic sequestration project. All well materials must be compatible with fluids with which the materials may be expected to come into contact and must meet or exceed standards developed for such materials by the American Petroleum Institute, ASTM International, or comparable standards acceptable to the Director. The casing and cementing program must be designed to prevent the movement of fluids into or between USDWs. In order to allow the Director to determine and specify casing and cementing requirements, the owner or operator must provide the following information:

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- a. Depth to the injection zone or zones;
 - b. Injection pressure, external pressure, internal pressure, and axial loading;
 - c. Hole size;
 - d. Size and grade of all casing strings (wall thickness, external diameter, nominal weight, length, joint specification, and construction material);
 - e. Corrosiveness of the carbon dioxide stream and formation fluids;
 - f. Down-hole temperatures;
 - g. Lithology of injection and confining zone or zones;
 - h. Type or grade of cement and cement additives; and
 - i. Quantity, chemical composition, and temperature of the carbon dioxide stream.
2. Surface casing must extend through the base of the lowermost USDW and be cemented to the surface through the use of a single or multiple strings of casing and cement.
 3. At least one long string casing, using a sufficient number of centralizers, must extend to the injection zone and must be cemented by circulating cement to the surface in one or more stages.
 4. Circulation of cement may be accomplished by staging. The Director may approve an alternative method of cementing in cases where the cement cannot be recirculated to the surface, provided the owner or operator can demonstrate by using logs that the cement does not allow fluid movement behind the well bore.
 5. Cement and cement additives must be compatible with the carbon dioxide stream and formation fluids and of sufficient quality and quantity to maintain integrity over the design life of the geologic sequestration project. The integrity and location of the cement shall be verified using technology capable of evaluating cement quality radially and identifying the location of channels to ensure that USDWs are not endangered.
- C. Tubing and packer.**
1. Tubing and packer materials used in the construction of each Class VI well must be compatible with fluids with which the materials may be expected to come into contact and must meet or exceed standards developed for such materials by the American Petroleum Institute, ASTM International, or comparable standards acceptable to the Director.
 2. All owners or operators of Class VI wells must inject fluids through tubing with a packer set at a depth opposite a cemented interval at the location approved by the Director.
 3. In order for the Director to determine and specify requirements for tubing and packer, the owner or operator must submit the following information:
 - a. Depth of setting;
 - b. Characteristics of the carbon dioxide stream (chemical content, corrosiveness, temperature, and density) and formation fluids;
 - c. Maximum proposed injection pressure;
 - d. Maximum proposed annular pressure;
 - e. Proposed injection rate (intermittent or continuous) and volume and/or mass of the carbon dioxide stream;
 - f. Size of tubing and casing; and
 - g. Tubing tensile, burst, and collapse strengths.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022

(Supp. 22-3).

R18-9-J662. Class VI; Logging, Sampling, and Testing Prior to Well Operation

- A.** During the drilling and construction of a Class VI injection well, the owner or operator must run appropriate logs, surveys and tests to determine or verify the depth, thickness, porosity, permeability, and lithology of, and the salinity of any formation fluids in all relevant geologic formations to ensure conformance with the injection well construction requirements under R18-9-J661 and to establish accurate baseline data against which future measurements may be compared. The owner or operator must submit to the Director a descriptive report prepared by a knowledgeable log analyst that includes an interpretation of the results of such logs and tests. At a minimum, such logs and tests must include:
1. Deviation checks during drilling on all holes constructed by drilling a pilot hole which is enlarged by reaming or another method. Such checks must be at sufficiently frequent intervals to determine the location of the borehole and to ensure that vertical avenues for fluid movement in the form of diverging holes are not created during drilling; and
 2. Before and upon installation of the surface casing:
 - a. Resistivity, spontaneous potential, and caliper logs before the casing is installed; and
 - b. A cement bond and variable density log to evaluate cement quality radially, and a temperature log after the casing is set and cemented.
 3. Before and upon installation of the long string casing:
 - a. Resistivity, spontaneous potential, porosity, caliper, gamma ray, fracture finder logs, and any other logs the Director requires for the given geology before the casing is installed; and
 - b. A cement bond and variable density log, and a temperature log after the casing is set and cemented.
 4. A series of tests designed to demonstrate the internal and external mechanical integrity of injection wells, which may include:
 - a. A pressure test with liquid or gas;
 - b. A tracer survey such as oxygen-activation logging;
 - c. A temperature or noise log;
 - d. A casing inspection log; and
 5. Any alternative methods that provide equivalent or better information and that are required by and/or approved of by the Director.
- B.** The owner or operator must take whole cores or sidewall cores of the injection zone and confining system and formation fluid samples from the injection zone or zones, and must submit to the Director a detailed report prepared by a log analyst that includes: Well log analyses (including well logs), core analyses, and formation fluid sample information. The Director may accept information on cores from nearby wells if the owner or operator can demonstrate that core retrieval is not possible and that such cores are representative of conditions at the well. The Director may require the owner or operator to core other formations in the borehole.
- C.** The owner or operator must record the fluid temperature, pH, conductivity, reservoir pressure, and static fluid level of the injection zone or zones.
- D.** At a minimum, the owner or operator must determine or calculate the following information concerning the injection and confining zone or zones:
1. Fracture pressure;

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2. Other physical and chemical characteristics of the injection and confining zone or zones; and
 3. Physical and chemical characteristics of the formation fluids in the injection zone or zones.
- E. Upon completion, but prior to operation, the owner or operator must conduct the following tests to verify hydrogeologic characteristics of the injection zone or zones:
1. A pressure fall-off test; and,
 2. A pump test; or
 3. Injectivity tests.
- F. The owner or operator must provide the Director with the opportunity to witness all logging and testing by this Part. The owner or operator must submit a schedule of such activities to the Director 30 days prior to conducting the first test and submit any changes to the schedule 30 days prior to the next scheduled test.

Historical Note

New Section made by final rulemaking at 28 A.A.R.
1903 (August 5, 2022), effective September 6, 2022
(Supp. 22-3).

R18-9-J663. Class VI; Injection Well Operating Requirements

- A. Except during stimulation, the owner or operator must ensure that injection pressure does not exceed 90 percent of the fracture pressure of the injection zone or zones so as to ensure that the injection does not initiate new fractures or propagate existing fractures in the injection zone or zones. In no case may injection pressure initiate fractures in the confining zone or zones or cause the movement of injection or formation fluids that endangers a USDW. Pursuant to requirements at R18-9-J657(B)(9), all stimulation programs must be approved by the Director as part of the permit application and incorporated into the permit.
- B. Injection between the outermost casing protecting USDWs and the well bore is prohibited.
- C. The owner or operator must fill the annulus between the tubing and the long string casing with a non-corrosive fluid approved by the Director. The owner or operator must maintain on the annulus a pressure that exceeds the operating injection pressure, unless the Director determines that such requirement might harm the integrity of the well or endanger USDWs.
- D. Other than during periods of well workover (maintenance) approved by the Director in which the sealed tubing-casing annulus is disassembled for maintenance or corrective procedures, the owner or operator must maintain mechanical integrity of the injection well at all times.
- E. The owner or operator must install and use:
1. Continuous recording devices to monitor: The injection pressure; the rate, volume and/or mass, and temperature of the carbon dioxide stream; and the pressure on the annulus between the tubing and the long string casing and annulus fluid volume; and
 2. Alarms and automatic surface shut-off systems or, at the discretion of the Director, down-hole shut-off systems for onshore wells or, other mechanical devices that provide equivalent protection.
- F. If a shutdown (such as down-hole or at the surface) is triggered or a loss of mechanical integrity is discovered, the owner or operator must immediately investigate and identify as expeditiously as possible the cause of the shutoff. If, upon such investigation, the well appears to be lacking mechanical integrity, or if monitoring required under subsection (E) otherwise indicates that the well may be lacking mechanical integrity, the owner or operator must:

1. Immediately cease injection;
2. Take all steps reasonably necessary to determine whether there may have been a release of the injected carbon dioxide stream or formation fluids into any unauthorized zone;
3. Notify the Director within 24 hours;
4. Restore and demonstrate mechanical integrity to the satisfaction of the Director prior to resuming injection; and
5. Notify the Director when injection can be expected to resume.

Historical Note

New Section made by final rulemaking at 28 A.A.R.
1903 (August 5, 2022), effective September 6, 2022
(Supp. 22-3).

R18-9-J664. Class VI; Mechanical Integrity

- A. A Class VI well has mechanical integrity if:
1. There is no significant leak in the casing, tubing, or packer; and
 2. There is no significant fluid movement into a USDW through channels adjacent to the injection well bore.
- B. To evaluate the absence of significant leaks under subsection (A)(1), owners or operators must, following an initial annulus pressure test, continuously monitor injection pressure, rate, injected volumes; pressure on the annulus between tubing and long-string casing; and annulus fluid volume as specified in R18-9-J663;
- C. At least once per year, the owner or operator must use one of the following methods to determine the absence of significant fluid movement under subsection (A)(2):
1. An approved tracer survey such as an oxygen-activation log; or
 2. A temperature or noise log.
- D. If required by the Director, at a frequency specified in the testing and monitoring plan required at R18-9-J665, the owner or operator must run a casing inspection log to determine the presence or absence of corrosion in the long-string casing.
- E. The Director may require any other test to evaluate mechanical integrity under subsections (A)(1) or (2). Also, the Director may allow the use of a test to demonstrate mechanical integrity other than those listed above with the written approval of the Administrator. To obtain approval for a new mechanical integrity test, the Director must submit a written request to the Administrator setting forth the proposed test and all technical data supporting its use.
- F. In conducting and evaluating the tests enumerated in this Section or others to be allowed by the Director, the owner or operator and the Director must apply methods and standards generally accepted in the industry. When the owner or operator reports the results of mechanical integrity tests to the Director, they shall include a description of the test or tests and the method or methods used. In making his or her evaluation, the Director must review monitoring and other test data submitted since the previous evaluation.
- G. The Director may require additional or alternative tests if the results presented by the owner or operator under subsections (A) through (F) are not satisfactory to the Director to demonstrate that there is no significant leak in the casing, tubing, or packer, or to demonstrate that there is no significant movement of fluid into a USDW resulting from the injection activity as stated in subsections (A)(1) and (2).

Historical Note

New Section made by final rulemaking at 28 A.A.R.
1903 (August 5, 2022), effective September 6, 2022

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(Supp. 22-3).

R18-9-J665. Class VI; Testing and Monitoring Requirements

The owner or operator of a Class VI well must prepare, maintain, and comply with a testing and monitoring plan to verify that the geologic sequestration project is operating as permitted and is not endangering USDWs. The requirement to maintain and implement an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit. The testing and monitoring plan must be submitted with the permit application, for Director approval, and must include a description of how the owner or operator will meet the requirements of this Section, including accessing sites for all necessary monitoring and testing during the life of the project. Testing and monitoring associated with geologic sequestration projects must, at a minimum, include:

1. Analysis of the carbon dioxide stream with sufficient frequency to yield data representative of its chemical and physical characteristics;
2. Installation and use, except during well workovers as defined in R18-9-J663, of continuous recording devices to monitor injection pressure, rate, and volume; the pressure on the annulus between the tubing and the long string casing; and the annulus fluid volume added;
3. Corrosion monitoring of the well materials for loss of mass, thickness, cracking, pitting, and other signs of corrosion, which must be performed on a quarterly basis to ensure that the well components meet the minimum standards for material strength and performance set forth in R18-9-J661, by:
 - a. Analyzing coupons of the well construction materials placed in contact with the carbon dioxide stream; or
 - b. Routing the carbon dioxide stream through a loop constructed with the material used in the well and inspecting the materials in the loop; or
 - c. Using an alternative method approved by the Director;
4. Periodic monitoring of the ground water quality and geochemical changes above the confining zone or zones that may be a result of carbon dioxide movement through the confining zone or zones or additional identified zones including:
 - a. The location and number of monitoring wells based on specific information about the geologic sequestration project, including injection rate and volume, geology, the presence of artificial penetrations, and other factors; and
 - b. The monitoring frequency and spatial distribution of monitoring wells based on baseline geochemical data that has been collected under R18-9-J657 and on any modeling results in the area of review evaluation required by R18-9-J659(C).
5. A demonstration of external mechanical integrity pursuant to R18-9-J664(C) at least once per year until the injection well is plugged; and, if required by the Director, a casing inspection log pursuant to requirements under R18-9-J664(D) at a frequency established in the testing and monitoring plan;
6. A pressure fall-off test at least once every five years unless more frequent testing is required by the Director based on site-specific information;
7. Testing and monitoring to track the extent of the carbon dioxide plume and the presence or absence of elevated pressure (e.g., the pressure front) by using:
 - a. Direct methods in the injection zone or zones; and,

- b. Indirect methods (e.g., seismic, electrical, gravity, or electromagnetic surveys and/or down-hole carbon dioxide detection tools), unless the Director determines, based on site-specific geology, that such methods are not appropriate;
8. The Director may require surface air monitoring and/or soil gas monitoring to detect movement of carbon dioxide that could endanger a USDW.
 - a. Design of Class VI surface air and/or soil gas monitoring must be based on potential risks to USDWs within the area of review;
 - b. The monitoring frequency and spatial distribution of surface air monitoring and/or soil gas monitoring must be decided using baseline data, and the monitoring plan must describe how the proposed monitoring will yield useful information on the area of review delineation and/or compliance with standards under R18-9-B608;
 - c. If an owner or operator demonstrates that monitoring employed under 40 CFR §§ 98.440 to 98.449 (Clean Air Act, 42 U.S.C. 7401 et seq.) accomplishes the goals of subsections (A)(8)(a) and (b), and meets the requirements pursuant to R18-9-J666(3)(e), a Director that requires surface air/soil gas monitoring must approve the use of monitoring employed under 40 CFR §§ 98.440 to 98.449. Compliance with 40 CFR §§ 98.440 to 98.449 pursuant to this provision is considered a condition of the Class VI permit;
 9. Any additional monitoring, as required by the Director, necessary to support, upgrade, and improve computational modeling of the area of review evaluation required under R18-9-J659(C) and to determine compliance with standards under R18-9-B608;
 10. The owner or operator shall periodically review the testing and monitoring plan to incorporate monitoring data collected under this Part, operational data collected under R18-9-J663, and the most recent area of review reevaluation performed under R18-9-J659(E). In no case shall the owner or operator review the testing and monitoring plan less often than once every five years. Based on this review, the owner or operator shall submit an amended testing and monitoring plan or demonstrate to the Director that no amendment to the testing and monitoring plan is needed. Any amendments to the testing and monitoring plan must be approved by the Director, must be incorporated into the permit, and are subject to the permit modification requirements under R18-9-C632 or R18-9-C633, as appropriate. Amended plans or demonstrations shall be submitted to the Director as follows:
 - a. Within one year of an area of review reevaluation;
 - b. Following any significant changes to the facility, such as addition of monitoring wells or newly permitted injection wells within the area of review, on a schedule determined by the Director; or
 - c. When required by the Director.
 11. A quality assurance and surveillance plan for all testing and monitoring requirements.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-J666. Class VI; Reporting Requirements

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The owner or operator must provide at a minimum, the following reports to the Director, and as specified in subsection (5) to EPA, for each permitted Class VI well:

1. Semi-annual reports containing:
 - a. Any changes to the physical, chemical, and other relevant characteristics of the carbon dioxide stream from the proposed operating data;
 - b. Monthly average, maximum, and minimum values for injection pressure, flow rate and volume, and annular pressure;
 - c. A description of any event that exceeds operating parameters for annulus pressure or injection pressure specified in the permit;
 - d. A description of any event which triggers a shut-off device required pursuant to R18-9-J663(E) and the response taken;
 - e. The monthly volume and/or mass of the carbon dioxide stream injected over the reporting period and the volume injected cumulatively over the life of the project;
 - f. Monthly annulus fluid volume added; and
 - g. The results of monitoring prescribed under R18-9-J665.
2. Report, within 30 days, the results of:
 - a. Periodic tests of mechanical integrity;
 - b. Any well workover; and,
 - c. Any other test of the injection well conducted by the permittee if required by the Director.
3. Report, within 24 hours:
 - a. Any evidence that the injected carbon dioxide stream or associated pressure front may cause an endangerment to a USDW;
 - b. Any noncompliance with a permit condition, or malfunction of the injection system, which may cause fluid migration into or between USDWs;
 - c. Any triggering of a shut-off system (i.e., down-hole or at the surface);
 - d. Any failure to maintain mechanical integrity; or
 - e. Pursuant to compliance with the requirement at R18-9-J665(8) for surface air/soil gas monitoring or other monitoring technologies, if required by the Director, any release of carbon dioxide to the atmosphere or biosphere.
4. Owners or operators must notify the Director in writing 30 days in advance of:
 - a. Any planned well workover;
 - b. Any planned stimulation activities, other than stimulation for formation testing conducted under R18-9-J657; and
 - c. Any other planned test of the injection well conducted by the permittee.
5. Owners or operators must submit all required reports, submittals, and notifications under Part J of this Article to EPA in an electronic format approved by EPA.
6. Records shall be retained by the owner or operator as follows:
 - a. All data collected under R18-9-J657 for Class VI permit applications shall be retained throughout the life of the geologic sequestration project and for 10 years following site closure.
 - b. Data on the nature and composition of all injected fluids collected pursuant to R18-9-J665(1) shall be retained until 10 years after site closure. The Director may require the owner or operator to deliver the

records to the Director at the conclusion of the retention period.

- c. Monitoring data collected pursuant to R18-9-J665(2) through (9) shall be retained for 10 years after it is collected.
- d. Well plugging reports, post-injection site care data, including, if appropriate, data and information used to develop the demonstration of the alternative post-injection site care timeframe, and the site closure report collected pursuant to requirements at R18-9-J668(F) and (H) shall be retained for 10 years following site closure.
- e. The Director has authority to require the owner or operator to retain any records required in this Part for longer than 10 years after site closure.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-J667. Class VI; Injection Well Plugging

- A. Prior to the well plugging, the owner or operator must flush each Class VI injection well with a buffer fluid, determine bottomhole reservoir pressure, and perform a final external mechanical integrity test.
- B. The owner or operator of a Class VI well must prepare, maintain, and comply with a plan that is acceptable to the Director. The requirement to maintain and implement an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit. The well plugging plan must be submitted as part of the permit application and must include the following information:
 1. Appropriate tests or measures for determining bottomhole reservoir pressure;
 2. Appropriate testing methods to ensure external mechanical integrity as specified in R18-9-J664;
 3. The type and number of plugs to be used;
 4. The placement of each plug, including the elevation of the top and bottom of each plug;
 5. The type, grade, and quantity of material to be used in plugging. The material must be compatible with the carbon dioxide stream; and
 6. The method of placement of the plugs.
- C. The owner or operator must notify the Director in writing pursuant to R18-9-J666(5), at least 60 days before plugging of a well. At this time, if any changes have been made to the original well plugging plan, the owner or operator must also provide the revised well plugging plan. The Director may allow for a shorter notice period. Any amendments to the injection well plugging plan must be approved by the Director, must be incorporated into the permit, and are subject to the permit modification requirements at R18-9-C632 or R18-9-C633, as appropriate.
- D. Within 60 days after plugging, the owner or operator must submit, pursuant to R18-9-J666(5), a plugging report to the Director. The report must be certified as accurate by the owner or operator and by the person who performed the plugging operation, if other than the owner or operator. The owner or operator shall retain the well plugging report for 10 years following site closure.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022

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(Supp. 22-3).

R18-9-J668. Class VI; Post-Injection Site Care and Site Closure

- A.** The owner or operator of a Class VI well must prepare, maintain, and comply with a plan for post-injection site care and site closure that meets the requirements of subsection (A)(2) and is acceptable to the Director. The requirement to maintain and implement an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit.
1. The owner or operator must submit the post-injection site care and site closure plan as a part of the permit application to be approved by the Director.
 2. The post-injection site care and site closure plan must include the following information:
 - a. The pressure differential between pre-injection and predicted post-injection pressures in the injection zone or zones;
 - b. The predicted position of the carbon dioxide plume and associated pressure front at site closure as demonstrated in the area of review evaluation required under R18-9-J659(C)(1);
 - c. A description of post-injection monitoring location, methods, and proposed frequency;
 - d. A proposed schedule for submitting post-injection site care monitoring results to the Director pursuant to R18-9-J666(5); and
 - e. The duration of the post-injection site care timeframe and, if approved by the Director, the demonstration of the alternative post-injection site care timeframe that ensures non-endangerment of USDWs.
 3. Upon cessation of injection, owners or operators of Class VI wells must either submit an amended post-injection site care and site closure plan or demonstrate to the Director through monitoring data and modeling results that no amendment to the plan is needed. Any amendments to the post-injection site care and site closure plan must be approved by the Director, be incorporated into the permit, and are subject to the permit modification requirements at R18-9-C632 or R18-9-C633, as appropriate.
 4. At any time during the life of the geologic sequestration project, the owner or operator may modify and resubmit the post-injection site care and site closure plan for the Director's approval within 30 days of such change.
- B.** The owner or operator shall monitor the site following the cessation of injection to show the position of the carbon dioxide plume and pressure front and demonstrate that USDWs are not being endangered.
1. Following the cessation of injection, the owner or operator shall continue to conduct monitoring as specified in the Director-approved post-injection site care and site closure plan for at least 50 years or for the duration of the alternative timeframe approved by the Director pursuant to requirements in subsection (C), unless they make a demonstration under subsection (B)(2). The monitoring must continue until the geologic sequestration project no longer poses an endangerment to USDWs and the demonstration under subsection (B)(2) is submitted and approved by the Director.
 2. If the owner or operator can demonstrate to the satisfaction of the Director before 50 years or prior to the end of the approved alternative timeframe based on monitoring and other site-specific data, that the geologic sequestration project no longer poses an endangerment to USDWs, the Director may approve an amendment to the post-injection site care and site closure plan to reduce the frequency of monitoring or may authorize site closure before the end of the 50-year period or prior to the end of the approved alternative timeframe, where they have substantial evidence that the geologic sequestration project no longer poses a risk of endangerment to USDWs.
 3. Prior to authorization for site closure, the owner or operator must submit to the Director for review and approval a demonstration, based on monitoring and other site-specific data, that no additional monitoring is needed to ensure that the geologic sequestration project does not pose an endangerment to USDWs.
 4. If the demonstration in subsection (B)(3) cannot be made at the end of the 50-year period or at the end of the approved alternative timeframe, or if the Director does not approve the demonstration, the owner or operator must submit to the Director a plan to continue post-injection site care until a demonstration can be made and approved by the Director.
- C.** At the Director's discretion, the Director may approve, in consultation with EPA, an alternative post-injection site care timeframe other than the 50-year default, if an owner or operator can demonstrate during the permitting process that an alternative post-injection site care timeframe is appropriate and ensures non-endangerment of USDWs. The demonstration must be based on significant, site-specific data and information including all data and information collected pursuant to R18-9-J657 or R18-9-J658, and must contain substantial evidence that the geologic sequestration project will no longer pose a risk of endangerment to USDWs at the end of the alternative post-injection site care timeframe.
1. A demonstration of an alternative post-injection site care timeframe must include consideration and documentation of:
 - a. The results of computational modeling performed pursuant to delineation of the area of review under R18-9-J659;
 - b. The predicted timeframe for pressure decline within the injection zone, and any other zones, such that formation fluids may not be forced into any USDWs; and/or the timeframe for pressure decline to pre-injection pressures;
 - c. The predicted rate of carbon dioxide plume migration within the injection zone, and the predicted timeframe for the cessation of migration;
 - d. A description of the site-specific processes that will result in carbon dioxide trapping including immobilization by capillary trapping, dissolution, and mineralization at the site;
 - e. The predicted rate of carbon dioxide trapping in the immobile capillary phase, dissolved phase, and/or mineral phase;
 - f. The results of laboratory analyses, research studies, and/or field or site-specific studies to verify the information required in subsection (C)(1)(d) and (C)(1)(e);
 - g. A characterization of the confining zone or zones including a demonstration that it is free of transmissive faults, fractures, and micro-fractures and of appropriate thickness, permeability, and integrity to impede fluid movement, such as carbon dioxide and formation fluids;

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- h. The presence of potential conduits for fluid movement including planned injection wells and project monitoring wells associated with the proposed geologic sequestration project or any other projects in proximity to the predicted/modeled, final extent of the carbon dioxide plume and area of elevated pressure;
 - i. A description of the well construction and an assessment of the quality of plugs of all abandoned wells within the area of review;
 - j. The distance between the injection zone and the nearest USDWs above and/or below the injection zone; and
 - k. Any additional site-specific factors required by the Director.
2. Information submitted to support the demonstration in subsection (C)(1) must meet the following criteria:
- a. All analyses and tests performed to support the demonstration must be accurate, reproducible, and performed in accordance with the established quality assurance standards;
 - b. Estimation techniques must be appropriate and EPA-certified test protocols must be used where available;
 - c. Predictive models must be appropriate and tailored to the site conditions, composition of the carbon dioxide stream and injection and site conditions over the life of the geologic sequestration project;
 - d. Predictive models must be calibrated using existing information where sufficient data are available;
 - e. Reasonably conservative values and modeling assumptions must be used and disclosed to the Director whenever values are estimated on the basis of known, historical information instead of site-specific measurements;
 - f. An analysis must be performed to identify and assess aspects of the alternative post-injection site care timeframe demonstration that contribute significantly to uncertainty. The owner or operator must conduct sensitivity analyses to determine the effect that significant uncertainty may contribute to the modeling demonstration;
 - g. An approved quality assurance and quality control plan must address all aspects of the demonstration; and
 - h. Any additional criteria required by the Director.
- D.** The owner or operator must notify the Director in writing at least 120 days before site closure. At this time, if any changes have been made to the original post-injection site care and site closure plan, the owner or operator must also provide the revised plan. The Director may allow for a shorter notice period.
- E.** After the Director has authorized site closure, the owner or operator must plug all monitoring wells in a manner which will not allow movement of injection or formation fluids that endangers a USDW.
- F.** The owner or operator must submit a site closure report to the Director within 90 days of site closure, which must thereafter be retained at a location designated by the Director for 10 years. The report must include:
- 1. Documentation of appropriate injection and monitoring well plugging as specified in R18-9-J667 and subsection (E). The owner or operator must provide a copy of a survey plat which has been submitted to the local zoning authority designated by the Director. The plat must indicate the location of the injection well relative to permanently surveyed benchmarks. The owner or operator must also submit a copy of the plat to the Administrator of EPA Region 9;
 - 2. Documentation of appropriate notification and information to such State, local and Tribal authorities that have authority over drilling activities to enable such State, local, and Tribal authorities to impose appropriate conditions on subsequent drilling activities that may penetrate the injection and confining zone or zones; and
 - 3. Records reflecting the nature, composition, and volume of the carbon dioxide stream.
- G.** Each owner or operator of a Class VI injection well must record a notation on the deed to the facility property or any other document that is normally examined during Title search that will in perpetuity provide any potential purchaser of the property the following information:
- 1. The fact that land has been used to sequester carbon dioxide;
 - 2. The name of the State agency, local authority, and/or Tribe with which the survey plat was filed, as well as the address of the Environmental Protection Agency Regional Office to which it was submitted; and
 - 3. The volume of fluid injected, the injection zone or zones into which it was injected, and the period over which injection occurred.
- H.** The owner or operator must retain for 10 years following site closure, records collected during the post-injection site care period. The owner or operator must deliver the records to the Director at the conclusion of the retention period, and the records must thereafter be retained at a location designated by the Director for that purpose.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

R18-9-J669. Class VI; Emergency and Remedial Response

- A.** As part of the permit application, the owner or operator must provide the Director with an emergency and remedial response plan that describes actions the owner or operator must take to address movement of the injection or formation fluids that may cause an endangerment to a USDW during construction, operation, and post-injection site care periods. The requirement to maintain and implement an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit.
- B.** If the owner or operator obtains evidence that the injected carbon dioxide stream and associated pressure front may cause an endangerment to a USDW, the owner or operator must:
- 1. Immediately cease injection;
 - 2. Take all steps reasonably necessary to identify and characterize any release;
 - 3. Notify the Director within 24 hours; and
 - 4. Implement the emergency and remedial response plan approved by the Director.
- C.** The Director may allow the operator to resume injection prior to remediation if the owner or operator demonstrates that the injection operation will not endanger USDWs.
- D.** The owner or operator shall periodically review the emergency and remedial response plan developed under subsection (A). In no case shall the owner or operator review the emergency and remedial response plan less often than once every five

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years. Based on this review, the owner or operator shall submit an amended emergency and remedial response plan or demonstrate to the Director that no amendment to the emergency and remedial response plan is needed. Any amendments to the emergency and remedial response plan must be approved by the Director, must be incorporated into the permit, and are subject to the permit modification requirements at R18-9-C632 or R18-9-C633, as appropriate. Amended plans or demonstrations shall be submitted to the Director as follows:

1. Within one year of an area of review reevaluation;
2. Following any significant changes to the facility, such as addition of injection or monitoring wells, on a schedule determined by the Director; or
3. When required by the Director.

Historical Note

New Section made by final rulemaking at 28 A.A.R.
1903 (August 5, 2022), effective September 6, 2022
(Supp. 22-3).

R18-9-J670. Class VI; Injection Depth Waiver Requirements

- A. This Section sets forth information which an owner or operator seeking a waiver of the Class VI injection depth requirements must submit to the Director; information the Director must consider in consultation with all affected Public Water System Supervision Directors; the procedure for Director-- Administrator communication and waiver issuance; and the additional requirements that apply to owners or operators of Class VI wells granted a waiver of the injection depth requirements.
- B. In seeking a waiver of the requirement to inject below the lowermost USDW, the owner or operator must submit a supplemental report concurrent with permit application. The supplemental report must include the following:
 1. A demonstration that the injection zone or zones is/are laterally continuous, is not a USDW, and is not hydraulically connected to USDWs; does not outcrop; has adequate injectivity, volume, and sufficient porosity to safely contain the injected carbon dioxide and formation fluids; and has appropriate geochemistry.
 2. A demonstration that the injection zone or zones is/are bounded by laterally continuous, impermeable confining units above and below the injection zone or zones adequate to prevent fluid movement and pressure buildup outside of the injection zone or zones; and that the confining unit or units is/are free of transmissive faults and fractures. The report shall further characterize the regional fracture properties and contain a demonstration that such fractures will not interfere with injection, serve as conduits, or endanger USDWs.
 3. A demonstration, using computational modeling, that USDWs above and below the injection zone will not be endangered as a result of fluid movement. This modeling should be conducted in conjunction with the area of review determination, as described in R18-9-J659, and is subject to requirements, as described in R18-9-J659(C), and periodic reevaluation, as described in R18-9-J659(E).
 4. A demonstration that well design and construction, in conjunction with the waiver, will ensure isolation of the injectate in lieu of requirements at R18-9-J661(A)(1) and will meet well construction requirements in subsection (G).
 5. A description of how the monitoring and testing and any additional plans will be tailored to the geologic sequestration project to ensure protection of USDWs above and below the injection zone or zones, if a waiver is granted.

6. Information on the location of all the public water supplies affected, reasonably likely to be affected, or served by USDWs in the area of review.
7. Any other information requested by the Director to inform the Administrator's decision to issue a waiver.
- C. To inform the Administrator's decision on whether to grant a waiver of the injection depth requirements at R18-9-A604 and R18-9-J661(A)(1), the Director must submit, to the Administrator, documentation of the following:
 1. An evaluation of the following information as it relates to siting, construction, and operation of a geologic sequestration project with a waiver:
 - a. The integrity of the upper and lower confining units;
 - b. The suitability of the injection zone or zones, such as lateral continuity, lack of transmissive faults and fractures, knowledge of current or planned artificial penetrations into the injection zone or zones, or formations below the injection zone;
 - c. The potential capacity of the geologic formation or formations to sequester carbon dioxide, accounting for the availability of alternative injection sites;
 - d. All other site characterization data, the proposed emergency and remedial response plan, and a demonstration of financial responsibility;
 - e. Community needs, demands, and supply from drinking water resources;
 - f. Planned needs, potential and/or future use of USDWs and non-USDWs in the area;
 - g. Planned or permitted water, hydrocarbon, or mineral resource exploitation potential of the proposed injection formation or formations and other formations both above and below the injection zone to determine if there are any plans to drill through the formation to access resources in or beneath the proposed injection zone or zones/formation or formations;
 - h. The proposed plan for securing alternative resources or treating USDW formation waters in the event of contamination related to the Class VI injection activity; and,
 - i. Any other applicable considerations or information requested by the Director.
 2. Consultation with the Public Water System Supervision Directors of all States and Tribes having jurisdiction over lands within the area of review of a well for which a waiver is sought.
 3. Any written waiver-related information submitted by the Public Water System Supervision Director or Directors to the (UIC) Director.
- D. Pursuant to requirements at R18-9-C620 and concurrent with the Class VI permit application notice process, the Director shall give public notice that a waiver application has been submitted. The notice shall clearly state:
 1. The depth of the proposed injection zone or zones;
 2. The location of the injection well or wells;
 3. The name and depth of all USDWs within the area of review;
 4. A map of the area of review;
 5. The names of any public water supplies affected, reasonably likely to be affected, or served by USDWs in the area of review; and,
 6. The results of UIC-Public Water System Supervision consultation required under subsection (C)(2).

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- E. Following public notice, the Director shall provide all information received through the waiver application process to the Administrator. Based on the information provided, the Administrator shall provide written concurrence or non-concurrence regarding waiver issuance.
1. If the Administrator determines that additional information is required to support a decision, the Director shall provide the information. At the Administrator's discretion, they may require that public notice of the new information be initiated.
 2. In no case shall a Director of a State-approved program issue a waiver without receipt of written concurrence from the Administrator.
- F. If a waiver is issued, within 30 days of waiver issuance, EPA shall post the following information on the Office of Water's Web site:
1. The depth of the proposed injection zone or zones;
 2. The location of the injection well or wells;
 3. The name and depth of all USDWs within the area of review;
 4. A map of the area of review;
 5. The names of any public water supplies affected, reasonably likely to be affected, or served by USDWs in the area of review; and
 6. The date of waiver issuance.
- G. Upon receipt of a waiver of the requirement to inject below the lowermost USDW for geologic sequestration, the owner or operator of the Class VI well must comply with:
1. All requirements at R18-9-J659, R18-9-J660, R18-9-J662, R18-9-J663, R18-9-J664, R18-9-J666, R18-9-J667, and R18-9-J669;
 2. All requirements at R18-9-J661 with the following modified requirements:
 - a. The owner or operator must ensure that Class VI wells with a waiver are constructed and completed to prevent movement of fluids into any unauthorized zones including USDWs, in lieu of requirements at R18-9-J661(A)(1).
 - b. The casing and cementing program must be designed to prevent the movement of fluids into any unauthorized zones including USDWs in lieu of requirements at R18-9-J661(B)(1).
 - c. The surface casing must extend through the base of the nearest USDW directly above the injection zone and be cemented to the surface; or, at the Director's discretion, another formation above the injection zone and below the nearest USDW above the injection zone.
 3. All requirements at R18-9-J665 with the following modified requirements:
 - a. The owner or operator shall monitor the groundwater quality, geochemical changes, and pressure in the first USDWs immediately above and below the injection zone or zones; and in any other formations at the discretion of the Director.
 - b. Testing and monitoring to track the extent of the carbon dioxide plume and the presence or absence of elevated pressure by using direct methods to monitor for pressure changes in the injection zone or zones; and, indirect methods (such as seismic, electrical, gravity, or electromagnetic surveys and/or down-hole carbon dioxide detection tools), unless the Director determines, based on site-specific geology, that such methods are not appropriate.
 4. All requirements at R18-9-J668 with the following, modified post-injection site care monitoring requirements:
 - a. The owner or operator shall monitor the groundwater quality, geochemical changes and pressure in the first USDWs immediately above and below the injection zone; and in any other formations at the discretion of the Director.
 - b. Testing and monitoring to track the extent of the carbon dioxide plume and the presence or absence of elevated pressure by using direct methods in the injection zone or zones; and indirect methods, unless the Director determines based on site-specific geology, that such methods are not appropriate.
 5. Any additional requirements requested by the Director designed to ensure protection of USDWs above and below the injection zone or zones.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

Table 1: Applicable Standards National Primary Drinking Water Regulations

Contaminant	MCL ¹ (mg/L) ²
Alachlor	0.002
Alpha/photon emitters	15 picocuries per Liter (pCi/L)
Antimony	0.006
Arsenic	0.010
Asbestos (fibers>10 micrometers)	7 million fibers per Liter (MFL)
Atrazine	0.003
Barium	2
Benzene	0.005
Benzo(a)pyrene (PAHs)	0.0002
Beryllium	0.004
Beta photon emitters	4 millirems per year
Bromate	0.010
Cadmium	0.005
Carbofuran	0.04
Carbon tetrachloride	0.005
Chlordane	0.002
Chlorite	1.0
Chlorobenzene	0.1
Chromium (total)	0.1
Cyanide (as free cyanided)	0.2
2,4-D	0.07
Dalapon	0.2
1,2-Dibromo-3-chloropropane (DBCP)	0.0002
o-Dichlorobenzene	0.6
p-Dichlorobenzene	0.075
1,2-Dichloroethane	0.005
1,1-Dichloroethylene	0.007
Cis-1,2-Dichloroethylene	0.07
Trans-1,2-Dichloroethylene	0.1

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Dichloromethane	0.005
1,2-Dichloropropane	0.005
Di(2-ethylhexyl) adipate	0.4
DI(2-ethylhexyl) phthalate	0.006
Dinoseb	0.007
Dioxin (2,3,7,8-TCDD)	0.00000003
Diquat	0.02
Endothall	0.1
Endrin	0.002
Ethylbenzene	0.7
Ethylene dibromide	0.00005
Fecal coliform and <i>E.coli</i>	MCL ³
Fluoride	4.0
Glyphosate	0.7
Haloacetic acids (HAA5)	0.060
Heptachlor	0.0004
Heptachlor epoxide	0.0002
Hexachlorobenzene	0.001
Hexachlorocyclopentadiene	0.05
Lindane	0.0002
Mercury (inorganic)	0.002
Methoxychlor	0.04
Nitrate (measured as Nitrogen)	10
Nitrite (measured as Nitrogen)	1
Oxamyl (Vydate)	0.2
Pentachlorophenol	0.001
Picloram	0.5
Polychlorinated biphenyls (PCBs)	0.0005
Radium 226 and Radium 228 (combined)	5 pCi/L
Selenium	0.05
Simazine	0.004
Styrene	0.1
Tetrachloroethylene	0.005
Thallium	0.002
Toluene	1
Total Coliforms	5.0 percent ⁴
Total Trihalomethanes (TTHMs)	0.080
Toxaphene	0.003
2,4,5-TP (Silvex)	0.05
1,2,4-Trichlorobenzene	0.07
1,1,1-Trichloroethane	0.2
1,1,2-Trichloroethane	0.005
Trichloroethylene	0.005
Uranium	30µg/L
Vinyl chloride	0.002
Xylenes (total)	10

¹ Maximum Contaminant Level (MCL) – The highest level of a contaminant that is allowed in drinking water. MCLs are set as close to MCLGs as feasible using the best available treatment technology and taking cost into consideration. MCLs are enforceable standards.

² Units are in milligrams per liter (mg/L) unless otherwise noted. Milligrams per liter are equivalent to parts per million (ppm).

³ A routine sample that is fecal coliform-positive or *E. coli*-positive triggers repeat samples-if any repeat sample is total coliform-positive, the system has an acute MCL violation. A routine sample that is total coliform-positive, and fecal coliform-negative or *E. coli*-negative triggers repeat samples – if any repeat sample is fecal coliform-positive or *E. coli*-positive, the system has an acute MCL violation. See also Total Coliforms.

⁴ No more than 5.0 percent samples total coliform-positive in a month. (For water systems that collect fewer than 40 routine samples per month, no more than one sample can be total coliform-positive per month.) Every sample that has total coliform must be analyzed for either fecal coliforms or *E. coli*. If two consecutive TC-positive samples, and one is also positive for *E. coli* or fecal coliforms, system has an acute MCL violation.

Historical Note

New Table 1, under Article 6, Part J made by final rulemaking at 28 A.A.R. 1903 (August 5, 2022), effective September 6, 2022 (Supp. 22-3).

ARTICLE 7. USE OF RECYCLED WATER**R18-9-701. Renumbered****Historical Note**

Former Section R9-20-401 repealed, new Section R9-20-401 adopted effective May 24, 1985 (Supp. 85-3). Former Section R9-20-401 renumbered without change as Section R18-9-701 (Supp. 87-3). Amended by final rulemaking at 7 A.A.R. 758, effective January 16, 2001 (Supp. 01-1). Section R18-9-701 renumbered to R18-9-A701 by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-702. Renumbered**Historical Note**

Former Section R9-20-402 repealed, new Section R9-20-402 adopted effective May 24, 1985 (Supp. 85-3). Former Section R9-20-402 renumbered without change as Section R18-9-702 (Supp. 87-3). Section repealed; new Section adopted by final rulemaking at 7 A.A.R. 758, effective January 16, 2001 (Supp. 01-1). Section R18-9-702 renumbered to R18-9-A702 by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-703. Renumbered**Historical Note**

Former Section R9-20-403 repealed, new Section R9-20-403 adopted effective May 24, 1985 (Supp. 85-3). Former Section R9-20-403 renumbered without change as Section R18-9-703 (Supp. 87-3). Editorial change to labels in subsection (c)(8) (Supp. 89-4). Section repealed; new Section adopted by final rulemaking at 7 A.A.R. 758, effective January 16, 2001 (Supp. 01-1). Section R18-9-703 renumbered to R18-9-B701 by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-704. Renumbered

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Historical Note

Former Section R9-20-404 repealed, new Section R9-20-404 adopted effective May 24, 1985 (Supp. 85-3). Former Section R9-20-404 renumbered without change as Section R18-9-704 (Supp. 87-3). Section repealed; new Section adopted by final rulemaking at 7 A.A.R. 758, effective January 16, 2001 (Supp. 01-1). Section R18-9-704 amended by final rulemaking at 22 A.A.R. 1696, effective August 12, 2016 (Supp. 16-2). Section R18-9-704 and Table 1 renumbered to R18-9-B702 by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-705. Renumbered**Historical Note**

Former Section R9-20-405 repealed, new Section R9-20-405 adopted effective May 24, 1985 (Supp. 85-3). Former Section R9-20-405 renumbered without change as Section R18-9-705 (Supp. 87-3). Section repealed; new Section adopted by final rulemaking at 7 A.A.R. 758, effective January 16, 2001 (Supp. 01-1). Section R18-9-705 renumbered to R18-9-A703 by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-706. Renumbered**Historical Note**

Former Section R9-20-406 repealed, new Section R9-20-406 adopted effective May 24, 1985 (Supp. 85-3). Former Section R9-20-406 renumbered without change as Section R18-9-706 (Supp. 87-3). Amended effective December 1, 1988 (Supp. 88-4). Section repealed; new Section adopted by final rulemaking at 7 A.A.R. 758, effective January 16, 2001 (Supp. 01-1). Section R18-9-706 renumbered to R18-9-B703 by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-707. Renumbered**Historical Note**

Former Section R9-20-407 repealed, new Section R9-30-407 adopted effective May 24, 1985 (Supp. 85-3). Former Section R9-20-407 renumbered without change as Section R18-9-707 (Supp. 87-3). Section repealed; new Section adopted by final rulemaking at 7 A.A.R. 758, effective January 16, 2001 (Supp. 01-1). Section R18-9-707 renumbered to R18-9-C701 by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-708. Renumbered**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 758, effective January 16, 2001 (Supp. 01-1). Section R18-9-708 renumbered to R18-9-A704 by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-709. Renumbered**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 758, effective January 16, 2001 (Supp. 01-1). Section R18-9-709 renumbered to R18-9-A705 by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-710. Renumbered**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 758, effective January 16, 2001 (Supp. 01-1). Section R18-9-710 renumbered to R18-9-A706 by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-711. Renumbered**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 758, effective January 16, 2001 (Supp. 01-1). Section R18-9-711 renumbered to R18-9-D701 by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-712. Renumbered**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 758, effective January 16, 2001 (Supp. 01-1). Section R18-9-712 renumbered to R18-9-B704 by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-713. Renumbered**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 758, effective January 16, 2001 (Supp. 01-1). Section R18-9-713 renumbered to R18-9-B705 by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-714. Renumbered**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 758, effective January 16, 2001 (Supp. 01-1). Section R18-9-714 renumbered to R18-9-B706 by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-715. Renumbered**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 758, effective January 16, 2001 (Supp. 01-1). Section R18-9-715 renumbered to R18-9-B707 by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-716. Renumbered**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 758, effective January 16, 2001 (Supp. 01-1). Section R18-9-716 renumbered to R18-9-B708 by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-717. Renumbered**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 758, effective January 16, 2001 (Supp. 01-1). Section R18-9-717 renumbered to R18-9-B709 by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-718. Renumbered

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Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 758, effective January 16, 2001 (Supp. 01-1). Section R18-9-718 renumbered to R18-9-B710 by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-719. Renumbered**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 758, effective January 16, 2001 (Supp. 01-1). Section R18-9-719 renumbered to R18-9-D702 by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-720. Repealed**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 758, effective January 16, 2001 (Supp. 01-1). Section repealed by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

PART A. GENERAL PROVISIONS**R18-9-A701. Definitions**

Unless provided otherwise, the definitions provided in A.R.S. § 49-201, A.A.C. R18-9-101, R18-9-601, R18-11-301, and the following terms apply to this Article:

1. "Advanced reclaimed water treatment facility" means a facility that treats and purifies Class A+ or Class B+ reclaimed water to produce potable water suitable for distribution for human consumption. R18-9-B702(B) does not apply to an advanced reclaimed water treatment facility. Potable water produced by an advanced reclaimed water treatment facility is not reclaimed water.
2. "Direct reuse" means the beneficial use of reclaimed water for a purpose allowed by this Article. The following is not a direct reuse of reclaimed water:
 - a. The use of water subsequent to its discharge under the conditions of a National or Arizona Pollutant Discharge Elimination System permit;
 - b. The use of water subsequent to discharge under the conditions of an Aquifer Protection Permit issued under 18 A.A.C. 9, Articles 1 through 3;
 - c. The use of industrial wastewater, reclaimed water, or both, in a workplace subject to a federal program that protects workers from workplace exposures; or
 - d. The use of potable water produced by an advanced reclaimed water treatment facility.
3. "Direct reuse site" means an area permitted for the application or impoundment of reclaimed water. An impoundment operated for disposal under an Aquifer Protection Permit is not a direct reuse site.
4. "End user" means a person who directly reuses reclaimed water meeting the standards for Classes A+, A, B+, B, and C, established under 18 A.A.C. 11, Article 3.
5. "Gray water" means wastewater that has been collected separately from a sewage flow and that originates from a clothes washer or a bathroom tub, shower or sink but that does not include wastewater from a kitchen sink, dishwasher or toilet. A.R.S. § 49-201(18).
6. "Industrial wastewater" means wastewater generated from an industrial process.

7. "Irrigation" means the beneficial use of water or reclaimed water, or both, for growing crops, turf, or silviculture, or for landscaping.
8. "Open access" means access to reclaimed water by the general public is uncontrolled.
9. "Open water conveyance" means any constructed open waterway, including canals and laterals, that transports reclaimed water from a sewage treatment facility to a reclaimed water blending facility or from a sewage treatment facility or reclaimed water blending facility to the point of land application or end use. An open water conveyance does not include waters of the United States.
10. "Pipeline conveyance" means any system of pipelines that transports reclaimed water from a sewage treatment facility to a reclaimed water blending facility or from a sewage treatment facility or reclaimed water blending facility to the point of land application or end use.
11. "Reclaimed water" means water that has been treated or processed by a wastewater treatment plant or an on-site wastewater treatment facility. A.R.S. § 49-201(32).
12. "Reclaimed water agent" means a person who holds a permit to distribute reclaimed water to more than one end user.
13. "Reclaimed water blending facility" means an installation or method of operation that receives reclaimed water from a sewage treatment facility or other reclaimed water blending facility classified to produce Class C or better reclaimed water and blends it with other water so that the produced water may be used for a higher-class purpose listed in 18 A.A.C. 11, Article 3, Table A.
14. "Recycled water" means a processed water that originated as a waste or discarded water, including reclaimed water and gray water, for which the Department has designated water quality specifications to allow the water to be used as a supply.
15. "Restricted access" means that access to reclaimed water by the general public is controlled.
16. "Sewage Treatment Facility" means a sewage treatment facility as defined in 18 A.A.C. 9, Article 1.

Historical Note

New Section R18-9-A701 renumbered from R18-9-701 and amended by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-A702. Applicability and Standards for Recycled Water**A.** This Article applies to:

1. An owner or operator of a sewage treatment facility that generates reclaimed water for direct reuse,
2. An owner or operator of a reclaimed water blending facility,
3. A reclaimed water agent,
4. An end user of reclaimed water,
5. A person who uses recycled water regulated under this Article,
6. A person who directly reuses reclaimed water from a sewage treatment facility combined with industrial wastewater or combined with water from an industrial wastewater treatment facility, and
7. A person who directly reuses reclaimed water from an industrial wastewater treatment facility in the production or processing of a crop or substance that may be used as human or animal food.

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- B. Reclaimed water classes A+, A, B+, B, and C specified in this Article shall meet the standards established in 18 A.A.C. 11, Article 3.
- C. Nothing in this Article exempts the disposal of reclaimed water from the Aquifer Protection Permit requirements under A.R.S. Title 49, Chapter 2, Articles 1, 2, and 3.

Historical Note

New Section R18-9-A702 renumbered from R18-9-702 and amended by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-A703. Recycled Water Individual Permit Application

- A. To apply for a Recycled Water Individual Permit, a person shall provide the Department with:
 1. The applicable permit fee specified under 18 A.A.C. 14; and
 2. The following information on a form provided by the Department:
 - a. The name, e-mail address, telephone number, and mailing address of the owner or operator of the facility or, if applicable, the reclaimed water agent;
 - b. The latitude and longitude coordinates; township range, and section; site address, if applicable; and a map showing the facility or site location;
 - c. Any other federal or state environmental permits issued to the applicant;
 - d. Source of recycled water to be used;
 - e. The applicant may propose for approval, and the Department may issue, a single permit that includes more than one type of recycled water allowed by this article, including for multiple classes of reclaimed water, if the applicant demonstrates the waters will be treated appropriately for the end use;
 - f. The applicant may propose, and the Department may permit, the inclusion of kitchen sink and dishwasher wastewater with gray water under a Recycled Water Individual Permit, if the applicant demonstrates such waters will be treated appropriately for the end use;
 - g. Estimated volume of recycled water to be used on an annual basis;
 - h. Class of reclaimed water to be directly reused, if applicable;
 - i. Description of the use activity;
 - j. Any treatment measures utilized to meet or maintain reclaimed water quality standards or otherwise ensure the quality of the recycled water is fit for the intended use; and
 - k. The applicant's certification that the information submitted in the application is true and accurate to the best of the applicant's knowledge.
- B. Public participation.
 1. Notice of Preliminary Decision.
 - a. The Department shall publish the Notice of Preliminary Decision regarding the issuance or denial of a final permit determination on the Department's website.
 - b. The Department shall accept written comments from the public before a Recycled Water Individual Permit is issued or denied.
 - c. The written public comment period begins on the publication date of the Notice of Preliminary Decision and extends for 30 calendar days.

2. After publishing the notice specified in subsection (B)(1)(a), the Department shall hold a public hearing to address the Notice of Preliminary Decision if the Department determines that:
 - a. Significant public interest in a public hearing exists, or
 - b. Significant issues or information have been brought to the attention of the Department that are relevant to the permitting decision and have not been considered previously in the permitting process.
3. If the Department determines a public hearing is necessary and a public hearing has not already been noticed under subsection (B)(1)(a), the Department shall schedule a public hearing and republish the Notice of Preliminary Decision and notice of the public hearing on the Department's website.
4. The Department shall accept written public comment until the close of the hearing record as specified by the person presiding at the public hearing.

C. Final permit issuance or denial.

1. The Department may deny a Recycled Water Individual Permit if the Department determines upon completion of the application process the applicant has:
 - a. Failed or refused to correct a deficiency in the permit application;
 - b. Failed to demonstrate the facility and the operation will protect public health and water quality. This determination shall be based on:
 - i. The information submitted in the permit application,
 - ii. Any information submitted to the Department as written public comment or following a public hearing; or
 - iii. Any information relevant to the demonstration developed or acquired by the Department, or
 - c. Provided false or misleading information.
2. If the Department denies a Recycled Water Individual Permit the Department shall provide the applicant with written notification explaining the following:
 - a. The reasons for the denial with references to the statutes or rules on which the denial is based.
 - b. The applicant's right to appeal the denial, including the number of days the applicant has to file a notice of appeal, and the name and telephone number of the Department contact person who can answer questions regarding the appeals process.
 - c. The applicant's right to request an informal settlement conference under A.R.S. §§ 41-1092.03(A) and 41-1092.06.

Historical Note

New Section R18-9-A703 renumbered from R18-9-705 and amended by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-A704. Recycled Water General Permit

- A. Type 1 Recycled Water General Permit for Gray Water. A person may use recycled water without notice to the Department if the use:
 1. Is specifically authorized by and meets the requirements of this Article, and
 2. Complies with the requirements of the Type 1 Recycled Water General Permit under this Article.
- B. Type 2 Recycled Water General Permit for Reclaimed Water.

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1. A person may use recycled water under a Type 2 Recycled Water General Permit if:
 - a. The use is authorized by and meets the requirements of this Article;
 - b. The use meets all the conditions of the applicable Type 2 Recycled Water General Permit under this Article;
 - c. The person files a Notice of Intent to Use Recycled Water under subsection (B)(2); and
 - d. The person submits the applicable fee established in 18 A.A.C. 14.
 2. Notice of Intent to Use Recycled Water.
 - a. A person shall submit, by mail, in person, or by another method approved by the Department, the Notice of Intent to Use Recycled Water on a form provided by the Department.
 - b. The Notice of Intent to Use Recycled Water shall include:
 - i. The name, address, e-mail address, and telephone number of the applicant;
 - ii. The name, address, and telephone number of the contact person;
 - iii. The source, estimated volume, and, if applicable, class of recycled water to be used;
 - iv. The latitude and longitude coordinates of the approximate center point of the use site;
 - v. The description of the use activity; and
 - vi. The applicant's certification that the applicant agrees to comply with all requirements of this Article, including specific terms of the applicable Recycled Water General Permit.
 - c. For a Type 2 Recycled Water General Permit for Direct Reuse of Reclaimed Water, the Notice of Intent to Use Recycled Water must include the description of the direct reuse activity, including a description of acreage and the type of vegetation to be irrigated, if applicable to the type of direct reuse activity.
 3. The Department shall notify the applicant that the Department received the Notice of Intent to Use Recycled Water and that the applicant is authorized to use the recycled water according to Type 2 permit conditions.
- C. Type 3 Recycled Water General Permit for Reclaimed Water and Type 3 Recycled Water General Permit for Gray Water.** A person shall not operate under a Type 3 Recycled Water General Permit until the Department issues a written Recycled Water Authorization.
1. Application submittal. The applicant shall submit, either by mail, in person at the Department, or by another method approved by the Department:
 - a. The Notice of Intent to Use Recycled Water on a form provided by the Department containing the information specified in the applicable Type 3 Recycled Water General Permit under this Article, and
 - b. The applicable fee established in 18 A.A.C. 14.
 2. Issuance of Recycled Water Authorization. If, after reviewing the Notice of Intent to Use Recycled Water, the Department determines the direct reuse conforms with the conditions of a Type 3 Recycled Water General Permit and all other applicable requirements of this Article, the Department shall issue the Recycled Water Authorization.
 3. Denial of Recycled Water Authorization.
 - a. If the Department determines on the basis of its review or an inspection the use does not conform to the conditions of the applicable Type 3 Recycled Water General Permit or other applicable requirements of this Article, the Department shall notify the applicant of its decision not to issue the Recycled Water Authorization.
 - b. The applicant may appeal the decision not to issue a Recycled Water Authorization under A.R.S. §§ 41-1092 through 41-1092.12.

Historical Note

New Section R18-9-A704 renumbered from R18-9-708 and amended by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-A705. Recycled Water Permit Term, Information Changes, and Renewal

- A.** A recycled water general permit is valid as follows:
1. A Type 1 Recycled Water General Permit is valid as long as the conditions of the general permit and the requirements of this Article are met. No renewal is required.
 2. A Type 2 Recycled Water General Permit is valid for five years from the date the Department receives the Notice of Intent to Use Recycled Water;
 3. A Type 3 Recycled Water General Permit is valid for five years from the date the Recycled Water Authorization is issued.
- B.** If any change in the following information occurs, a permittee operating under any individual, or Type 2 or Type 3 recycled water general permit shall update the Department with such changes at least once annually by January 31:
1. Permittee,
 2. Ownership,
 3. Contact person,
 4. Phone number, address, email address, or telephone number, or any combination of any of the above, for permittee or contact person,
 5. Name of the use site,
 6. For a Type 2 Recycled Water General Permit for Direct Reuse of Class A + or B + Reclaimed Water remaining under the same ownership:
 - a. Expansion of the reuse area,
 - b. Addition of another allowable use if it is located within the same property boundary as the boundary identified in the Notice of Intent to Use Recycled Water submitted to the Department.
 7. An increase in Class A, B, or C reclaimed water use of more than ten percent but less than twenty percent above the volume of reclaimed water currently permitted for use at the reuse site, if applicable.
- C.** To renew any Type 2 or Type 3 Recycled Water General Permit, a permittee must submit a Notice of Renewal at least 30 days before the permit expires and include the applicable fee established in 18 A.A.C. 14. A permittee may update or change any information as described in subsection (B) in a Notice of Renewal.
- D.** For changes not described in subsections (B) or (C), the permittee must submit a new Notice of Intent to Use Recycled Water or a Recycled Water Individual Permit application, as applicable.

Historical Note

New Section R18-9-A705 renumbered from R18-9-709 and amended by final rulemaking at 23 A.A.R. 3091,

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effective January 1, 2018 (Supp. 17-4).

R18-9-A706. Recycled Water Permit Revocation

- A. After notice and opportunity for a hearing, the Director may revoke coverage under a Recycled Water General Permit and require the permittee to obtain an individual permit in order to operate for any of the following:
1. The permittee failed to comply with any applicable provision of A.R.S. Title 49, Chapter 2; Article 7 of this Chapter; or any permit condition;
 2. The permittee misrepresented or omitted a fact, information, or data related to an application or permit condition;
 3. The Director determines a permitted activity is causing or will cause a violation of a water quality standard established under A.R.S. § 49-221;
 4. A permitted activity is causing or will cause imminent and substantial endangerment to public health or the environment.
- B. The Director may revoke coverage under a general permit for any or all facilities within a specific geographic area, if, due to geologic or hydrologic conditions, the cumulative effect of the facilities subject to the Recycled Water General Permit has violated or will violate a water quality standard established under A.R.S. § 49-221.
- C. If an individual permit is issued to replace general permit coverage, the coverage under the general permit is automatically revoked upon issuance of the individual permit.
- D. The Director may, after notice and opportunity for hearing, suspend or revoke a Recycled Water Individual Permit for any of the reasons listed in subsections (A)(1) through (A)(4) of this Section.

Historical Note

New Section R18-9-A706 renumbered from R18-9-710 and amended by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-A707. Recycled Water Permit Transition

The terms and conditions of Type 2, Type 3, and individual reclaimed water permits issued before January 1, 2018, including permits issued for gray water, shall remain in effect according to the language of this Article effective as of the date the permit was issued.

Historical Note

New Section R18-9-A707 made by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

PART B. RECLAIMED WATER**R18-9-B701. Transition of Aquifer Protection Permits and Permits for the Reuse of Reclaimed Wastewater**

- A. A person may directly reuse reclaimed water under an individual Aquifer Protection Permit or a Permit for the Reuse of Reclaimed Wastewater issued by the Department before January 1, 2001 if the person meets the conditions of the permit and the permit does not expire.
- B. A person meeting the requirements of subsection (A) may apply for a new reclaimed water permit under this Article.
1. To obtain a reclaimed water permit, a person shall submit a Recycled Water Individual Permit application, required under R18-9-A703(A), or a Notice of Intent to Use Recycled Water, required under R18-9-A704(B)(2) or R18-9-A704(B)(3), to the Department at least 120 days before the current permit expires.
 2. The Department shall continue the terms of the individual Aquifer Protection Permit or the Permit for the Reuse of

Reclaimed Wastewater beyond the stated date of expiration if:

- a. The permitted direct reuse is of a continuing nature; and
 - b. The permittee submits a timely and complete application for a new permit.
- C. Sewage treatment facility generating reclaimed water.
1. At the request of a permittee holding an individual Aquifer Protection Permit, the Department shall amend an individual Aquifer Protection Permit if the permittee adequately demonstrates that the applicable quality of reclaimed water produced for direct reuse is achieved. The Department shall review:
 - a. The information in the individual Aquifer Protection Permit, any applicable supporting documentation, and the water quality test results from the previous two years to determine the classification of reclaimed water generated by the sewage treatment facility; and
 - b. The available water quality data if the sewage treatment facility has operated for less than two years.
 2. The Department shall issue an amended individual Aquifer Protection Permit under procedures specified under 18 A.A.C. 9, Article 2 containing:
 - a. Identification of the class of reclaimed water generated by the facility;
 - b. Requirements for monitoring reclaimed water quality and flow at a frequency appropriate to demonstrate compliance with this Article and 18 A.A.C. 11, Article 3;
 - c. Requirements for quarterly reporting of the following data to the Department, any reclaimed water agent who has contracted for delivery of reclaimed water from the facility, and any end user who has not waived interest in receiving this information:
 - i. Water quality test results demonstrating reclaimed water produced by the facility meets the applicable standards for the class of water identified in subsection (C)(2)(a), and
 - ii. The total volume of reclaimed water generated for direct reuse.
 - d. Provision for cessation of delivery, if necessary, and storage or disposal if reclaimed water cannot be delivered for direct reuse.

Historical Note

New Section R18-9-B701 renumbered from R18-9-703 and amended by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-B702. General Requirements for Reclaimed Water

- A. Sewage treatment facility. A sewage treatment facility owner or operator shall provide reclaimed water for direct reuse only as authorized under an individual Aquifer Protection Permit.
- B. Additional treatment. If an owner or operator of a facility accepts reclaimed water and provides additional treatment for a higher quality direct reuse, the facility is considered a sewage treatment facility and shall provide reclaimed water for direct reuse only as authorized under an individual Aquifer Protection Permit.
- C. Reclaimed water blending facility. An owner or operator of a reclaimed water blending facility shall conduct blending operations only as authorized under a Recycled Water Individual Permit or a Type 3 Recycled Water General Permit for a Reclaimed Water Blending Facility.

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- D.** Reclaimed water agent. A person shall operate as a reclaimed water agent only as authorized under a Recycled Water Individual Permit or a Type 3 Recycled Water General Permit for a Reclaimed Water Agent.
- E.** End user. A person shall not directly reuse reclaimed water unless permitted under this Article.
- F.** Irrigating with reclaimed water. A permittee applying reclaimed water for an irrigation use allowed in 18 A.A.C. 11, Article 3, Table A shall:
1. Use application methods that reasonably preclude human contact with reclaimed water;
 2. Prevent reclaimed water from standing on open access areas during normal periods of use; and
 3. Prevent reclaimed water from coming into contact with drinking fountains, water coolers, or eating areas.
- G.** Hose bibbs. A permittee directly reusing reclaimed water shall secure hose bibbs discharging reclaimed water to prevent use by the public.
- H.** Prohibited activities.
1. Irrigating with untreated sewage;
 2. Providing water for human consumption from a reclaimed water source except as allowed in Part E of this Article.
 3. Providing or using reclaimed water for any of the following activities:
 - a. Direct reuse for swimming, wind surfing, water skiing, or other full-immersion water activity with a potential of ingestion; or
 - b. Direct reuse for evaporative cooling or misting.
 4. Misapplying reclaimed water for any of the following reasons:
 - a. Application of a stated class of reclaimed water of lesser quality than allowed by this Article for the type of direct reuse application;
 - b. Application of reclaimed water to any area other than a direct reuse site; or
 - c. Allowing runoff of reclaimed water or reclaimed water mixed with stormwater from a direct reuse site, except for:
 - i. agricultural return flow directed onto an adjacent field or returned to an open water conveyance; or
 - ii. a discharge authorized by an individual or general NPDES or AZPDES permit.
- I.** Signage and Notification. A permittee shall place and maintain signage at locations and provide applicable notification as specified in Table 1 so the public is informed reclaimed water is in use and no one should drink from the system.
- J.** Pipeline Conveyances of Reclaimed Water.
1. Applicability. Any person constructing a pipeline conveyance, whether new or a replacement of an existing pipeline, shall meet the requirements of this subsection.
 2. A person shall design and construct a pipeline conveyance system using good engineering judgment following standards of practice.
 3. A person shall construct a pipeline conveyance so that:
 - a. Reclaimed water does not find its way into, or otherwise contaminate, a potable water system;
 - b. System structural integrity is maintained; and
 - c. The capability for inspection, maintenance, and testing is maintained.
 4. A person shall construct a pipeline conveyance and all appurtenances conducting reclaimed water to withstand a static pressure of at least 50 pounds per square inch greater than the design working pressure without leakage as determined in R18-9-E301(D)(2)(j).
 5. A person shall provide a pipeline conveyance with thrust blocks or restrained joints where needed to prevent excessive movement of the pipeline.
 6. The following requirements for minimum separation distance apply. A person shall:
 - a. Locate a pipeline conveyance no closer than 50 feet from a drinking water well unless the pipeline conveyance is constructed as specified under subsection (J)(6)(c);
 - b. Locate a pipeline conveyance no closer than two feet vertically nor six feet horizontally from a potable water pipeline unless the pipeline conveyance is constructed as specified under subsection (J)(6)(c);
 - c. Construct a pipeline conveyance that does not meet the minimum separation distances specified in subsections (J)(6)(a) and (J)(6)(b) by encasing the pipeline conveyance in at least six inches of concrete or using mechanical joint ductile iron pipe or other materials of equivalent or greater tensile and compressive strength at least 10 feet beyond any point on the pipeline conveyance within the specified minimum separation distance; and
 - d. If a reclaimed water system is supplemented with water from a potable water system, separate the potable water system from the pipeline conveyance by an air gap.
 7. A person shall:
 - a. For a pipeline conveyance, eight inches in diameter or less, use pipe marked on opposite sides in English: "CAUTION: RECLAIMED WATER, DO NOT DRINK" in intervals of three feet or less and colored purple or wrapped with durable purple tape.
 - b. For a mechanical appurtenance to a pipeline conveyance, ensure the mechanical appurtenance is colored purple or legibly marked to identify it as part of the reclaimed water distribution system and distinguish it from systems for potable water distribution and sewage collection.
- K.** Open Water Conveyances of Reclaimed Water.
1. This subsection applies to an open water conveyance, regardless of the date of construction.
 2. A person shall maintain an open water conveyance to prevent release of reclaimed water except as allowed under federal and state regulations. The maintenance program shall include periodic inspections and follow-up corrective measures to ensure the integrity of conveyance banks and capacity of the conveyance to safely carry operational flows.
 3. Signage for Class B+, B, and C Reclaimed Water. A person shall:
 - a. Ensure signs state: "CAUTION: RECLAIMED WATER, DO NOT DRINK," and display the international "do not drink" symbol;
 - b. Place signs at all points of ingress and, if the open water conveyance is operated with open access, at least every 1/4-mile along the length of the open water conveyance or other interval as approved in writing by the Department; and
 - c. Ensure signs are visible and legible from both sides of the open water conveyance.

Historical Note

New Section R18-9-B702 renumbered from R18-9-704

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and amended by final rulemaking at 23 A.A.R. 3091,
effective January 1, 2018; clerical error to subsections
corrected at (J)(6)(a), (b), and (c) as published at 23

A.A.R. 3091 (Supp. 17-4).

Table 1. Signage and Notification Requirements for Direct Reuse Sites

Reclaimed Water Class	Hose Bibbs	Residential Irrigation	Schoolground Irrigation	Other Open Access Irrigation	Restricted Access Irrigation	Mobile Reclaimed Water Dispersal
A+, A	Each bibb at valve	Front yard, or all entrances to a subdivision if the signage is supplemented by written yearly notification to individual homeowners by the homeowner's association.	On premises visible to staff and students	None	None	On dispersal equipment and visible to the public
B+, B	Each bibb at valve	Direct Reuse Not Allowed	Direct Reuse Not Allowed	Direct Reuse Not Allowed	1. Ingress points; 2. At reasonably spaced intervals of not more than 1/4 mile at the reuse site or along the open water conveyance, unless access to vehicular and pedestrian traffic is secured; and 3. If applicable, notice on golf score cards	On dispersal equipment and visible to the public
C	Each bibb at valve	Direct Reuse Not Allowed	Direct Reuse Not Allowed	Direct Reuse Not Allowed	1. Ingress points; 2. At reasonably spaced intervals of not more than 1/4 mile at the reuse site or along the open water conveyance, unless access to vehicular and pedestrian traffic is secured; and 3. If applicable, notice on golf score cards	On dispersal equipment and visible to the public

Note: All impoundments with open access including lakes, ponds, ornamental fountains, waterfalls, and other water features shall be posted with signs regardless of the class of reclaimed water.

Historical Note

New Section R18-9-B702, Table 1 renumbered from R18-9-704, Table 1 and amended by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-B703. General Provisions for Recycled Water Individual Permit for Reclaimed Water

A. A Recycled Water Individual Permit for Reclaimed Water is obtained under R18-9-A703. A Recycled Water Individual Permit for Reclaimed Water:

1. Is valid for five years;
2. Must be updated as prescribed by R18-9-A705; and
3. Continues, pending the issuance of a new permit, with the same terms following its expiration if the following are met:
 - a. The permittee submits an application for a new permit at least 60 days before the expiration of the existing permit; and
 - b. The permitted activity is of a continuing nature.

B. A Recycled Water Individual Permit for Reclaimed Water shall contain, if applicable:

1. The class of reclaimed water to be applied for direct reuse or the alternative water quality criteria appropriate for a direct reuse type not listed in 18 A.A.C. 11, Article 3, Table A that ADEQ may allow under R18-11-309;
2. Specific types of direct reuse and any limitations on reuse;
3. Requirements for monitoring reclaimed water quality and flow to demonstrate compliance with this Article and 18 A.A.C. 11, Article 3;

4. Requirements for reporting the following data to demonstrate compliance with this Article and 18 A.A.C. 11, Article 3:
 - a. Water quality test results demonstrating the reclaimed water meets the applicable standards for the class of water or the alternative water quality criteria identified in subsection (B)(1), and
 - b. The total volume of reclaimed water generated for direct reuse.
5. Requirements for maintaining records of all monitoring information and monitoring activities include:
 - a. The date, description of sampling location, and time of sampling or measurement;
 - b. The name of the person who performed the sampling or measurement;
 - c. The date the analyses were performed;
 - d. The name of the person who performed the analyses;
 - e. The analytical techniques or methods used;
 - f. The results of the analyses; and
 - g. Documentation of sampling technique, sample preservation, and transportation, including chain-of-custody forms.
6. Requirements to retain all monitoring activity records and results, including all data for continuous monitoring instrumentation, and calibration and maintenance records

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for five years from the date of sampling or analysis. The Director shall extend the five-year retention period:

- a. During the course of an unresolved litigation regarding compliance with the permit conditions, or
 - b. For any other justifiable cause.
7. A requirement to allow all end users access to the records of physical, chemical, and biological quality of the reclaimed water.
 8. Signage or other notification requirements appropriate to the use; and
 9. Closure requirements, if applicable.

Historical Note

New Section R18-9-B703 renumbered from R18-9-706 and amended by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-B704. Type 2 Recycled Water General Permit for Direct Reuse of Class A+ Reclaimed Water

- A. A Type 2 Recycled Water General Permit for Direct Reuse of Class A+ Reclaimed Water allows any direct reuse application of reclaimed water listed in 18 A.A.C. 11, Article 3, Table A, if the conditions in this Article are met.
- B. Record maintenance. A permittee shall maintain records for five years describing the direct reuse site and the total amount of reclaimed water used annually for the permitted direct reuse activity. The records shall be made available to the Department upon request.
- C. A permittee shall post signs or provide notification or both as specified in R18-9-B702(I).
- D. No lining is required for an impoundment storing Class A+ reclaimed water.

Historical Note

New Section R18-9-B704 renumbered from R18-9-712 and amended by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-B705. Type 2 Recycled Water General Permit for Direct Reuse of Class A Reclaimed Water

- A. A Type 2 Recycled Water General Permit for the Direct Reuse of Class A Reclaimed Water allows any direct reuse application of reclaimed water listed in 18 A.A.C. 11, Article 3, Table A, if the conditions in this Article are met.
- B. Records and reporting. A permittee shall:
 1. Maintain records containing the following information for five years, and make them available to the Department upon request:
 - a. The direct reuse site,
 - b. The volume of reclaimed water applied monthly for each category of direct reuse activity listed in 18 A.A.C. 11, Article 3, Table A,
 - c. The total nitrogen concentration of the reclaimed water applied, and
 - d. The acreage and type of vegetation to which the reclaimed water is applied.
 2. Report annually to the Department on or before the anniversary date of the Notice of Intent to Use Recycled Water:
 - a. The volume of reclaimed water received,
 - b. The type of reclaimed water application, and
 - c. If used for irrigation, the vegetation and acreage irrigated.
- C. Nitrogen management. A permittee shall ensure:
 1. Impoundments storing reclaimed water allowed by the general permit are lined using a low-hydraulic conductiv-

ity artificial or site-specific liner material achieving a calculated discharge rate less than 550 gallons per acre per day; and

2. The application rates of the reclaimed water are based on one of the following:
 - a. If assigned, the water allotment specified by the Arizona Department of Water Resources;
 - b. A water balance that considers consumptive use of water by the crop, turf, or landscape vegetation; or
 - c. An alternative method approved by the Department.
- D. In addition to the Notice of Intent to Use Recycled Water specified in R18-9-A704(B)(2), the applicant shall provide a list of impoundments, water depth, freeboard, and the liner characteristics and the method chosen from the list in subsection (C)(2).
- E. The permittee shall post signs or provide notification, or both, as specified in R18-9-B702(I).

Historical Note

New Section R18-9-B705 renumbered from R18-9-713 and amended by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-B706. Type 2 Recycled Water General Permit for Direct Reuse of Class B+ Reclaimed Water

- A. A Type 2 Recycled Water General Permit for Direct Reuse of Class B+ Reclaimed Water allows any direct reuse application of Class B and Class C reclaimed water listed in 18 A.A.C. 11, Article 3, Table A, if the conditions in this Article are met.
- B. A permittee shall comply with the record maintenance and posting requirements established under R18-9-B704 and make records available to the Department upon request.
- C. No lining is required for an impoundment storing Class B+ reclaimed water.

Historical Note

New Section R18-9-B706 renumbered from R18-9-714 and amended by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-B707. Type 2 Recycled Water General Permit for Direct Reuse of Class B Reclaimed Water

- A. A Type 2 Recycled Water General Permit for the Direct Reuse of Class B Reclaimed Water allows the direct reuse application of Class B and Class C reclaimed water listed in 18 A.A.C. 11, Article 3, Table A, if conditions in this Article are met.
- B. A permittee shall comply with the requirements established under R18-9-B705(B), (C), (D), and (E).

Historical Note

New Section R18-9-B707 renumbered from R18-9-715 and amended by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-B708. Type 2 Recycled Water General Permit for Direct Reuse of Class C Reclaimed Water

- A. A Type 2 Recycled Water General Permit for the Direct Reuse of Class C Reclaimed Water allows the direct reuse application of Class C reclaimed water listed in 18 A.A.C. 11, Article 3, Table A, if conditions in this Article are met.
- B. A permittee shall comply with the requirements established under R18-9-B705(B), (C), (D), and (E).

Historical Note

New Section R18-9-B708 renumbered from R18-9-716 and amended by final rulemaking at 23 A.A.R. 3091,

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effective January 1, 2018 (Supp. 17-4).

R18-9-B709. Type 3 Recycled Water General Permit for a Reclaimed Water Blending Facility

- A.** Permit conditions.
1. A Type 3 Recycled Water General Permit for a Reclaimed Water Blending Facility allows the blending of reclaimed water with other water, if the conditions in this Article are met.
 2. Blending reclaimed water with industrial wastewater or with reclaimed water from an industrial wastewater treatment plant is not authorized by this general permit.
- B.** A person shall file with the Department a Notice of Intent to Operate a reclaimed water blending facility on a form provided by the Department. The Notice of Intent to Operate shall include:
1. The name, address, e-mail address, and telephone number of the applicant;
 2. The name, address, e-mail address, and telephone number of a contact person;
 3. The source and volume of reclaimed water to be blended;
 4. The class of reclaimed water to be blended;
 5. The source, volume, and quality of other water to be blended;
 6. The latitude and longitude coordinates of the blending facility;
 7. A description of the reclaimed water blending facility, including a demonstration the proposed blending methodology will meet the standards established in 18 A.A.C. 11, Article 3 for the class of reclaimed water the facility will produce;
 8. The applicant's certification that the applicant agrees to comply with the requirements of this Article, 18 A.A.C. 11, Article 3, and the terms of this recycled water general permit; and
 9. The applicable permit fee specified under 18 A.A.C. 14.
- C.** A person shall not operate a reclaimed water blending facility until the Department issues a written Recycled Water Authorization under R18-9-A704(C).
- D.** A permittee shall monitor:
1. The blended water quality for total nitrogen and fecal coliform at frequencies specified by the class of reclaimed water in 18 A.A.C. 11, Article 3.
 - a. If the concentration in the blended water of either total nitrogen or fecal coliform, as applicable, exceeds the limits for the applicable reclaimed water class established in 18 A.A.C. 11, Article 3, within 30 days of the exceedance, the permittee shall submit a plan to the Department to change the blending process or to otherwise correct the deficiency. The permittee shall also double the monitoring frequency for the next four months.
 - b. If another exceedance occurs within the interval of increased monitoring, the permittee shall submit an application within 45 days for a Recycled Water Individual Permit for Reclaimed Water.
 2. The volume of reclaimed water, the volume of the other water, and the total volume of blended water delivered for direct reuse on a monthly basis.
- E.** The permittee shall report the results of the monitoring under subsection (D) to the Department by January 31, for the immediately preceding calendar year, and shall make this information available to the end users.

Historical Note

New Section R18-9-B709 renumbered from R18-9-717 and amended by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-B710. Type 3 Recycled Water General Permit for a Reclaimed Water Agent

- A.** A Type 3 Recycled Water General Permit for a Reclaimed Water Agent allows a person to operate as a Reclaimed Water Agent if the conditions of this Article are met, and the following conditions are met for the class of reclaimed water delivered by the Reclaimed Water Agent:
1. Signage and notification requirements specified under R18-9-B702(I), as applicable;
 2. Impoundment liner requirements specified under R18-9-B704(D), R18-9-B705(C), R18-9-B706(C), R18-9-B707(B) or R18-9-B708(B), as applicable; and
 3. Nitrogen management requirements specified under R18-9-B705(C), R18-9-B707(B), and R18-9-B708(B), as applicable.
- B.** A person holding a Type 3 Recycled Water Permit for a Reclaimed Water Agent:
1. Is responsible for the direct reuse of reclaimed water by more than one end user instead of direct reuse by the end users under separate Type 2 Recycled Water General Permits, and
 2. Shall maintain a contractual agreement with each end user stipulating any end user responsibilities for the requirements specified under subsection (A).
- C.** A person shall file with the Department a Notice of Intent to Operate as a reclaimed water agent. The Notice of Intent to Operate shall include:
1. The name, address, e-mail address, and telephone number of the applicant;
 2. The name, address, e-mail address, and telephone number of a contact person;
 3. The following information for each end user to be supplied reclaimed water by the applicant:
 - a. The name, address, e-mail address, and telephone number of the end user;
 - b. A system map showing the locations of the direct reuse sites and the latitude and longitude coordinates of each site; and
 - c. A description of each direct reuse activity, including the type of vegetation, acreage, and annual volume of reclaimed water to be used, unless Class A+ or Class B+ reclaimed water is delivered.
 4. The source, class, and annual volume of reclaimed water to be delivered by the applicant;
 5. A description of the contractual arrangement between the applicant and each end user, including any end user responsibilities for the requirements specified under subsection (A); and
 6. The applicable permit fee specified under 18 A.A.C. 14.
- D.** A proposed reclaimed water agent shall not distribute reclaimed water to end users until the Department issues a written Recycled Water Authorization under R18-9-A704(C).
- E.** A reclaimed water agent shall record and annually report the following information to the Department by January 31, for the immediately preceding year:
1. The total volume of reclaimed water delivered by the reclaimed water agent;
 2. The volume of reclaimed water delivered to each end user for Class A, Class B, and Class C reclaimed water; and

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3. Any change in the information submitted under subsection (C).

Historical Note

New Section R18-9-B710 renumbered from R18-9-718 and amended by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

PART C. RECYCLED INDUSTRIAL WASTEWATER**R18-9-C701. Recycled Water Individual Permit for Industrial Wastewater That Is Reused**

- A. The following activities are prohibited unless a Recycled Water Individual Permit is obtained under R18-9-A703:
 1. Use of reclaimed water from a sewage treatment facility that is combined with industrial wastewater or water from an industrial wastewater treatment facility.
 2. Use of reclaimed water from an industrial wastewater treatment facility for production or processing of a crop or substance that may be used as human or animal food.
- B. In addition to the requirements in R18-9-A703(A), an application for a Recycled Water Individual Permit shall include:
 1. Each source of the industrial wastewater with Standard Industrial Code or North American Industry Classification System Code, and the projected rates and volumes from each source;
 2. The chemical, biological, and physical characteristics of the industrial wastewater from each source; and
 3. If reclaimed water will be used in the processing of any crop or substance that may be used as human or animal food, the information regarding food safety and any potential adverse health effects of this direct reuse.

Historical Note

New Section R18-9-C701 renumbered from R18-9-707 and amended by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

PART D. GRAY WATER**R18-9-D701. Type 1 Recycled Water General Permit for Gray Water**

- A. A Type 1 Recycled Water General Permit for Gray Water allows private residential use of gray water for a flow of less than 400 gallons per day if all the following conditions are met:
 1. Gray water originating from the residence is used and contained within the property boundary for household gardening, composting, or landscape watering;
 2. Human contact with gray water and soil watered by gray water is avoided;
 3. Surface application of gray water is not used for watering of food plants, except for trees and shrubs which have an edible portion that does not come into contact with the gray water;
 4. The gray water does not contain hazardous chemicals derived from activities such as cleaning car parts, washing greasy or oily rags, or disposing of waste solutions from hobbyist or home occupational activities;
 5. The gray water does not contain water used to wash diapers or similarly soiled or infectious garments;
 6. The application of gray water is managed to minimize standing water on the surface by using measures such as avoiding overwatering, distributing the gray water beneath a mulch or other cover, and using best practices to improve soil condition and increase filtration;

7. If blockage, backup, or overload of the system occurs, gray water distribution shall cease until the deficiency is corrected. The gray water system may include components to reduce blockage and backup and be operated using best practices to extend system lifetime;
8. Gray water surge tanks, if any, are covered to restrict access and to eliminate habitat for mosquitoes or other vectors, and holding time is minimized to avoid development of anaerobic conditions and odors;
9. The gray water system is sited outside of a floodway;
10. The gray water system is operated to maintain a minimum vertical separation distance of at least five feet from the point of gray water application to the top of the seasonally high groundwater table;
11. For a residence using an on-site wastewater treatment facility for black water treatment and disposal, the use of a gray water system does not change the design, capacity, or reserve area requirements for the on-site wastewater treatment facility at the residence, and ensures the facility can handle the combined black water and gray water flow;
12. Any pressure piping used in a gray water system that may be susceptible to cross connection with a potable water system clearly indicates the piping does not carry potable water; and
13. Surface application of gray water is only by flood or drip distribution methods. Flood distribution methods may include containment by horticultural mulch basins and swales.
- B. Prohibitions. The following are prohibited:
 1. Gray water use for purposes other than watering and composting, and
 2. Application of gray water by a spray method.

Historical Note

New Section R18-9-D701 renumbered from R18-9-711 and amended by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

R18-9-D702. Type 3 Recycled Water General Permit for Gray Water

- A. A Type 3 Recycled Water General Permit for Gray Water allows for the use of gray water for landscape irrigation and composting if:
 1. The general permit described in R18-9-D701 does not apply,
 2. The flow is not more than 3000 gallons per day, and
 3. The gray water system satisfies the notification, design, and installation requirements specified in subsections (B) and (C).
- B. A person shall file a Notice of Intent to Operate a Gray Water System with the Department on a form provided by the Department. The Notice of Intent to Operate shall include:
 1. The name, address, e-mail address, and telephone number of the applicant;
 2. The latitude and longitude coordinates;
 3. A description of the sources of gray water and calculations demonstrating the flow is not more than 3000 gallons per day;
 4. Design plans for the gray water system;
 5. The applicant's certification that the applicant agrees to comply with the requirements of this Article and the terms of this Recycled Water General Permit for Gray Water; and
 6. The applicable permit fee specified under 18 A.A.C. 14.

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- C. The following requirements apply to the design, installation, and operation of a gray water system allowed under this Recycled Water General Permit for Gray Water:
- Human contact with gray water and soil irrigated by gray water is avoided;
 - Gray water is not applied to an exposed surface but into a bed or trench of permeable material, through piping installed below the soil surface, or by similar means. Spray irrigation of gray water is not allowed. The application of gray water shall not result in standing water on the surface.
 - The design shall ensure gray water is used and contained within the property boundary for landscape irrigation or composting;
 - Gray water is not used for irrigation of food plants, except for trees and shrubs which have an edible portion that does not come into contact with the gray water;
 - The gray water may contain water from drinking fountains but does not contain hazardous chemicals derived from industrial, hobbyist, or similar activities at the site;
 - Gray water does not contain water used to wash diapers or similarly soiled or infectious garments;
 - The gray water system is constructed so if blockage, plugging, or backup of the system occurs, gray water can be directed into the sewage collection system or on-site wastewater treatment and disposal system, as applicable;
 - Gray water surge tanks, if any, are covered to restrict access and to eliminate habitat for mosquitoes or other vectors, and holding time is minimized to avoid development of anaerobic conditions and odors;
 - The gray water system is sited outside of a floodway;
 - The gray water system is operated to maintain a minimum vertical separation distance of at least five feet from the point of gray water application to the top of the seasonally high groundwater table;
 - If an on-site wastewater treatment facility is used for black water treatment and disposal, the use of a gray water system does not change the design, capacity, or reserve area requirements for the on-site wastewater treatment facility so the facility may handle the combined black water and gray water flow; and
 - Any piping used in a gray water system susceptible to cross connection with a potable water system clearly indicates the piping does not carry potable water.
- D. The applicant shall not operate the gray water system until the Department issues a written Recycled Water Authorization under R18-9-A704(C).
- E. The Department may issue a Recycled Water Authorization that differs from the requirements specified in subsection (C) if the system provides equivalent performance and protection of human health and water quality.
- F. In the Recycled Water Authorization, the Department may require a permittee to report data or information for any of the conditions in this Section if the Department deems the reporting necessary to protect human health or water quality or both.
- A. An application for a Recycled Water Individual Permit for an Advanced Reclaimed Water Treatment Facility must be submitted to the Department according to the requirements in R18-9-A703, as applicable.
- B. Safe Drinking Water Act. For purposes of Safe Drinking Water Act requirements, water produced by an Advanced Reclaimed Water Treatment Facility shall be considered surface water for purposes of compliance with Title 18, Chapter 4 of the Arizona Administrative Code. Nothing in this Section exempts an applicable facility from Safe Drinking Water Act requirements.
- C. Design Report. In addition to the information required by subsection (A), the applicant shall submit a design report for the Advanced Reclaimed Water Treatment Facility according to a form prescribed by the Department and certified by an Arizona-registered professional engineer. The design report must include the following information:
- Characterization of source water quantity and quality, including:
 - Average and anticipated minimum and maximum source water flows to the facility;
 - Concentrations of the source water's physical, microbiological, and chemical constituents regulated for drinking water Maximum Contaminant Levels under the Safe Drinking Water Act and which the Department determines are appropriate for the particular facility and source water;
 - Description and concentrations of constituents in the source water used for unit treatment process monitoring and assessment of unit treatment process efficacy, and
 - A list of unregulated microbial and chemical constituents and corresponding concentrations in the source water a facility proposes to monitor in order to assess the treatment effectiveness of the overall treatment train. The particular constituents will depend on consideration of factors, such as:
 - Occurrence of the constituent in source and local waters,
 - Availability of standardized laboratory methods for quantification of the constituent,
 - Usefulness as representatives of or surrogates for larger classes of constituents, and
 - Availability of toxicity data for the constituent.
 - Description of, and results from, the pilot water treatment system for the facility or of analogous systems where comparable treatment components are demonstrated as appropriate for treating the particular characteristics of the applicant's proposed source water;
 - Identification and description of the technologies, processes, methodologies, and process control monitoring to be employed for microbial control;
 - Logarithmic reduction targets for microbial control, to ensure the product water is free of pathogens and suitable for potable use;
 - Identification and description of technologies, processes, methodologies and process control monitoring for chemical control;
 - Plan for monitoring the product water for public health protection;
 - Commissioning and startup plan, including preoperational and startup testing and monitoring, expected timeframe for meeting full operational performance, and any

Historical Note

New Section R18-9-D702 renumbered from R18-9-719 and amended by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

PART E. PURIFIED WATER FOR POTABLE USE**R18-9-E701. Recycled Water Individual Permit for an Advanced Reclaimed Water Treatment Facility**

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other special startup condition meriting consideration in the individual permit;

8. Operation and maintenance plan including corrective actions for out-of-range monitoring results and contingencies for non-compliant water;
9. Operator training plan; and
10. Documentation of technical, financial, and management capability.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 3091, effective January 1, 2018 (Supp. 17-4).

ARTICLE 8. REPEALED**R18-9-801. Repealed****Historical Note**

Corrected A.R.S. reference (Supp. 77-3). Former Section R9-8-311 renumbered without change as Section R18-9-801 (Supp. 87-3). Amended effective December 1, 1988 (Supp. 88-4). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-802. Repealed**Historical Note**

Amended by adding subsections (N) through (R) effective June 8, 1981 (Supp. 81-3). Former Section R9-8-312 renumbered without change as Section R18-9-802 (Supp. 87-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-803. Repealed**Historical Note**

Amended effective April 18, 1979 (Supp. 79-2). Amended by adding subsection (E) effective October 2, 1986 (Supp. 86-5). Former Section R9-8-313 renumbered without change as Section R18-9-803 (Supp. 87-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-804. Repealed**Historical Note**

Amended effective April 18, 1979 (Supp. 79-2). Amended effective February 20, 1980 (Supp. 80-1). Amended by adding subsections (I) and (J) effective June 8, 1981 (Supp. 81-3). Amended subsections (A), (F) and (H) effective October 2, 1986 (Supp. 86-5). Former Section R9-8-314 renumbered without change as Section R18-9-804 (Supp. 87-3). Amended effective July 25, 1990 (Supp. 90-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-805. Repealed**Historical Note**

Adopted effective April 18, 1979 (Supp. 79-2). Amended effective October 2, 1986 (Supp. 86-5). Former Section R9-8-315 renumbered without change as Section R18-9-805 (Supp. 87-3). Amended effective July 25, 1990 (Supp. 90-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-806. Repealed**Historical Note**

Adopted effective October 2, 1986 (Supp. 86-5). Former

Section R9-8-317 renumbered without change as Section R18-9-806 (Supp. 87-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-807. Repealed**Historical Note**

Former Section R9-8-321 renumbered without change as Section R18-9-807 (Supp. 87-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-808. Repealed**Historical Note**

Former Section R9-8-323 renumbered without change as Section R18-9-808 (Supp. 87-3). Amended effective July 25, 1990 (Supp. 90-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-809. Repealed**Historical Note**

Former Section R9-8-324 renumbered without change as Section R18-9-809 (Supp. 87-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-810. Repealed**Historical Note**

Former Section R9-8-325 renumbered without change as Section R18-9-810 (Supp. 87-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-811. Repealed**Historical Note**

Former Section R9-8-326 repealed, new Section R9-8-326 adopted effective October 2, 1986 (Supp. 86-5). Former Section R9-8-326 renumbered without change as Section R18-9-811 (Supp. 87-3). First entry in Historical Note corrected to reflect Section numbers at time of rule repeal and adoption by changing R18-9-326 to R9-8-326 (Supp. 96-4). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-812. Repealed**Historical Note**

Former Section R9-8-327 renumbered without change as Section R18-9-812 (Supp. 87-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-813. Repealed**Historical Note**

Amended effective April 18, 1979 (Supp. 79-2). Former Section R9-8-329 renumbered without change as Section R18-9-813 (Supp. 87-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-814. Repealed**Historical Note**

Former Section R9-8-331 renumbered without change as Section R18-9-814 (Supp. 87-3). Amended effective

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October 19, 1989 (Supp. 89-4). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-815. Repealed**Historical Note**

Former Section R9-8-332 renumbered without change as Section R18-9-815 (Supp. 87-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-816. Repealed**Historical Note**

Former Section R9-8-351 renumbered without change as Section R18-9-816 (Supp. 87-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-817. Repealed**Historical Note**

Former Section R9-8-352 renumbered without change as Section R18-9-817 (Supp. 87-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-818. Repealed**Historical Note**

Former Section R9-8-353 renumbered without change as Section R18-9-818 (Supp. 87-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-819. Repealed**Historical Note**

Former Section R9-8-361 renumbered without change as Section R18-9-819 (Supp. 87-3). Amended effective December 1, 1988 (Supp. 88-4). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

ARTICLE 9. ARIZONA POLLUTANT DISCHARGE ELIMINATION SYSTEM

Editor's Note: The recodification at 7 A.A.R. 2522 described below erroneously moved Sections into 18 A.A.C. 9, Article 9. Those Sections were actually recodified to 18 A.A.C. 9, Article 10. See the Historical Notes for more information (Supp. 01-4).

Article 9, consisting of Sections R18-9-901 through R18-9-914 and Appendix A, recodified from 18 A.A.C. 13, Article 15 at 7 A.A.R. 2522, effective May 24, 2001 (Supp. 01-2).

PART A. GENERAL REQUIREMENTS**R18-9-A901. Definitions**

In addition to the definitions in A.R.S. § 49-201 and 49-255, the following terms apply to this Article:

1. "Animal confinement area" means any part of an animal feeding operation where animals are restricted or confined including open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables.
2. "Animal feeding operation" means a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

- a. Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and
 - b. Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.
3. "Aquaculture project" means a defined managed water area that uses discharges of pollutants into that designated project area for the maintenance or production of harvestable freshwater plants or animals. For purposes of this definition, "designated project area" means the portion or portions of the navigable waters within which the permittee or permit applicant plans to confine the cultivated species using a method or plan of operation, including physical confinement, that on the basis of reliable scientific evidence, is expected to ensure that specific individual organisms comprising an aquaculture crop will enjoy increased growth attributable to the discharge of pollutants, and be harvested within a defined geographic area.
 4. "Border area" means 100 kilometers north and south of the Arizona-Sonora, Mexico border.
 5. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
 6. "CAFO" means any large concentrated animal feeding operation, medium concentrated animal feeding operation, or animal feeding operation designated under R18-9-D901.
 7. "Concentrated aquatic animal production facility" means a hatchery, fish farm, or other facility that contains, grows, or holds aquatic animals in either of the following categories:
 - a. Cold-water aquatic animals. Cold-water fish species or other cold-water aquatic animals (including the Salmonidae family of fish) in a pond, raceway, or other similar structure that discharges at least 30 days per year, but does not include:
 - i. A facility that produces less than 9,090 harvest weight kilograms (approximately 20,000 pounds) of aquatic animals per year; and
 - ii. A facility that feeds the aquatic animals less than 2,272 kilograms (approximately 5,000 pounds) of food during the calendar month of maximum feeding.
 - b. Warm-water aquatic animals. Warm-water fish species or other warm-water aquatic animals (including the Ameiuride, Centrarchidae, and Cyprinidae families of fish) in a pond, raceway, or other similar structure that discharges at least 30 days per year, but does not include:
 - i. A closed pond that discharges only during periods of excess runoff; or
 - ii. A facility that produces less than 45,454 harvest weight kilograms (approximately 100,000 pounds) of aquatic animals per year.
 8. "Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

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9. "Discharge of a pollutant" means any addition of any pollutant or combination of pollutants to a navigable water from any point source.
 - a. The term includes the addition of any pollutant into a navigable water from:
 - i. A treatment works treating domestic sewage;
 - ii. Surface runoff that is collected or channeled by man;
 - iii. A discharge through a pipe, sewer, or other conveyance owned by a state, municipality, or other person that does not lead to a treatment works; and
 - iv. A discharge through a pipe, sewer, or other conveyance, leading into a privately owned treatment works.
 - b. The term does not include an addition of a pollutant by any industrial user as defined in A.R.S. § 49-255(4).
10. "Draft permit" means a document indicating the Director's tentative decision to issue, deny, modify, revoke and reissue, terminate, or reissue a permit.
 - a. A notice of intent to terminate a permit is a type of draft permit unless the entire discharge is permanently terminated by elimination of the flow or by connection to a POTW, but not by land application or disposal into a well.
 - b. A notice of intent to deny a permit is a type of draft permit.
 - c. A proposed permit or a denial of a request for modification, revocation and reissuance, or termination of a permit, are not draft permits.
11. "EPA" means the U.S. Environmental Protection Agency.
12. "General permit" means an AZPDES permit issued under 18 A.A.C. 9, Article 9, authorizing a category of discharges within a geographical area.
13. "Individual permit" means an AZPDES permit for a single point source, a single facility, or a municipal separate storm sewer system.
14. "Land application area," for purposes of Article 9, Part D, means land under the control of an animal feeding operation owner or operator, whether it is owned, rented, or leased, to which manure, litter, or process wastewater from the production area is or may be applied.
15. "Large concentrated animal feeding operation" means an animal feeding operation that stables or confines at least the number of animals specified in any of the following categories:
 - a. 700 mature dairy cows, whether milked or dry;
 - b. 1,000 veal calves;
 - c. 1,000 cattle other than mature dairy cows or veal calves. Cattle includes heifers, steers, bulls, and cow and calf pairs;
 - d. 2,500 swine each weighing 55 pounds or more;
 - e. 10,000 swine each weighing less than 55 pounds;
 - f. 500 horses;
 - g. 10,000 sheep or lambs;
 - h. 55,000 turkeys;
 - i. 30,000 laying hens or broilers, if the animal feeding operation uses a liquid manure handling system;
 - j. 125,000 chickens (other than laying hens), if the animal feeding operation uses other than a liquid manure handling system;
 - k. 82,000 laying hens, if the animal feeding operation uses other than a liquid manure handling system;
 - l. 30,000 ducks, if the animal feeding operation uses other than a liquid manure handling system; or
 - m. 5,000 ducks, if the animal feeding operation uses a liquid manure handling system.
16. "Large municipal separate storm sewer system" means a municipal separate storm sewer that is either:
 - a. Located in an incorporated area with a population of 250,000 or more as determined by the 1990 Decennial Census by the Bureau of the Census;
 - b. Located in a county with an unincorporated urbanized area with a population of 250,000 or more, according to the 1990 Decennial Census by the Bureau of Census, but not a municipal separate storm sewer that is located in an incorporated place, township, or town within the county; or
 - c. Owned or operated by a municipality other than those described in subsections (16)(a) and (16)(b) and that are designated by the Director under R18-9-A902(D)(2) as part of the large municipal separate storm sewer system.
17. "Manure" means any waste or material mixed with waste from an animal including manure, bedding, compost and raw materials, or other materials commingled with manure or set aside for disposal.
18. "Manure storage area" means any part of an animal feeding operation where manure is stored or retained including lagoons, run-off ponds, storage sheds, stockpiles, under-house or pit storages, liquid impoundments, static piles, and composting piles.
19. "Medium concentrated animal feeding operation" means an animal feeding operation in which:
 - a. The type and number of animals that it stables or confines falls within any of the following ranges:
 - i. 200 to 699 mature dairy cows, whether milked or dry;
 - ii. 300 to 999 veal calves;
 - iii. 300 to 999 cattle other than mature dairy cows or veal calves. Cattle includes heifers, steers, bulls, and cow and calf pairs;
 - iv. 750 to 2,499 swine each weighing 55 pounds or more;
 - v. 3,000 to 9,999 swine each weighing less than 55 pounds;
 - vi. 150 to 499 horses;
 - vii. 3,000 to 9,999 sheep or lambs;
 - viii. 16,500 to 54,999 turkeys;
 - ix. 9,000 to 29,999 laying hens or broilers, if the animal feeding operation uses a liquid manure handling system;
 - x. 37,500 to 124,999 chickens (other than laying hens), if the animal feeding operation uses other than a liquid manure handling system;
 - xi. 25,000 to 81,999 laying hens, if the animal feeding operation uses other than a liquid manure handling system;
 - xii. 10,000 to 29,999 ducks, if the animal feeding operation uses other than a liquid manure handling system; or
 - xiii. 1,500 to 4,999 ducks, if the animal feeding operation uses a liquid manure handling system; and
 - b. Either one of the following conditions are met:

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- i. Pollutants are discharged into a navigable water through a man-made ditch, flushing system, or other similar man-made device; or
 - ii. Pollutants are discharged directly into a navigable water that originates outside of and passes over, across, or through the animal feeding operation or otherwise comes into direct contact with the animals confined in the operation.
20. "Medium municipal separate storm sewer system" means a municipal separate storm sewer that is either:
- a. Located in an incorporated area with a population of 100,000 or more but less than 250,000, as determined by the 1990 Decennial Census by the Bureau of the Census; or
 - b. Located in a county with an unincorporated urbanized area with a population of 100,000 or more but less than 250,000 as determined by the 1990 Decennial Census by the Bureau of the Census; or
 - c. Owned or operated by a municipality other than those described in subsections (20)(a) and (20)(b) and that are designated by the Director under R18-9-A902(D)(2) as part of the medium municipal separate storm sewer system.
21. "MS4" means municipal separate storm sewer system.
22. "Municipal separate storm sewer" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, and storm drains):
- a. Owned or operated by a state, city, town county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the Clean Water Act (33 U.S.C. 1288) that discharges to waters of the United States;
 - b. Designed or used for collecting or conveying stormwater;
 - c. That is not a combined sewer; and
 - d. That is not part of a POTW.
23. "Municipal separate storm sewer system" means all separate storm sewers defined as "large," "medium," or "small" municipal separate storm sewer systems or any municipal separate storm sewers on a system-wide or jurisdiction-wide basis as determined by the Director under R18-9-C902(A)(1)(g)(i) through (iv).
24. "New discharger" includes an industrial user and means any building, structure, facility, or installation:
- a. From which there is or may be a discharge of pollutants;
 - b. That did not commence the discharge of pollutants at a particular site before August 13, 1979;
 - c. That is not a new source; and
 - d. That has never received a finally effective NPDES or AZPDES permit for discharges at that site.
25. "New source" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:
- a. After the promulgation of standards of performance under section 306 of the Clean Water Act (33 U.S.C. 1316) that are applicable to the source, or
 - b. After the proposal of standards of performance in accordance with section 306 of the Clean Water Act (33 U.S.C. 1316) that are applicable to the source, but only if the standards are promulgated under section 306 (33 U.S.C. 1316) within 120 days of their proposal.
26. "NPDES" means the National Pollutant Discharge Elimination System, which is the national program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment and biosolids requirements under sections 307 (33 U.S.C. 1317), 318 (33 U.S.C. 1328), 402 (33 U.S.C. 1342), and 405 (33 U.S.C. 1345) of the Clean Water Act.
27. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. It does not mean:
- a. Sewage from vessels; or
 - b. Water, gas, or other material that is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of this state, and if the state determines that the injection or disposal will not result in the degradation of ground or surface water resources. (40 CFR 122.2)
28. "POTW" means a publicly owned treatment works.
29. "Process wastewater," for purposes of Article 9, Part D, means any water that comes into contact with a raw material, product, or byproduct including manure, litter, feed, milk, eggs, or bedding and water directly or indirectly used in the operation of an animal feeding operation for any or all of the following:
- a. Spillage or overflow from animal or poultry watering systems;
 - b. Washing, cleaning, or flushing pens, barns, manure pits, or other animal feeding operation facilities;
 - c. Direct contact swimming, washing, or spray cooling of animals; or
 - d. Dust control.
30. "Proposed permit" means an AZPDES permit prepared after the close of the public comment period (including EPA review), and any applicable public hearing and administrative appeal, but before final issuance by the Director. A proposed permit is not a draft permit.
31. "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater before or instead of discharging or otherwise introducing the pollutants into a POTW.
32. "Production area," for purposes of Article 9, Part D, means the animal confinement area, manure storage area, raw materials storage area, and waste containment areas. Production area includes any egg washing or egg processing facility and any area used in the storage, handling, treatment, or disposal of animal mortalities.
33. "Raw materials storage area" means the part of an animal feeding operation where raw materials are stored including feed silos, silage bunkers, and bedding materials.

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34. "Silviculture point source" means any discernible, confined, and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities that are operated in connection with silvicultural activities and from which pollutants are discharged into navigable waters. The term does not include nonpoint source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff. For purposes of this definition:
- "Log sorting and log storage facilities" means facilities whose discharge results from the holding of unprocessed wood, for example, logs or round wood with or without bark held in self-contained bodies of water or stored on land if water is applied intentionally on the logs.
 - "Rock crushing and gravel washing facilities" mean facilities that process crushed and broken stone, gravel, and riprap.
35. "Small municipal separate storm sewer system" means a separate storm sewer that is:
- Owned or operated by the United States, a state, city, town, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act (33 U.S.C. 1288) that discharge to navigable waters.
 - Not defined as a "large" or "medium" municipal separate storm sewer system or designated under R18-9-A902(D)(2).
 - Similar to municipal separate storm sewer systems such as systems at military bases, large hospital or prison complexes, universities, and highways and other thoroughfares. The term does not include a separate storm sewer in a very discrete area such as an individual building.
36. "Stormwater" means stormwater runoff, snow melt runoff, and surface runoff and drainage.
37. "Treatment works treating domestic sewage" means a POTW or any other sewage sludge or waste water treatment device or system, regardless of ownership (including federal facilities), used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated for the disposal of sewage sludge. This definition does not include septic tanks or similar devices. For purposes of this definition, "domestic sewage" includes waste and wastewater from humans or household operations that are discharged to or otherwise enter a treatment works.
38. "Waste containment area" means any part of an animal feeding operation where waste is stored or contained including settling basins and areas within berms and diversions that separate uncontaminated stormwater.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4). Amended by

final rulemaking at 9 A.A.R. 5564, effective February 2, 2004 (Supp. 03-4).

R18-9-A902. AZPDES Permit Transition, Applicability, and Exclusions

- A.** Upon the effective date of EPA approval of the AZPDES program, the Department shall, under A.R.S. Title 49, Chapter 2, Article 3.1 and Articles 9 and 10 of this Chapter, administer any permit authorized or issued under the NPDES program, including an expired permit that EPA has continued in effect under 40 CFR 122.6.
- The Director shall give a notice to all Arizona NPDES permittees, except NPDES permittees located on and discharging in Indian Country, and shall publish a notice in one or more newspapers of general circulation in the state. The notice shall contain:
 - The effective date of EPA approval of the AZPDES program;
 - The name and address of the Department;
 - The name of each individual permitted facility and its permit number;
 - The title of each general permit administered by the Department;
 - The name and address of the contact person, to which the permittee will submit notification and monitoring reports;
 - Information specifying the state laws equivalent to the federal laws or regulations referenced in a NPDES permit; and
 - The name, address, and telephone number of a person from whom an interested person may obtain further information about the transition.
 - The Department shall provide the following entities with a copy of the notice:
 - Each county department of health, environmental services, or comparable department;
 - Each Arizona council of government, tribal government, the states of Utah, Nevada, New Mexico, and California, and EPA Region 9;
 - Any person who requested, in writing, notification of the activity;
 - The Mexican Secretaria de Medio Ambiente y Recursos Naturales, and
 - The United States Section of the International Boundary and Water Commission.
 - If a timely application for a NPDES permit is submitted to EPA before approval of the AZPDES program, the applicant may continue the process with EPA or request the Department to act on the application. In either case, the Department shall issue the permit.
 - The terms and conditions under which the permit was issued remain the same until the permit is modified.
- B.** Article 9 of this Chapter applies to any "discharge of a pollutant." Examples of categories that result in a "discharge of a pollutant" and may require an AZPDES permit include:
- CAFOs;
 - Concentrated aquatic animal production facilities;
 - Case-by-case designation of concentrated aquatic animal production facilities;
 - The Director may designate any warm- or cold-water aquatic animal production facility as a concentrated aquatic animal production facility upon determining that it is a significant contributor of pollution to navigable waters. The Director shall consider the following factors when making this determination:

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- i. The location and quality of the receiving waters of the United States;
 - ii. The holding, feeding, and production capacities of the facility;
 - iii. The quantity and nature of the pollutants reaching navigable waters; and
 - iv. Any other relevant factor;
 - b. A permit application is not required from a concentrated aquatic animal production facility designated under subsection (B)(3)(a) until the Director conducts an onsite inspection of the facility and determines that the facility should and could be regulated under the AZPDES permit program;
 - 4. Aquaculture projects;
 - 5. Manufacturing, commercial, mining, and silviculture point sources;
 - 6. POTWs;
 - 7. New sources and new dischargers;
 - 8. Stormwater discharges:
 - a. Associated with industrial activity as defined under 40 CFR 122.26(b)(14), incorporated by reference in R18-9-A905(A)(1)(d). The Department shall not consider a discharge to be a discharge associated with industrial activity if the discharge is composed entirely of stormwater and meets the conditions of no exposure as defined under 40 CFR 122.26(g), incorporated by reference in R18-9-A905(A)(1)(d);
 - b. From a large, medium, or small MS4;
 - c. From a construction activity, including clearing, grading, and excavation, that results in the disturbance of:
 - i. Equal to or greater than one acre or;
 - ii. Less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one acre; but
 - iii. Not including routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility;
 - d. Any discharge that the Director determines contributes to a violation of a water quality standard or is a significant contributor of pollutants to a navigable water, which may include a discharge from a conveyance or system of conveyances (including roads with drainage systems and municipal streets) used for collecting and conveying stormwater runoff or a system of discharges from municipal separate storm sewers.
- C.** Articles 9 and 10 of this Chapter apply to the following biosolids categories and may require an AZPDES permit:
- 1. Treatment works treating domestic sewage that would not otherwise require an AZPDES permit; and
 - 2. Using, applying, generating, marketing, transporting, and disposing of biosolids.
- D.** Director designation of MS4s.
- 1. The Director may designate and require any small MS4 located outside of an urbanized area to obtain an AZPDES stormwater permit. The Director shall base this designation on whether a stormwater discharge results in or has the potential to result in an exceedance of a water quality standard, including impairment of a designated use, or another significant water quality impact, including a habitat or biological impact.
 - 2. When deciding whether to designate a small MS4, the Director shall consider the following criteria:
 - i. Discharges to sensitive waters,
 - ii. Areas with high growth or growth potential,
 - iii. Areas with a high population density,
 - iv. Areas that are contiguous to an urbanized area,
 - v. Small MS4s that cause a significant contribution of pollutants to a navigable water,
 - vi. Small MS4s that do not have effective programs to protect water quality, and
 - vii. Any other relevant criteria.
 - 3. The same requirements for small MS4s designated under 40 CFR 122.32(a)(1) apply to permits for designated MS4s not waived under R18-9-B901(A)(3).
- 2.** The Director may designate an MS4 as part of a large or medium system due to the interrelationship between the discharges from a designated storm sewer and the discharges from a municipal separate storm sewer described under R18-9-A901(16)(a) and (b), or R18-9-A901(20)(a) or (b), as applicable. In making this determination, the Director shall consider the following factors:
- a. Physical interconnections between the municipal separate storm sewers;
 - b. The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in R18-9-A901(16)(a) and R18-9-A901(20)(a);
 - c. The quantity and nature of pollutants discharged to a navigable water;
 - d. The nature of the receiving waters; and
 - e. Any other relevant factor.
- 3.** The Director shall designate a small MS4 that is physically interconnected with a MS4 that is regulated by the AZPDES program if the small MS4 substantially contributes to the pollutant loading of the regulated MS4.
- E.** Petitions. The Director may, upon a petition, designate as a large, medium or small MS4, a municipal separate storm sewer located within the boundaries of a region defined by a stormwater management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in R18-9-A901(16), R18-9-A901(20) or R18-9-A901(35), as applicable.
- F.** Phase-ins.
- 1. The Director may phase-in permit coverage for a small MS4 serving a jurisdiction with a population of less than 10,000 if a phasing schedule is developed and implemented for approximately 20 percent annually of all small MS4s that qualify for the phased-in coverage.
 - a. If the phasing schedule is not yet approved for permit coverage, the Director shall, by December 9, 2002, determine whether to issue an AZPDES permit or allow a waiver under R18-9-B901(A)(3) for each eligible MS4.
 - b. All regulated MS4s shall have coverage under an AZPDES permit no later than March 8, 2007.
 - 2. The Director may provide a waiver under R18-9-B901(A)(3) for any municipal separate storm sewage system operating under a phase-in plan.
- G.** Exclusions. The following discharges do not require an AZPDES permit:
- 1. Discharge of dredged or fill material into a navigable water that is regulated under section 404 of the Clean Water Act (33 U.S.C. 1344);

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2. The introduction of sewage, industrial wastes, or other pollutants into POTWs by indirect dischargers. Plans or agreements to switch to this method of disposal in the future do not relieve dischargers of the obligation to have and comply with a permit until all discharges of pollutants to a navigable water are eliminated. This exclusion does not apply to the introduction of pollutants to privately owned treatment works or to other discharges through a pipe, sewer, or other conveyance owned by the state, a municipality, or other party not leading to treatment works;
3. Any discharge in compliance with the instructions of an on-scene coordinator under 40 CFR 300, The National Oil and Hazardous Substances Pollution Contingency Plan; or 33 CFR 153.10(e), Control of Pollution by Oil and Hazardous Substances, Discharge Removal;
4. Any introduction of pollutants from a nonpoint source agricultural or silvicultural activity, including stormwater runoff from an orchard, cultivated crop, pasture, rangeland, and forest land, but not discharges from a concentrated animal feeding operation, concentrated aquatic animal production facility, silvicultural point source, or to an aquaculture project;
5. Return flows from irrigated agriculture;
6. Discharges into a privately owned treatment works, except as the Director requires under 40 CFR 122.44(m), which is incorporated by reference in R18-9-A905(A)(3)(d);
7. Discharges from conveyances for stormwater runoff from mining operations or oil and gas exploration, production, processing or treatment operations, or transmission facilities, composed entirely of flows from conveyances or systems of conveyances, including pipes, conduits, ditches, and channels, used for collecting and conveying precipitation runoff and that are not contaminated by contact with or that has not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct, or waste product located on the site of the operations.

H. Conditional no exposure exclusion.

1. Discharges composed entirely of stormwater are not considered stormwater discharges associated with an industrial activity if there is no exposure, and the discharger satisfies the conditions under 40 CFR 122.26(g), which is incorporated by reference in R18-9-A905(A)(1)(d).
2. For purposes of this subsection:
 - a. "No exposure" means that all industrial materials and activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt, and runoff.
 - b. "Industrial materials or activities" include material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products.
 - c. "Material-handling activities" include storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, or waste product.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 8 A.A.R. 2704, effective June 5, 2002 (Supp. 02-2). Amended by final rulemaking at 9 A.A.R.

5564, effective February 2, 2004 (Supp. 03-4).

R18-9-A903. Prohibitions

- A.** The Director shall not issue a permit for a discharge to a WOTUS:
 1. If the conditions of the permit do not provide for compliance with the applicable requirements of A.R.S. Title 49, Chapter 2, Article 3.1; 18 A.A.C. 9, Articles 9 and 10; and the Clean Water Act;
 2. Before resolution of an EPA objection to a draft or proposed permit under R18-9-A908(C);
 3. If the imposition of conditions cannot ensure compliance with the applicable water quality requirements from Arizona or an affected state or tribe, or a federally promulgated water quality standard under 40 CFR 131.31;
 4. If in the judgment of the Secretary of the U.S. Army, acting through the Chief of Engineers, the discharge will substantially impair anchorage and navigation in or on any navigable water;
 5. For the discharge of any radiological, chemical, or biological warfare agent, or high-level radioactive waste;
 6. For any discharge inconsistent with a plan or plan amendment approved under section 208(b) of the Clean Water Act (33 U.S.C. 1288); and
 7. To a new source or a new discharger if the discharge from its construction or operation will cause or contribute to the violation of a water quality standard. The owner or operator of a new source or new discharger proposing to discharge into a water segment that does not meet water quality standards or is not expected to meet those standards even after the application of the effluent limitations required under R18-9-A905(A)(8), and for which the Department has performed a wasteload allocation for the proposed discharge, shall demonstrate before the close of the public comment period that:
 - a. There are sufficient remaining wasteload allocations to allow for the discharge, and
 - b. The existing dischargers into the segment are subject to schedules of compliance designed to bring the segment into compliance with water quality standards.
- B.** The Director shall not issue a permit for a discharge to a non-WOTUS protected surface water:
 1. If the permit or the conditions of the permit violate the restrictions listed in A.R.S. § 49-255.04; and
 2. If the conditions of the permit do not provide for compliance with 18 A.A.C. 11, Article 2 and the applicable requirements of 18 A.A.C. 9, Article 9.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 8 A.A.R. 2704, effective June 5, 2002 (Supp. 02-2). Amended by final rulemaking at 29 A.A.R. 296 (January 27, 2023), effective February 20, 2023 (Supp. 22-4).

R18-9-A904. Effect of a Permit

- A.** Except for a standard or prohibition imposed under section 307 of the Clean Water Act (33 U.S.C. 1317) for a toxic pollutant that is injurious to human health and standards for sewage sludge use or disposal under Article 10 of this Chapter, compliance with an AZPDES permit during its term constitutes compliance, for purposes of enforcement, with Article 9 of this Chapter. However, the Director may modify, revoke and reissue

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sue, suspend, or terminate a permit during its term for cause under R18-9-B906.

- B. The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.
- C. The issuance of a permit does not authorize any injury to a person or property or invasion of other private rights, or any infringement of federal, state, or local law, or regulations.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-A905. AZPDES Program Standards

- A. Except for subsection (A)(11), the following 40 CFR sections and appendices, July 1, 2003 edition, as they apply to the NPDES program, are incorporated by reference, do not include any later amendments or editions of the incorporated matter, and are on file with the Department:
 - 1. General program requirements.
 - a. 40 CFR 122.7;
 - b. 40 CFR 122.21, except 40 CFR 122.21(a) through (e) and (l);
 - c. 40 CFR 122.22;
 - d. 40 CFR 122.26, except 40 CFR 122.26(c)(2), and 40 CFR 122.26(e)(2);
 - e. 40 CFR 122.29;
 - f. 40 CFR 122.32;
 - g. 40 CFR 122.33;
 - h. 40 CFR 122.34;
 - i. 40 CFR 122.35;
 - j. 40 CFR 122.62(a) and (b).
 - 2. Procedures for Decision making.
 - a. 40 CFR 124.8, except 40 CFR 124.8(b)(3); and
 - b. 40 CFR 124.56.
 - 3. Permit requirements and conditions.
 - a. 40 CFR 122.41, except 40 CFR 122.41(a)(2) and (a)(3);
 - b. 40 CFR 122.42;
 - c. 40 CFR 122.43;
 - d. 40 CFR 122.44;
 - e. 40 CFR 122.45;
 - f. 40 CFR 122.47;
 - g. 40 CFR 122.48; and
 - h. 40 CFR 122.50.
 - 4. Criteria and standards for the national pollutant discharge elimination system. 40 CFR 125, subparts A, B, D, H, and I.
 - 5. Toxic pollutant effluent standards. 40 CFR 129.
 - 6. Secondary treatment regulation. 40 CFR 133.
 - 7. Guidelines for establishing test procedures for the analysis of pollutants, 40 CFR 136.
 - 8. Effluent guidelines and standards.
 - a. General provisions, 40 CFR 401; and
 - b. General pretreatment regulations for existing and new sources of pollution, 40 CFR 403 and Appendices A, D, E, and G.
 - 9. Effluent limitations guidelines. 40 CFR 405 through 40 CFR 471.
 - 10. Standards for the use or disposal of sewage sludge. 40 CFR 503, Subpart C.
 - 11. The following substitutions apply to the material in subsections (A)(1) through (A)(10):
 - a. Substitute the term AZPDES for any reference to NPDES;

- b. Except for 40 CFR 122.21(f) through (q), substitute R18-9-B901 (individual permit), and R18-9-C901 (general permit), for any reference to 40 CFR 122.21;
- c. Substitute Articles 9 and 10 of this Chapter for any reference to 40 CFR 122;
- d. Substitute R18-9-C901 for any reference to 40 CFR 122.28;
- e. Substitute R18-9-B901 (individual permit), and R18-9-C901 (general permit), for any reference to 40 CFR 122 subpart B;
- f. Substitute Articles 9 and 10 of this Chapter for any reference to 40 CFR 123;
- g. Substitute Articles 9 and 10 of this Chapter for any reference to 40 CFR 124;
- h. Substitute R18-9-1006 for any reference to 40 CFR 503.32; and
- i. Substitute R18-9-1010 for any reference to 40 CFR 503.33.

- B. A person shall analyze a pollutant using a test procedure for the pollutant specified by the Director in an AZPDES permit. If the Director does not specify a test procedure for a pollutant in an AZPDES permit, a person shall analyze the pollutant using:
 - 1. A test procedure listed in 40 CFR 136, which is incorporated by reference in subsection (A)(7);
 - 2. An alternate test procedure approved by the EPA as provided in 40 CFR 136;
 - 3. A test procedure listed in 40 CFR 136, with modifications allowed by the EPA and approved as a method alteration by the Arizona Department of Health Services under A.A.C. R9-14-610(B); or
 - 4. If a test procedure for a pollutant is not available under subsection (B)(1) through (B)(3), a test procedure listed in A.A.C. R9-14-612 or approved under A.A.C. R9-14-610(B).

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 8 A.A.R. 2704, effective June 5, 2002 (Supp. 02-2). Amended by final rulemaking at 9 A.A.R. 5564, effective February 2, 2004 (Supp. 03-4).

R18-9-A906. General Pretreatment Regulations for Existing and New Sources of Pollution

- A. The reduction or alteration of a pollutant may be obtained by physical, chemical, or biological processes, process changes, or by other means, except as prohibited under 40 CFR 403.6(d), which is incorporated by reference in R18-9-A905(A)(8)(b). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loading that might interfere with or otherwise be incompatible with the POTW. However, if wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility shall meet an adjusted pretreatment limit calculated under 40 CFR 403.6(e), which is incorporated by reference in R18-9-A905(A)(8)(b).
- B. Pretreatment applies to:
 - 1. Pollutants from non-domestic sources covered by pretreatment standards that are indirectly discharged, transported by truck or rail, or otherwise introduced into POTWs;

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2. POTWs that receive wastewater from sources subject to national pretreatment standards; and
 3. Any new or existing source subject to national pretreatment standards.
- C. National pretreatment standards do not apply to sources that discharge to a sewer that is not connected to a POTW.
- D. For purposes of this Section the terms "National Pretreatment Standard" and "Pretreatment Standard" mean any regulation containing pollutant discharge limits promulgated by EPA under section 307(b) and (c) of the Clean Water Act (33 U.S.C. 1317), which applies to Industrial Users. This term includes prohibitive discharge limits established under 40 CFR 403.5.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-A907. Public Notice**A. Individual permits.**

1. The Director shall publish a notice that a draft individual permit has been prepared, or a permit application has been tentatively denied, in one or more newspapers of general circulation where the facility is located. The notice shall contain:
 - a. The name and address of the Department;
 - b. The name and address of the permittee or permit applicant and if different, the name of the facility or activity regulated by the permit;
 - c. A brief description of the business conducted at the facility or activity described in the permit application;
 - d. The name, address, and telephone number of a person from whom an interested person may obtain further information, including copies of the draft permit, fact sheet, and application;
 - e. A brief description of the comment procedures, the time and place of any hearing, including a statement of procedures to request a hearing (unless a hearing has already been scheduled), and any other procedure by which the public may participate in the final permit decision;
 - f. A general description of the location of each existing or proposed discharge point and the name of the receiving water;
 - g. For sources subject to section 316(a) of the Clean Water Act, a statement that the thermal component of the discharge is subject to effluent limitations under the Clean Water Act, section 301 (33 U.S.C. 1311) or 306 (33 U.S.C. 1316) and a brief description, including a quantitative statement, of the thermal effluent limitations proposed under section 301 (33 U.S.C. 1311) or 306 (33 U.S.C. 1316);
 - h. Requirements applicable to cooling water intake structures at new facilities subject to 40 CFR 125, subpart I; and
 - i. Any additional information considered necessary to the permit decision.
2. The Department shall provide the applicant with a copy of the draft individual permit.
3. Copy of the notice. The Department shall provide the following entities with a copy of the notice:
 - a. The applicant or permittee;
 - b. Any user identified in the permit application of a privately owned treatment works;

- c. Any affected federal, state, tribal, or local agency, or council of government;
- d. Federal and state agencies with jurisdiction over fish, shellfish, and wildlife resources, the Arizona Historic Preservation Office, and the U.S. Army Corps of Engineers;
- e. Each applicable county department of health, environmental services, or comparable department;
- f. Any person who requested, in writing, notification of the activity; and
- g. The Secretaria de Medio Ambiente y Recursos Naturales and the United States Section of the International Boundary and Water Commission, if the Department is aware the effluent discharge is expected to reach Sonora, Mexico, either through surface water or groundwater.

- B. General permits. If the Director considers issuing a general permit applicable to a category of discharge under R18-9-C901, the Director shall publish a general notice of the draft permit in the *Arizona Administrative Register*. The notice shall contain:

1. The name and address of the Department,
2. The name of the person to contact regarding the permit,
3. The general permit category,
4. A brief description of the proposed general permit,
5. A map or description of the permit area,
6. The web site or any other location where the proposed general permit may be obtained, and
7. The ending date for public comment.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 9 A.A.R. 5564, effective February 2, 2004 (Supp. 03-4).

R18-9-A908. Public Participation, EPA Review, EPA Hearing**A. Public comment period.**

1. The Director shall accept written comments from any interested person before a decision is made on any notice published under R18-9-A907(A) or (B).
2. The public comment period begins on the publication date of the notice and extends for 30 calendar days.
3. The Director may extend the comment period to provide commenters a reasonable opportunity to participate in the decision-making process.
4. If any data, information, or arguments submitted during the public comment period appear to raise substantial new questions concerning a permit, the Director may reopen or extend the comment period to provide interested persons an opportunity to comment on the information or arguments submitted. Comments filed during a reopened comment period are limited to the substantial new questions that caused its reopening.
 - a. Corps of Engineers.
 - i. If the District Engineer advises the Director that denying the permit or imposing specified conditions upon a permit is necessary to avoid any substantial impairment of anchorage or navigation, then the Director shall deny the permit or include the specified conditions in the permit.
 - ii. A person shall use the applicable procedures of the Corps of Engineers Review and not the procedures under this Article to appeal the denial

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of a permit or conditions specified by the District Engineer.

- iii. If the conditions are stayed by a court of competent jurisdiction or by applicable procedures of the Corps of Engineers, those conditions are considered stayed in the AZPDES permit for the duration of that stay.

- b. If an agency with jurisdiction over fish, wildlife, or public health advises the Director in writing that the imposition of specified conditions upon the permit is necessary to avoid substantial impairment of fish, shellfish, or wildlife resource, the Director may include the specified conditions in the permit to the extent they are determined necessary to carry out the provisions of the Clean Water Act.

B. Public hearing.

1. The Director shall provide notice and conduct a public hearing to address a draft permit or denial regarding a final decision if:
 - a. Significant public interest in a public hearing exists, or
 - b. Significant issues or information have been brought to the attention of the Director during the comment period that was not considered previously in the permitting process.
2. If, after publication of the notice under R18-9-A907, the Director determines that a public hearing is necessary, the Director shall schedule a public hearing and publish notice of the public hearing at least once, in one or more newspapers of general circulation where the facility is located. The notice for public hearing shall contain:
 - a. The date, time, and place of the hearing;
 - b. Reference to the date of a previous public notice relating to the proposed decision, if any; and
 - c. A brief description of the nature and purpose of the hearing, including reference to the applicable laws and rules.
3. The Department shall accept written public comment until the close of the hearing or until a later date specified by the person presiding at the public hearing.

C. EPA review of draft and proposed permits.

1. Individual permits.
 - a. The Department shall send a copy of the draft permit to EPA.
 - b. If EPA objects to the draft permit within 30 days from the date of receipt of the draft permit, the EPA comment period is extended to 90 days from the date of receipt of the draft permit and the substantive review time-frame is suspended until EPA makes a final determination.
 - c. If, based on public comments, the Department revises the draft permit, the Department shall send EPA a copy of the proposed permit. If EPA objects to the proposed permit within 30 days from the date of receipt of the proposed permit, the EPA comment period is extended to 90 days from the date of receipt of the proposed permit and the substantive review time-frame is suspended until EPA makes a final determination.
 - d. If EPA withdraws its objection to the draft or proposed permit or does not submit specific objections within 90 days, the Director shall issue the permit.

2. General permits. The Director shall send a copy of the draft permit to EPA and comply with the following review procedure for EPA comments:

- a. If EPA objects to the draft permit within 90 days from receipt of the draft permit, the Department shall not issue the permit until the objection is resolved;
- b. If, based on public comments, the Department revises the draft permit, the Department shall send EPA a copy of the proposed permit. If EPA objects to the proposed permit within 90 days from receipt of the proposed permit, the Department shall not issue the permit until the objection is resolved;
- c. If EPA withdraws its objection to the draft or proposed permit or does not submit specific objections within 90 days, the Director shall issue the permit.

D. EPA hearing. Within 90 days of receipt by the Director of a specific objection by EPA, the Director or any interested person may request that EPA hold a public hearing on the objection.

1. If following the public hearing EPA withdraws the objection, the Director shall issue the permit.
2. If a public hearing is not held, and EPA reaffirms the original objection, or modifies the terms of the objection, and the Director does not resubmit a permit revised to meet the EPA objection within 90 days of receipt of the objection, EPA may issue the permit for one term. Following the completion of the permit term, authority to issue the permit reverts to the Department.
3. If a public hearing is held and EPA does not withdraw an objection or modify the terms of the objection, and the Director does not resubmit a permit revised to meet the EPA objection within 30 days of notification of the EPA objection, EPA may issue the permit for one permit term. Following the completion of the permit term, authority to issue the permit reverts to the Department.
4. If EPA issues the permit instead of the Director, the Department shall close the application file.

E. Final permit determination.

1. Individual permits. At the same time the Department notifies a permittee or an applicant of the final individual permit determination, the Department shall send, through regular mail, a notice of the determination to any person who submitted comments or attended a public hearing on the final individual permit determination. The Department shall:
 - a. Specify the provisions, if any, of the draft individual permit that have been changed in the final individual permit determination, and the reasons for the change; and
 - b. Briefly describe and respond to all significant comments on the draft individual permit or the permit application raised during the public comment period, or during any hearing.
2. General permits. The Director shall publish a general notice of the final permit determination in the *Arizona Administrative Register*. The notice shall:
 - a. Specify the provisions, if any, of the draft general permit that have been changed in the final general permit determination, and the reasons for the change;
 - b. Briefly describe and respond to all significant comments on the draft general permit raised during the public comment period, or during any hearing; and

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- c. Specify where a copy of the final general permit may be obtained.
- 3. The Department shall make the response to comments available to the public.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-A909. Petitions

- A. Any person may submit a petition to the Director requesting:
 - 1. The issuance of a general permit;
 - 2. An individual permit covering any discharge into an MS4 under 40 CFR 122.26(f), which is incorporated by reference in R18-9-A905(A)(1)(d); or
 - 3. An individual permit under R18-9-C902(B)(1).
- B. The petition shall contain:
 - 1. The name, address, and telephone number of the petitioner;
 - 2. The location of the facility;
 - 3. The exact nature of the petition, and
 - 4. Evidence of the validity of the petition.
- C. The Department shall provide the permittee with a copy of the petition.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

PART B. INDIVIDUAL PERMITS**R18-9-B901. Individual Permit Application**

- A. Time to apply.
 - 1. Any person who owns or operates a facility covered by R18-9-A902(B) or R18-9-A902(C), shall apply for an AZPDES individual permit at least 180 days before the date of the discharge or a later date if granted by the Director, unless the person:
 - a. Is exempt under R18-9-A902(G);
 - b. Is covered by a general permit under Article 9, Part C of this Chapter; or
 - c. Is a user of a privately owned treatment works, unless the Director requires a permit under 40 CFR 122.44(m).
 - 2. Construction. Any person who proposes a construction activity under R18-9-A902(B)(9)(c) or R18-9-A902(B)(9)(d) and wishes coverage under an individual permit, shall apply for the individual permit at least 90 days before the date on which construction is to commence.
 - 3. Waivers.
 - a. Unless the Director grants a waiver under 40 CFR 122.32, a person operating a small MS4 is regulated under the AZPDES program.
 - b. The Director shall review any waiver granted under subsection (A)(3)(a) at least every five years to determine whether any of the information required for granting the waiver has changed.
- B. Application. An individual permit applicant shall submit the following information on an application obtained from the Department. The Director may require more than one application from a facility depending on the number and types of discharges or outfalls.
 - 1. Discharges, other than stormwater.
 - a. The information required under 40 CFR 122.21(f) through (l);

- b. The signature of the certifying official required under 40 CFR 122.22;
- c. The name and telephone number of the operator, if the operator is not the applicant; and
- d. Whether the facility is located in the border area, and, if so:
 - i. A description of the area into which the effluent discharges from the facility may flow, and
 - ii. A statement explaining whether the effluent discharged is expected to cross the Arizona-Sonora, Mexico border.
- 2. Stormwater. In addition to the information required in subsection (B)(1)(c) and (B)(1)(d):
 - a. For stormwater discharges associated with industrial activity, the application requirements under 40 CFR 122.26(c)(1);
 - b. For large and medium MS4s, the application requirements under 40 CFR 122.26(d);
 - c. For small MS4s:
 - i. A stormwater management program under 40 CFR 122.34, and
 - ii. The application requirements under 40 CFR 122.33.

C. Consolidation of permit applications.

- 1. The Director may consolidate two or more permit applications for any facility or activity that requires a permit under Articles 9 and 10 of this Chapter.
- 2. Whenever a facility or activity requires an additional permit under Articles 9 and 10 of this Chapter, the Director may coordinate the expiration date of the new permit with the expiration date of an existing permit so that all permits expire simultaneously. The Department may then consolidate the processing of the subsequent applications for renewal permits.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-B902. Requested Coverage Under a General Permit

An owner or operator may request that an individual permit be revoked, if a source is excluded from a general permit solely because it already has an individual permit.

- 1. The Director shall grant the request for revocation of an individual permit upon determining that the permittee otherwise qualifies for coverage under a general permit.
- 2. Upon revocation of the individual permit, the general permit applies to the source.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-B903. Individual Permit Issuance or Denial

- A. Once the application is complete, the Director shall tentatively decide whether to prepare a draft permit or to deny the application.
- B. Permit issuance. If, based upon the information obtained by or available to the Department under R18-9-A907, R18-9-A908, and R18-9-B901, the Director determines that an applicant complies with A.R.S. Title 49, Chapter 2, Article 3.1 and Articles 9 and 10 of this Chapter, the Director shall issue a permit that is effective as prescribed in A.R.S. 49-255.01(H).
- C. Permit denial.
 - 1. If the Director decides to deny the permit application, the Director shall provide the applicant with a written notice

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of intent to deny the permit application. The written notification shall include:

- a. The reason for the denial with reference to the statute or rule on which the denial is based;
 - b. The applicant's right to appeal the denial with the Water Quality Appeals Board under A.R.S. § 49-323, the number of days the applicant has to file a protest challenging the denial, and the name and telephone number of the Department contact person who can answer questions regarding the appeals process; and
 - c. The applicant's right to request an informal settlement conference under A.R.S. §§ 41-1092.03(A) and 41-1092.06.
2. The Director shall provide an opportunity for public comment under R18-9-A907 and R18-9-A908 on a denial.
 3. The decision of the Director to deny the permit application takes effect 30 days after the decision is served on the applicant, unless the applicant files an appeal under A.R.S. 49-255.01(H)(1).

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-B904. Individual Permit Duration, Reissuance, and Continuation**A. Permit duration.**

1. An AZPDES individual permit is effective for a fixed term of not more than five years. The Director may issue a permit for a duration that is less than the full allowable term.
2. If the Director does not reissue a permit within the period specified in the permit, the permit expires, unless it is continued under subsection (C).
3. If a permittee of a large or medium MS4 allows a permit to expire by failing to reapply within the time period specified in subsection (B), the permittee shall submit a new application under R18-9-B901 and follow the application requirements under 40 CFR 122.26(d), which is incorporated by reference in R18-9-A905(A)(1)(d).

B. Permit reissuance.

1. A permittee shall reapply for an individual permit at least 180 days before the permit expiration date.
2. Unless otherwise specified in the permit, an annual report submitted 180 days before the permit expiration date satisfies the reapplication requirement for an MS4 permit. The annual report shall contain:
 - a. The name, address, and telephone number of the MS4;
 - b. The name, address, and telephone number of the contact person;
 - c. The status of compliance with permit conditions, including an assessment of the appropriateness of the selected best management practices and progress toward achieving the selected measurable goals for each minimum measure;
 - d. The results of any information collected and analyzed, including monitoring data, if any;
 - e. A summary of the stormwater activities planned for the next reporting cycle;
 - f. A change in any identified best management practices or measurable goals for any minimum measure; and

- g. Notice of relying on another governmental entity to satisfy some of the permit obligations.

C. Continuation. A NPDES or AZPDES individual permit may continue beyond its expiration date if:

1. The permittee has submitted a complete application for an AZPDES individual permit at least 180 days before the expiration date of the existing permit and the permitted activity is of a continuing nature; and
2. The Department is unable, through no fault of the permittee, to issue an AZPDES individual permit on or before the expiration date of the existing permit.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-B905. Individual Permit Transfer**A.** A permittee may request the Director to transfer an individual permit to a new permittee. The Director may modify, or revoke and reissue the permit to identify the new permittee, or make a minor modification to identify the new permittee.**B.** Automatic transfer. The Director may automatically transfer an individual permit to a new permittee if:

1. The current permittee notifies the Director by certified mail at least 30 days in advance of the proposed transfer date and includes a written agreement between the existing and new permittee containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
2. The Director does not notify the existing permittee and the proposed new permittee of the Director's intent to modify, or revoke and reissue the permit. A modification under this subsection may include a minor modification specified in R18-9-B906(B).

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-B906. Modification, Revocation and Reissuance, and Termination of Individual Permits**A.** Permit modification, revocation and reissuance.

1. The Director may modify, or revoke and reissue an individual permit for any of the following reasons:
 - a. The Director receives a written request from an interested person;
 - b. The Director receives information, such as when inspecting a facility;
 - c. The Director receives a written request to modify, or revoke and reissue a permit from a permittee as required in the individual permit; or
 - d. After review of a permit file, the Director determines one or more of the causes listed under 40 CFR 122.62(a) or (b) exists.
 - i. If the Director decides a written request is not justified under 40 CFR 122.62 or subsection (B), the Director shall send the requester a brief written response giving a reason for the decision.
 - ii. The denial of a request for modification, or revocation and reissuance is not subject to public notice, comment, or hearing under R18-9-A907 and R18-9-A908(A) and (B).
2. If the Director tentatively decides to modify, or revoke and reissue an individual permit, the Director shall prepare a draft permit incorporating the proposed changes.

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The Director may request additional information and, in the case of a modified permit, may require the submission of an updated application.

- a. Modified individual permit. The Director shall reopen only the modified conditions when preparing a new draft permit and process the modifications.
 - b. Revoked and reissued individual permit.
 - i. The permittee shall submit a new application.
 - ii. The Director shall reopen the entire permit just as if the permit had expired and was being reissued.
 3. During any modification, or revocation and reissuance proceeding, the permittee shall comply with all conditions of the existing permit until a new final permit is issued.
- B. Minor modifications.**
1. Upon consent of the permittee, the Director may make any of the following modifications to an individual permit:
 - a. Correct typographical errors;
 - b. Update a permit condition that changed as a result of updating an Arizona water quality standard;
 - c. Require more frequent monitoring or reporting by the permittee;
 - d. Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;
 - e. Allow for a change in ownership or operational control of a facility, if no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Director;
 - f. Change the construction schedule for a new source discharger. The change shall not affect a discharger's obligation to have all pollution control equipment installed and in operation before the discharge;
 - g. Delete a point source outfall if the discharge from that outfall is terminated and does not result in a discharge of pollutants from other outfalls except under permit limits;
 - h. Incorporate conditions of a POTW pretreatment program approved under 40 CFR 403.11 and 40 CFR 403.18, which is incorporated by reference in R18-9-A905(A)(7)(b) as enforceable conditions of the permit, and
 - i. Annex an area by a municipality.
 2. Any modification processed under subsection (B)(1) is not subject to the public notice provision under R18-9-A907 or public participation procedures under R18-9-A908.
- C. Permit termination.**
1. The Director may terminate an individual permit during its term or deny reissuance of a permit for any of the following causes:
 - a. The permittee's failure to comply with any condition of the permit;
 - b. The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant fact;
 - c. The Director determined that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or
 - d. A change occurs in any condition that requires either a temporary or permanent reduction or elimination of any discharge, sludge use, or disposal practice controlled by the permit, for example, a plant closure or termination of discharge by connection to a POTW.
 2. If the Director terminates a permit during its term or denies a permit renewal application for any cause listed in subsection (C)(1), the Director shall issue a Notice of Intent to Terminate, except when the entire discharge is terminated.
 - a. Unless the permittee objects to the termination notice within 30 days after the notice is sent, the termination is final at the end of the 30 days.
 - b. If the permittee objects to the termination notice, the permittee shall respond in writing to the Director within 30 days after the notice is sent.
 - c. Expedited permit termination. If a permittee requests an expedited permit termination procedure, the permittee shall certify that the permittee is not subject to any pending state or federal enforcement actions, including citizen suits brought under state or federal law.
 - d. The denial of a request for termination is not subject to public notice, comment, or hearing under R18-9-A907 and R18-9-A908(A) and (B).

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-B907. Individual Permit Variances

- A.** The Director may grant or deny a request for any of the following variances:
1. An extension under section 301(i) of the Clean Water Act (33 U.S.C. 1311) based on a delay in completion of a POTW;
 2. After consultation with EPA, an extension under section 301(k) of the Clean Water Act (33 U.S.C. 1311) based on the use of innovative technology;
 3. A variance under section 316(a) of the Clean Water Act (33 U.S.C. 1326) for thermal pollution, or
 4. A variance under R18-11-122 for a water quality standard.
- B.** The Director may deny, forward to EPA with a written concurrence, or submit to EPA without recommendation a completed request for:
1. A variance based on the economic capability of the applicant under section 301(c) of the Clean Water Act (33 U.S.C. 1311); or
 2. A variance based on water quality related effluent limitations under 302(b)(2) (33 U.S.C. 1312) of the Clean Water Act.
- C.** The Director may deny or forward to EPA with a written concurrence a completed request for:
1. A variance based on the presence of fundamentally different factors from those on which an effluent limitations guideline is based; and
 2. A variance based upon water quality factors under section 301(g) of the Clean Water Act (33 U.S.C. 1311).

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- D. If the Department approves a variance under subsection (A) or if EPA approves a variance under subsection (B) or (C), the Director shall prepare a draft permit incorporating the variance. Any public notice of a draft permit for which a variance or modification has been approved or denied shall identify the applicable procedures for appealing the decision.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

PART C. GENERAL PERMITS**R18-9-C901. General Permit Issuance**

- A. The Director may issue a general permit to cover one or more categories of discharges, sludge use, or disposal practices, or facilities within a geographic area corresponding to existing geographic or political boundaries, if the sources within a covered category of discharges are either:
1. Stormwater point sources; or
 2. One or more categories of point sources other than stormwater point sources, or one or more categories of treatment works treating domestic sewage, if the sources, or treatment works treating domestic sewage, within each category all:
 - a. Involve the same or substantially similar types of operations;
 - b. Discharge the same types of wastes or engage in the same types of sludge use or disposal practices;
 - c. Require the same effluent limitations, operating conditions, or standards for sludge use or disposal;
 - d. Require the same or similar monitoring; and
 - e. Are more appropriately controlled under a general permit than under an individual permit.
- B. Any person seeking coverage under a general permit issued under subsection (A) shall submit a Notice of Intent on a form provided by the Department within the time-frame specified in the general permit unless exempted under the general permit as provided in subsection (C)(2). The person shall not discharge before the time specified in the general permit unless the discharge is authorized by another permit.
- C. Exemption from filing a Notice of Intent.
1. The following dischargers are not exempt from submitting a Notice of Intent:
 - a. A discharge from a POTW;
 - b. A combined sewer overflow;
 - c. A MS4;
 - d. A primary industrial facility;
 - e. A stormwater discharge associated with industrial activity;
 - f. A CAFO;
 - g. A treatment works treating domestic sewage; and
 - h. A stormwater discharge associated with construction activity.
 2. For dischargers not listed in subsection (C)(1), the Director may consider a Notice of Intent inappropriate for the discharge and authorize the discharge under a general permit without a Notice of Intent. In making this finding, the Director shall consider:
 - a. The type of discharge,
 - b. The expected nature of the discharge,
 - c. The potential for toxic and conventional pollutants in the discharge,
 - d. The expected volume of the discharge,
 - e. Other means of identifying the discharges covered by the permit, and

- f. The estimated number of discharges covered by the permit.

3. The Director shall provide reasons for not requiring a Notice of Intent for a general permit in the public notice.

- D. Notice of Intent. The Director shall specify the contents of the Notice of Intent in the general permit and the applicant shall submit information sufficient to establish coverage under the general permit, including, at a minimum:
1. The name, position, address, and telephone number of the owner of the facility;
 2. The name, position, address, and telephone number of the operator of the facility, if different from subsection (D)(1);
 3. The name and address of the facility;
 4. The type and location of the discharge;
 5. The receiving streams;
 6. The latitude and longitude of the facility;
 7. For a CAFO, the information specified in 40 CFR 122.21(i)(1) and a topographic map;
 8. The signature of the certifying official required under 40 CFR 122.22; and
 9. Any other information necessary to determine eligibility for the AZPDES general permit.
- E. The general permit shall contain:
1. The expiration date; and
 2. The appropriate permit requirements, permit conditions, and best management practices, and measurable goals for MS4 general permits, under R18-9-A905(A)(1), R18-9-A905(A)(2), and R18-9-A905(A)(3) and determined by the Director as necessary and appropriate for the protection of navigable waters.
- F. The Department shall inform a permittee if EPA requests the permittee's Notice of Intent, unless EPA requests that the permittee not be notified.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 9 A.A.R. 5564, effective February 2, 2004 (Supp. 03-4).

R18-9-C902. Required and Requested Coverage Under an Individual Permit

- A. Individual permit requirements.
1. The Director may require a person authorized by a general permit to apply for and obtain an individual permit for any of the following cases:
 - a. A discharger or treatment works treating domestic sewage is not in compliance with the conditions of the general permit;
 - b. A change occurs in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source or treatment works treating domestic sewage;
 - c. Effluent limitation guidelines are promulgated for point sources covered by the general permit;
 - d. An Arizona Water Quality Management Plan containing requirements applicable to the point sources is approved;
 - e. Circumstances change after the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary;

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- f. Standards for sewage sludge use or disposal are promulgated for the sludge use and disposal practices covered by the general permit; or
- g. If the Director determines that the discharge is a significant contributor of pollutants. When making this determination, the Director shall consider:
 - i. The location of the discharge with respect to navigable waters,
 - ii. The size of the discharge,
 - iii. The quantity and nature of the pollutants discharged to navigable waters, and
 - iv. Any other relevant factor.
- 2. If an individual permit is required, the Director shall notify the discharger in writing of the decision. The notice shall include:
 - a. A brief statement of the reasons for the decision,
 - b. An application form,
 - c. A statement setting a deadline to file the application,
 - d. A statement that on the effective date of issuance or denial of the individual permit, coverage under the general permit will automatically terminate,
 - e. The applicant's right to appeal the individual permit requirement with the Water Quality Appeals Board under A.R.S. § 49-323, the number of days the applicant has to file a protest challenging the individual permit requirement, and the name and telephone number of the Department contact person who can answer questions regarding the appeals process; and
 - f. The applicant's right to request an informal settlement conference under A.R.S. §§ 41-1092.03(A) and 41-1092.06.
- 3. The discharger shall apply for a permit within 90 days of receipt of the notice, unless the Director grants a later date. In no case shall the deadline be more than 180 days after the date of the notice.
- 4. If the permittee fails to submit the individual permit application within the time period established in subsection (A)(3), the applicability of the general permit to the permittee is automatically terminated at the end of the day specified by the Director for application submittal.
- 5. Coverage under the general permit shall continue until an individual permit is issued unless the permit coverage is terminated under subsection (A)(4).

B. Individual permit request.

- 1. An owner or operator authorized by a general permit may request an exclusion from coverage of a general permit by applying for an individual permit.
 - a. The owner or operator shall submit an individual permit application under R18-9-B901(B) and include the reasons supporting the request no later than 90 days after publication of the general permit.
 - b. The Director shall grant the request if the reasons cited by the owner or operator are adequate to support the request.
- 2. If an individual permit is issued to an owner or operator otherwise subject to a general permit, the applicability of the general permit to the discharge is automatically terminated on the effective date of the individual permit.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-C903. General Permit Duration, Reissuance, and Con-**tinuation****A. General permit duration.**

- 1. An AZPDES general permit is effective for a fixed term of not more than five years. The Director may issue a permit for a duration that is less than the full allowable term.
- 2. If the Director does not reissue a general permit before the expiration date, the current general permit will be administratively continued and remain in force and effect until the general permit is reissued.

B. Continued coverage. Any permittee granted permit coverage before the expiration date automatically remains covered by the continued permit until the earlier of:

- 1. Reissuance or replacement of the permit, at which time the permittee shall comply with the Notice of Intent conditions of the new permit to maintain authorization to discharge; or
- 2. The date the permittee has submitted a Notice of Termination; or
- 3. The date the Director has issued an individual permit for the discharge; or
- 4. The date the Director has issued a formal permit decision not to reissue the general permit, at which time the permittee shall seek coverage under an alternative general permit or an individual permit.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-C904. Change of Ownership or Operator Under a General Permit

If a change of ownership or operator occurs for a facility operating under a general permit:

- 1. Permitted owner or operator. The permittee shall provide the Department with a Notice of Termination by certified mail within 30 days after the new owner or operator assumes responsibility for the facility.
 - a. The Notice of Termination shall include all requirements for termination specified in the general permit for which the Notice of Termination is submitted.
 - b. A permittee shall comply with the permit conditions specified in the general permit for which the Notice of Termination is submitted until the Notice of Termination is received by the Department.
- 2. New owner or operator.
 - a. The new owner or operator shall complete and file a Notice of Intent with the Department within the time period specified in the general permit before taking over operational control of, or initiation of activities at, the facility.
 - b. If the previous permittee was required to implement a stormwater pollution prevention plan, the new owner shall develop a new stormwater pollution prevention plan, or may modify, certify, and implement the old stormwater pollution prevention plan if the old stormwater pollution prevention plan complies with the requirements of the current general permit.
 - c. The permittee shall provide the Department with a Notice of Termination if a permitted facility ceases operation, ceases to discharge, or changes operator status. In the case of a construction site, the permittee shall submit a Notice of Termination to the Department when:

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- i. The facility ceases construction operations and the discharge is no longer associated with construction or construction-related activities,
- ii. The construction is complete and final site stabilization is achieved, or
- iii. The operator's status changes.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-C905. General Permit Modification and Revocation and Reissuance

- A. The Director may modify or revoke a general permit issued under R18-9-A907(B), R18-9-A908, and R18-9-C901 if one or more of the causes listed under 40 CFR 122.62(a) or (b) exists.
- B. The Director shall follow the procedures specified in R18-9-A907(B) and R18-9-A908 to modify or revoke and reissue a general permit.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 5564, effective February 2, 2004 (Supp. 03-4).

PART D. ANIMAL FEEDING OPERATIONS AND CONCENTRATED ANIMAL FEEDING OPERATIONS**R18-9-D901. CAFO Designations**

- A. Two or more animal feeding operations under common ownership are considered a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes.
- B. The Director shall designate an animal feeding operation as a CAFO if the animal feeding operation significantly contributes a pollutant to a navigable water. The Director shall consider the following factors when making this determination:
 - 1. The size of the animal feeding operation and the amount of wastes reaching a navigable water;
 - 2. The location of the animal feeding operation relative to a navigable water;
 - 3. The means of conveyance of animal wastes and process wastewaters into a navigable water;
 - 4. The slope, vegetation, rainfall, and any other factor affecting the likelihood or frequency of discharge of animal wastes and process wastewaters into a navigable water; and
 - 5. Any other relevant factor.
- C. The Director shall conduct an onsite inspection of the animal feeding operation before the making a designation under subsection (B).
- D. The Director shall not designate an animal feeding operation having less than the number of animals established in R18-9-A901(19)(a) as a CAFO unless a pollutant is discharged:
 - 1. Into a navigable water through a manmade ditch, flushing system, or other similar manmade device; or
 - 2. Directly into a navigable water that originates outside of and passes over, across, or through the animal feeding operation or otherwise comes into direct contact with the animals confined in the operation.
- E. If the Director makes a designation under subsection (B), the Director shall notify the owner or operator of the operation, in writing, of the designation.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 5564,

effective February 2, 2004 (Supp. 03-4).

R18-9-D902. AZPDES Permit Coverage Requirements

- A. Any person who owns or operates a CAFO, except as provided in subsections (B) and (C), shall submit an application for an individual permit under R18-9-B901(B) or seek coverage under a general permit under R18-9-C901(B) within the applicable deadline specified in R18-9-D904(A).
- B. If a person who owns or operates a large CAFO receives a no potential to discharge determination under R18-9-D903, coverage under an AZPDES permit described in this Part is not required.
- C. The discharge of manure, litter, or process wastewater to a navigable water from a CAFO as a result of the application of manure, litter, or process wastewater by the CAFO to land areas under its control is subject to AZPDES permit requirements, except where it is an agricultural stormwater discharge as provided in section 502(14) of the Clean Water Act (33 U.S.C. 1362(14)). For purposes of this Section, an "agricultural stormwater discharge" means a precipitation-related discharge of manure, litter, or process wastewater from land areas under the control of a CAFO when the person who owns or operates the CAFO has applied the manure, litter, or process wastewater according to site-specific nutrient management practices to ensure appropriate agricultural use of the nutrients in the manure, litter, or process wastewater, as specified under 40 CFR 122.42(c)(1)(vi) through (ix).

Historical Note

New Section made by final rulemaking at 9 A.A.R. 5564, effective February 2, 2004 (Supp. 03-4).

R18-9-D903. No Potential To Discharge Determinations for Large CAFOs

- A. For purposes of this Section, "no potential to discharge" means that there is no potential for any CAFO manure, litter, or process wastewater to enter into a navigable water under any circumstance or climatic condition.
- B. Any person who owns or operates a large CAFO and has not had a discharge within the previous five years may request a no potential to discharge determination by submitting to the Department:
 - 1. The information specified in 40 CFR 122.21(f) and 40 CFR 122.21(i)(1)(i) through (ix) on a form obtained from the Department, by the applicable date specified in R18-9-D904(A); and
 - 2. Any additional information requested by the Director to supplement the request or requested through an onsite inspection of the CAFO.
- C. Process for making a no potential to discharge determination.
 - 1. Upon receiving a request under subsection (B), the Director shall consider:
 - a. The potential for discharges from both the production area and any land application area, and
 - b. Any record of prior discharges by the CAFO.
 - 2. The Director shall issue a public notice that includes:
 - a. A statement that a no potential to discharge request has been received;
 - b. A fact sheet, when applicable;
 - c. A brief description of the type of facility or activity that is the subject of the no potential to discharge determination;
 - d. A brief summary of the factual basis, upon which the request is based, for granting the no potential to discharge determination; and

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- e. A description of the procedures for reaching a final decision on the no potential to discharge determination.
- 3. The Director shall base the decision to grant a no potential to discharge determination on the administrative record, which includes all information submitted in support of a no potential to discharge determination and any other supporting data gathered by the Director.
- 4. The Director shall notify the owner or operator of the large CAFO of the final determination within 90 days of receiving the request.
- D. If the Director determines that the operation has the potential to discharge, the person who owns or operates the CAFO shall seek coverage under an AZPDES permit within 30 days after the determination of potential to discharge.
- E. A no potential to discharge determination does not relieve the CAFO from the consequences of a discharge. An unpermitted CAFO discharging a pollutant into a navigable water is in violation of the Clean Water Act even if the Director issues a no potential to discharge determination for the facility. If the Director issues a determination of no potential to discharge to a CAFO facility but the owner or operator anticipates a change in circumstances that could create the potential for a discharge, the owner or operator shall contact the Director and apply for and obtain permit authorization before the change of circumstances.
- F. When the Director issues a determination of no potential to discharge, the Director retains the authority to subsequently require AZPDES permit coverage if:
 - 1. Circumstances at the facility change;
 - 2. New information becomes available; or
 - 3. The Director determines, through other means, that the CAFO has a potential to discharge.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 5564, effective February 2, 2004 (Supp. 03-4).

R18-9-D904. AZPDES Permit Coverage Deadlines

- A. Any person who owns or operates a CAFO shall apply for or seek coverage under an AZPDES permit and shall comply with all applicable AZPDES requirements, including the duty to maintain permit coverage under subsection (C).
 - 1. Permit coverage deadline for an animal feeding operation operating before April 14, 2003.
 - a. An owner or operator of an animal feeding operation that operated before April 14, 2003 and was defined as a CAFO before February 2, 2004 shall apply for or seek permit coverage or maintain permit coverage and comply with the conditions of the applicable AZPDES permit;
 - b. An owner or operator of an animal feeding operation that operated before April 14, 2003 and was not defined as a CAFO until February 2, 2004 shall apply for or seek permit coverage by a date specified by the Director, but no later than February 13, 2006;
 - c. An owner or operator of an animal feeding operation that operated before April 14, 2003 who changes the operation on or after February 2, 2004, resulting in the operation being defined as a CAFO, shall apply for or seek permit coverage as soon as possible, but no later than 90 days after the operational change. If the operational change will not make the operation a CAFO as defined before February 2, 2004, the owner or operator may take until April 13, 2006 or

90 days after the operation is defined as a CAFO, whichever is later, to apply for or seek permit coverage;

- d. An owner or operator of an animal feeding operation that operated before April 14, 2003 who constructs additional facilities on or after February 2, 2004, resulting in the operation being defined as a CAFO that is a new source, shall apply for or seek permit coverage at least 180 days before the new source portion of the CAFO commences operation. If the calculated 180-day deadline occurs before February 2, 2004 and the operation is not subject to this Article before February 2, 2004, the owner or operator shall apply for or seek permit coverage no later than March 3, 2004.
- 2. Permit coverage deadline for an animal feeding operation operating on or after April 14, 2003. An owner or operator who started construction of a CAFO on or after April 14, 2003, including a CAFO subject to the effluent limitations guidelines in 40 CFR 412, shall apply for or seek permit coverage at least 180 days before the CAFO commences operation. If the calculated 180-day deadline occurs before February 2, 2004 and the operation is not subject to this Article before February 2, 2004, the owner or operator shall apply for or seek permit coverage no later than March 3, 2004.
- 3. Permit coverage deadline for a designated CAFO. Any person who owns or operates a CAFO designated under R18-9-D901(B) shall apply for or seek permit coverage no later than 90 days after receiving a designation notice.
- B. Unless specified under R18-9-D903(E) and (F), the Director shall not require permit coverage for a CAFO that the Director determines under R18-9-D903 to have no potential to discharge. If circumstances change at a CAFO that has a no potential to discharge determination and the CAFO now has a potential to discharge, the person who owns or operates the CAFO shall notify the Director within 30 days after the change in circumstances and apply for or seek coverage under an AZPDES permit.
- C. Duty to maintain permit coverage.
 - 1. The permittee shall:
 - a. If covered by an individual AZPDES permit, submit an application to renew the permit no later than 180 days before the expiration of the permit under R18-9-B904(B); or
 - b. If covered by a general AZPDES permit, comply with R18-9-C903(B).
 - 2. Continued permit coverage or reapplication for a permit is not required if:
 - a. The facility ceases operation or is no longer a CAFO; and
 - b. The permittee demonstrates to the Director that there is no potential for a discharge of remaining manure, litter, or associated process wastewater (other than agricultural stormwater from land application areas) that was generated while the operation was a CAFO.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 5564, effective February 2, 2004 (Supp. 03-4).

R18-9-D905. Closure Requirements

- A. Closure.
 - 1. A person who owns or operates a CAFO shall notify the Department of the person's intent to cease operations

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without resuming an activity for which the facility was designed or operated.

2. A person who owns or operates a CAFO shall submit a closure plan to the Department for approval 90 days before ceasing operation. The closure plan shall describe:
 - a. For operations that met the “no potential to discharge” under R18-9-D903, facility-related information based on the Notice of Termination form for the applicable general permit;
 - b. The approximate quantity of manure, process wastewater, and other materials and contaminants to be removed from the facility;
 - c. The destination of the materials to be removed from the facility and documentation that the destination is approved to accept the materials;
 - d. The method to treat any material remaining at the facility;
 - e. The method to control the discharge of pollutants from the facility;
 - f. Any limitations on future land or water use created as a result of the facility’s operations or closure activities;
 - g. A schedule for implementing the closure plan; and
 - h. Any other relevant information the Department determines necessary.

- B. The owner or operator shall provide the Department with written notice that a closure plan has been fully implemented within 30 calendar days of completion and before redevelopment.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 5564, effective February 2, 2004 (Supp. 03-4).

**ARTICLE 10. ARIZONA POLLUTANT DISCHARGE
ELIMINATION SYSTEM - DISPOSAL, USE, AND
TRANSPORTATION OF BIOSOLIDS**

R18-9-1001. Definitions

In addition to the definitions in A.R.S. § 49-255 and R18-9-A901, the following terms apply to this Article:

1. “Aerobic digestion” means the biochemical decomposition of organic matter in biosolids into carbon dioxide and water by microorganisms in the presence of air.
2. “Agronomic rate” means the whole biosolids application rate on a dry-weight basis that meets the following conditions:
 - a. The amount of nitrogen needed by existing vegetation or a planned or actual crop has been provided, and
 - b. The amount of nitrogen that passes below the root zone of the crop or vegetation is minimized.
3. “Anaerobic digestion” means the biochemical decomposition of organic matter in biosolids into methane gas and carbon dioxide by microorganisms in the absence of air.
4. “Annual biosolids application rate” means the maximum amount of biosolids (dry-weight basis) that can be applied to an acre or hectare of land during a 365-day period.
5. “Annual pollutant loading rate” means the maximum amount of a pollutant that can be applied to an acre or hectare of land during a 365-day period.
6. “Applicator” means a person who arranges for and controls the site-specific land application of biosolids in Arizona.
7. “Biosolids” means sewage sludge, including exceptional quality biosolids, that is placed on, or applied to the land to use the beneficial properties of the material as a soil amendment, conditioner, or fertilizer. Biosolids do not include any of the following:
 - a. Sludge determined to be hazardous under A.R.S. Title 49, Chapter 5, Article 2 and 40 CFR 261;
 - b. Sludge with a concentration of polychlorinated biphenyls (PCBs) equal to or greater than 50 milligrams per kilogram of total solids (dry-weight basis);
 - c. Grit (for example, sand, gravel, cinders, or other materials with a high specific gravity) or screenings generated during preliminary treatment of domestic sewage by a treatment works;
 - d. Sludge generated during the treatment of either surface water or groundwater used for drinking water;
 - e. Sludge generated at an industrial facility during the treatment of industrial wastewater, including industrial wastewater combined with domestic sewage;
 - f. Commercial septage, industrial septage, or domestic septage combined with commercial or industrial septage; or
 - g. Special wastes as defined and controlled under A.R.S. Title 49, Chapter 4, Article 9.
8. “Bulk biosolids” means biosolids that are transported and land-applied in a manner other than in a bag or other container holding biosolids of 1.102 short tons or 1 metric ton or less.
9. “Class I sludge management facility” means any POTW identified under 40 CFR 403.8(a) as being required to have an approved pretreatment program (including a POTW for which the Department assumes local program responsibilities under 40 CFR 403.10(e)) and any other treatment works treating domestic sewage classified as a Class I sludge management facility by the regional administrator in conjunction with the Director or by the Director because of the potential for its sludge use or disposal practices to adversely affect public health or the environment.
10. “Clean water act” means the federal water pollution control act amendments of 1972, as amended (P.L. 92-500; 86 Stat. 816; 33 United States Code sections 1251 through 1376). A.R.S. 49-201(6).
11. “Coarse fragments” means rock particles in the gravel-size range or larger.
12. “Coarse or medium sands” means a soil mixture of which more than 50% of the sand fraction is retained on a No. 40 (0.425 mm) sieve.
13. “Cumulative pollutant loading rate” means the maximum amount of a pollutant applied to a land application site.
14. “Domestic septage” means the liquid or solid material removed from a septic tank, cesspool, portable toilet, marine sanitation device, or similar system or device that receives only domestic sewage. Domestic septage does not include commercial or industrial wastewater or restaurant grease-trap wastes.
15. “Domestic sewage” means waste or wastewater from humans or household operations that is discharged to a publicly or privately owned treatment works. Domestic sewage also includes commercial and industrial wastewaters that are discharged into a publicly-owned or privately-owned treatment works if the industrial or commercial wastewater combines with human excreta.

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- and other household and nonindustrial wastewaters before treatment.
16. "Dry-weight basis" means the weight of biosolids calculated after the material has been dried at 105° C until reaching a constant mass.
 17. "Exceptional quality biosolids" means biosolids certified under R18-9-1013(A)(6) as meeting the pollutant concentrations in R18-9-1005 Table 2, Class A pathogen reduction in R18-9-1006, and one of the vector attraction reduction requirements in subsections R18-9-1010(A)(1) through R18-9-1010(A)(8).
 18. "Feed crops" means crops produced for animal consumption.
 19. "Fiber crops" means crops grown for their physical characteristics. Fiber crops, including flax and cotton, are not produced for human or animal consumption.
 20. "Food crops" means crops produced for human consumption.
 21. "Gravel" means soil predominantly composed of rock particles that will pass through a 3-inch (75 mm) sieve and be retained on a No. 4 (4.75 mm) sieve.
 22. "Industrial wastewater" means wastewater that is generated in a commercial or industrial process.
 23. "Land application," "apply biosolids," or "biosolids applied to the land" means spraying or spreading biosolids on the surface of the land, injecting biosolids below the land's surface, or incorporating biosolids into the soil to amend, condition, or fertilize the soil.
 24. "Monthly average" means the arithmetic mean of all measurements taken during a calendar month.
 25. "Municipality" means a city, town, county, district, association, or other public body, including an intergovernmental agency of two or more of the foregoing entities created by or under state law. The term includes special districts such as a water district, sewer district, sanitary district, utility district, drainage district, or similar entity that has as one of its principal responsibilities, the treatment, transport, use, or disposal of biosolids.
 26. "Navigable waters" means the waters of the United States as defined by section 502(7) of the clean water act (33 United States Code section 1362(7)). A.R.S. § 49-201(21).
 27. "Other container" means a bucket, bin, box, carton, trailer, pickup truck bed, or a tanker vehicle or an open or closed receptacle with a load capacity of 1.102 short tons or one metric ton or less.
 28. "Pathogen" means a disease-causing organism.
 29. "Person" means an individual, employee, officer, managing body, trust, firm, joint stock company, consortium, public or private corporation, including a government corporation, partnership, association or state, a political subdivision of this state, a commission, the United States government or a federal facility, interstate body or other entity. A.R.S. § 49-201(26).
 30. "Person who prepares biosolids" means a person who generates biosolids during the treatment of domestic sewage in a treatment works, packages biosolids, or derives a new product from biosolids either through processing or by combining it with another material, including blending several biosolids together.
 31. "pH" means the logarithm of the reciprocal of the hydrogen ion concentration.
 32. "Pollutant" means an organic substance, an inorganic substance, a combination of organic and inorganic substances, or a pathogenic organism that, after release into the environment and upon exposure, ingestion, inhalation, or assimilation into an organism, either directly from the environment or indirectly by ingestion through the food chain, could cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunction in reproduction), or physical deformities in either organisms or reproduced offspring.
 33. "Pollutant limit" means:
 - a. A numerical value that describes the quantity of a pollutant allowed in a unit of biosolids such as milligrams per kilogram of total solids,
 - b. The quantity of a pollutant that can be applied to a unit area of land such as kilograms per hectare, or
 - c. The volume of biosolids that can be applied to a unit area of land such as gallons per acre.
 34. "Privately owned treatment works" means a device or system owned by a non-governmental entity used to treat, recycle, or reclaim, either domestic sewage or a combination of domestic sewage and industrial waste that is generated off-site.
 35. "Public contact site" means a park, sports field, cemetery, golf course, plant nursery, or other land with a high potential for public exposure to biosolids.
 36. "Reclamation" means the use of biosolids to restore or repair construction sites, active or closed mining sites, landfill caps, or other drastically disturbed land.
 37. "Responsible official" means a principal corporate officer, general partner, proprietor, or, in the case of a municipality, a principal executive official or any duly authorized agent.
 38. "Runoff" means rainwater, leachate, or other liquid that drains over any part of a land surface and runs off of the land surface.
 39. "Sand" means soil that contains more than 85% grains in the size range that will pass through a No. 4 (4.75 mm) sieve and be retained on a No. 200 (0.075 mm) sieve.
 40. "Sewage sludge":
 - (a) Means solid, semisolid or liquid residue that is generated during the treatment of domestic sewage in a treatment works.
 - (b) Includes domestic septage, scum or solids that are removed in primary, secondary or advanced wastewater treatment processes, and any material derived from sewage sludge.
 - (c) Does not include ash that is generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings that are generated during preliminary treatment of domestic sewage in a treatment works. A.R.S. § 49-255(6)
 41. "Sewage sludge unit" means land on which only sewage sludge is placed for final disposal. This does not include land on which sewage sludge is either stored or treated. Land does not include navigable waters.
 42. "Specific oxygen uptake rate (SOUR)" means the mass of oxygen consumed per unit time per unit mass of total solids (dry-weight basis) in biosolids.
 43. "Store biosolids" or "storage of biosolids" means the temporary holding or placement of biosolids on land before land application.
 44. "Surface disposal site" means an area of land that contains one or more active sewage sludge units.

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45. "Ton" means a net weight of 2000 pounds and is known as a short ton.
46. "Total solids" means the biosolids material that remains when sewage sludge is dried at 103° C to 105° C.
47. "Treatment of biosolids" means the thickening, stabilization, dewatering, and other preparation of biosolids for land application. Storage is not a treatment of biosolids.
48. "Unstabilized solids" means the organic matter in biosolids that has not been treated or reduced through an aerobic or anaerobic process.
49. "Vectors" means rodents, flies, mosquitoes, or other organisms capable of transporting pathogens.
50. "Volatile solids" means the amount of total solids lost when biosolids are combusted at 550° C in the presence of excess air.
51. "Wetlands" means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration to support, and do under normal circumstances support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, cienegas, tinajas, and similar areas.

Historical Note

New Section recodified from R18-13-1502 at 7 A.A.R. 2522, effective May 24, 2001 (Supp. 01-2). Amended by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 8 A.A.R. 4923, effective January 5, 2003 (Supp. 02-4).

R18-9-1002. Applicability and Prohibitions

- A. This Article applies to:
 1. Any person who:
 - a. Prepares biosolids for land application or disposal in a sewage sludge unit or in an incinerator,
 - b. Transports biosolids for land application or incineration, or disposal in a sewage sludge unit,
 - c. Applies biosolids to the land,
 - d. Owns or operates a sewage sludge unit,
 - e. Owns or leases land to which biosolids are applied, or
 - f. Owns or operates an incinerator that fires sewage sludge,
 2. Biosolids applied to the land or placed on a surface disposal site,
 3. Land where biosolids are applied, and
 4. A surface disposal site.
- B. The land application of biosolids in a manner consistent with this Article is exempt from the requirements of the aquifer protection program established under A.R.S. Title 49, Chapter 2, Article 3 and 18 A.A.C. 9, Articles 1, 2, and 3.
- C. Except as provided in subsection (D), the land application of biosolids in a manner that is not consistent with Articles 9 and 10 of this Chapter is prohibited.
- D. The Department may permit the land application of biosolids in a manner that differs from the requirements in R18-9-1007 and R18-9-1008 if the land application is permitted under the aquifer protection permit program established under A.R.S. Title 49, Chapter 2, Article 3, and 18 A.A.C. 9, Articles 1, 2, and 3.
- E. Surface disposal site.
 1. Any person who prepares biosolids that are placed in a sewage sludge unit, or places biosolids in a sewage sludge unit, or who owns or operates a biosolids surface disposal site shall comply with 40 CFR 503, Subpart C,

which is incorporated by reference in R18-9-A905(A)(9), and

- a. The pathogen reduction requirements in R18-9-1006, and
 - b. The vector attraction reduction requirements in R18-9-1010.
2. In addition to the requirements under subsection (E)(1), any person who owns or operates a biosolids surface disposal site shall apply for, and obtain, a permit under 18 A.A.C. 9, Articles 1 and 2.
- F. A person shall not apply bulk biosolids to the land or place bulk biosolids in a surface disposal site or fire sewage sludge in a sewage sludge incinerator if the biosolids are likely to adversely affect a threatened or endangered species as listed under section 4 of the Endangered Species Act (16 U.S.C. 1533), or its designated critical habitat as defined in 16 U.S.C. 1532.
 - G. A person incinerating biosolids shall comply with the requirements set out in 40 CFR Part 503, Subpart E, July 1, 2013 edition, which is incorporated by reference and does not include any later amendments or editions of the incorporated material. Copies of the incorporated material are available for inspection at the Arizona Department of Environmental Quality, 1110 West Washington Street, Phoenix, Arizona 85007 or may be obtained from the U.S. General Printing office at <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collection=CFR>.

Historical Note

New Section recodified from R18-13-1501 at 7 A.A.R. 2522, effective May 24, 2001 (Supp. 01-2). Amended by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 8 A.A.R. 4923, effective January 5, 2003 (Supp. 02-4). Amended by final rulemaking at 21 A.A.R. 751, effective July 4, 2015 (Supp. 15-2).

R18-9-1003. General Requirements

- A. A person shall not use or transport biosolids, apply biosolids to land, or place biosolids on a surface disposal site in Arizona, except as established in this Article.
- B. The management practices in R18-9-1007 and R18-9-1008 do not apply if biosolids are exceptional quality biosolids.
- C. The applicator shall obtain, submit to the Department, and maintain the information required to comply with the requirements of this Article.
- D. The applicator shall not receive bulk biosolids without prior written confirmation of the filing of a "Request for Registration" under R18-9-1004.
- E. The land owner or lessee of land on which bulk biosolids, that are not exceptional quality biosolids, have been applied shall notify any subsequent land owner and lessee of all previous land applications of biosolids and shall disclose any site restrictions listed in R18-9-1009 that are in effect at the time the property is transferred.
- F. A person who prepares biosolids shall ensure that the applicable requirements in this Article are met when the biosolids are applied to the land or placed on a surface disposal site.
- G. If necessary to protect public health and the environment from any adverse effect of a pollutant in the biosolids, the Department may impose, on a case-by-case basis, requirements for the use or disposal of biosolids, including exceptional quality biosolids, in addition to, or more stringent than, the requirements in this Article. The Department shall notify the preparer, applicator, or land owner of these requirements by letter and

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include the justification for the requirements and the length of time or applicability for the requirements.

Historical Note

New Section recodified from R18-13-1503 at 7 A.A.R. 2522, effective May 24, 2001 (Supp. 01-2). Amended by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 8 A.A.R. 4923, effective January 5, 2003 (Supp. 02-4).

R18-9-1004. Applicator Registration, Bulk Biosolids

- A. Any person intending to land-apply bulk biosolids in Arizona shall submit, on a form provided by the Department, a completed "Request for Registration."
- B. An applicator shall not engage in land application of bulk biosolids, unless the applicator has obtained a prior written acknowledgment of the Request for Registration or a supplemental request from the Department.
- C. The Request for Registration for all biosolids, except exceptional quality biosolids, shall include:
 1. The name, address, and telephone number of the applicator and any agent of the applicator;
 2. The name and telephone number of a primary contact person who has specific knowledge of the land application activities of the applicator;
 3. Whether the applicator holds a NPDES or AZPDES permit, and, if so, the permit number;
 4. The identity of the person, if different from the applicator, including the NPDES or AZPDES permit number, who will prepare the biosolids for land application; and
 5. The following information, unless the information is already on file at the Department as part of an approved land application plan, for each site on which application is anticipated to take place:
 - a. The name, mailing address, and telephone number of the land owner and lessee, if any;
 - b. The physical location of the site by county;
 - c. The legal description of the site, including township, range, and section, or latitude and longitude at the center of each site;
 - d. The number of acres or hectares at each site to be used;
 - e. Except for sites described in R18-9-1005(D)(2)(c), background concentrations of the pollutants listed in Table 4 of R18-9-1005 from representative soil samples;
 - f. The location of any portion of the site having a slope greater than 6%; and
 - g. Public notice. Proof of placement of a public notice announcing the potential use of the site for the application of biosolids when a site has not previously received biosolids, or when a site has not been used for land application for at least three consecutive years.
 - i. The notice shall appear at least once each week for at least two consecutive weeks in the largest newspaper in general circulation in the area in which the site is located.
 - ii. If a site is not used for land application for at least three consecutive years, the applicator shall renotice the site following the process described in subsection (C)(5)(g)(i) before its reuse.

- D. The Request for Registration for exceptional quality biosolids shall include the information in subsections (C)(1) through (C)(4).
- E. A responsible official of the applicator shall sign the Request for Registration.
- F. The Department shall mail a written acknowledgment of a Request for Registration or supplemental request, within 15 business days of receipt of the request.
- G. An applicator wishing to use a site that has not been identified in a Request for Registration shall file a supplemental request with the Department before using the new site. Public notice requirements under R18-9-1004(C)(5)(g) apply.

Historical Note

New Section recodified from R18-13-1504 at 7 A.A.R. 2522, effective May 24, 2001 (Supp. 01-2). Amended by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 8 A.A.R. 4923, effective January 5, 2003 (Supp. 02-4).

R18-9-1005. Pollutant Concentrations

- A. A person shall not apply biosolids with pollutant concentrations that exceed any of the ceiling concentrations established in Table 1.
- B. A person shall not apply biosolids sold or given away in a bag or other container that are not exceptional quality biosolids to a site if any annual pollutant loading rate in Table 3 will be exceeded. A person shall determine annual application rates using the methodology established in Appendix A.
- C. A person shall not apply bulk biosolids to a lawn or garden unless the biosolids are exceptional quality biosolids.
- D. Unless using exceptional quality biosolids, a person shall not apply bulk biosolids to a site when:
 1. The pollutant concentrations exceed the levels in Table 2, or
 2. Any cumulative pollutant loading rate in Table 4 will be exceeded. A person shall determine compliance with the site cumulative pollutant loading rates using the following:
 - a. By identifying all known biosolids application events and information relevant to a site since September 13, 1979.
 - b. By calculating the existing cumulative level of the pollutants established in Table 4 using actual analytical data from the application events or if actual analytical data from application events before April 1996 are not available, background concentrations determined by taking representative soil samples of the site, if it is known that the site received biosolids before April 1996.
 - c. Background soil tests are not required for those sites that have not received biosolids before April 23, 1996.

Table 1. Ceiling Concentrations

Pollutant	Ceiling concentrations (milligrams per kilogram) ⁽¹⁾
Arsenic	75.0
Cadmium	85.0
Chromium	3000.0
Copper	4300.0
Lead	840.0
Mercury	57.0

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Molybdenum	75.0
Nickel	420.0
Selenium	100.0
Zinc	7500.0

(1) Dry-weight basis.

Table 2. Monthly Average Pollutant Concentrations

Pollutant	Concentration limits (milligrams per kilogram) ⁽¹⁾
Arsenic	41.0
Cadmium	39.0
Copper	1500.0
Lead	300.0
Mercury	17.0
Nickel	420.0
Selenium	100.0
Zinc	2800.0

(1) Dry-weight basis.

Table 3. Annual Pollutant Loading Rates

Pollutant	Annual pollutant loading rates (in kilograms per hectare)
Arsenic	2.0
Cadmium	1.9
Copper	75.0
Lead	15.0
Mercury	0.85
Nickel	21.0
Selenium	5.0
Zinc	140.0

Table 4. Cumulative Pollutant Loading Rates

Pollutant	Cumulative pollutant loading rates (in kilograms per hectare)
Arsenic	41.0
Cadmium	39.0
Copper	1500.0
Lead	300.0
Mercury	17.0
Nickel	420.0
Selenium	100.0
Zinc	2800.0

Historical Note

New Section recodified from R18-13-1505 at 7 A.A.R. 2522, effective May 24, 2001 (Supp. 01-2). Amended by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 8 A.A.R. 4923, effective January 5, 2003 (Supp. 02-4).

R18-9-1006. Class A and Class B Pathogen Reduction Requirements

- A. An applicator shall ensure that all biosolids applied to land meet Class A or Class B pathogen reduction requirements at the time the biosolids are:
1. Placed on an active sewage sludge unit unless the biosolids are covered with soil or other material at the end of each operating day, or
 2. Land applied.
- B. Biosolids that are sold or given away in a bag or other container for land application, or that are applied on a lawn or home garden, shall meet the Class A pathogen reduction requirements established in subsection (D).
- C. Land on which biosolids with Class B pathogen reduction requirements are applied is subject to the use restrictions established in R18-9-1009.
- D. Biosolids satisfy the Class A pathogen reduction requirements when the density of fecal coliform is less than 1000 Most Probable Number per gram of total solids (dry-weight basis), or the density of *Salmonella sp.* bacteria is less than three Most Probable Number per four grams of total solids (dry-weight basis), and any one of the following alternative pathogen treatment options is used:

1. Alternative 1. The pathogen treatment process meets one of the following time and temperature requirements:
 - a. When the percent solids of the biosolids are seven percent or greater, the temperature of the biosolids shall be held at 50° C or higher for at least 20 minutes. The temperature and time period is determined using the equation in subsection (D)(1)(b), except when small particles of the biosolids are heated by either warmed gases or an immiscible liquid;
 - b. When the percent solids of the biosolids are seven percent or greater, and small particles of the biosolids are heated by either warmed gases or an immiscible liquid, a temperature of 50° C or higher shall be held for 15 seconds or longer. The temperature and time period is determined using the following equation:

$$D = \frac{131,700,000}{10^{[0.1400t]}}$$

D = time in days, and
t = temperature in degrees Celsius;

- c. When the percent solids of the biosolids are less than seven percent, the temperature of the biosolids is 50° C or higher and the time period is 30 minutes or longer. The temperature and time period shall be determined using the following equation:

$$D = \frac{50,070,000}{10^{[0.1400t]}}$$

D = time in days, and
t = temperature in degrees Celsius; or

- d. When the percent solids of the biosolids are less than seven percent, and the time of heating is at least 15 seconds, but less than 30 minutes, the time and temperature is determined using the following equation:

$$D = \frac{131,700,000}{10^{[0.1400t]}}$$

D = time in days, and

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t = temperature in degrees Celsius.

2. Alternative 2. The pathogen treatment process meets all the following parameters:
 - a. The pH of the quantity of biosolids treated is raised to 12 or higher and held at least 72 hours;
 - b. During the period that the pH is above 12, the temperature of the biosolids is held above 52° C for at least 12 hours; and
 - c. At the end of the 72-hour period during which the pH is above 12, the biosolids are air dried to achieve a percent solids in the biosolids greater than 50%.
 3. Alternative 3. The following conditions are met:
 - a. The biosolids, before pathogen treatment and until the next monitoring event, have an enteric virus density less than one plaque-forming unit for four grams of total solids (dry-weight basis);
 - b. The biosolids, before pathogen treatment and until the next monitoring event, have a viable helminth ova density less than one for four grams of total solids (dry-weight basis); and
 - c. Once the density requirements in subsections (D)(3)(a) and (D)(3)(b) are consistently met after pathogen treatment and the values and ranges of the pathogen treatment process used are documented, the biosolids continue to be Class A with respect to enteric viruses and viable helminth ova when the values for the pathogen treatment process operating parameters are consistent with the previously documented values or ranges of values.
 4. Alternative 4. The following requirements are met at the time the biosolids are used or disposed or at the time the biosolids are prepared for sale or given away in a bag or other container for application to the land:
 - a. The biosolids have an enteric virus density less than one plaque-forming unit for four grams of total solids (dry-weight basis), and
 - b. The biosolids have a viable helminth ova density less than one for four grams of total solids (dry-weight basis).
 5. Alternative 5. Composting.
 - a. Use either the within-vessel or the static-aerated-pile composting method, maintaining the temperature of the biosolids at 55° C or higher for three days; or
 - b. Use the windrow composting method, maintaining the temperature of the biosolids at 55° C or higher for at least 15 days. The windrow shall be turned at least five times when the compost is maintained at 55° C or higher.
 6. Alternative 6. Heat drying. The biosolids are dried by direct or indirect contact with hot gases to reduce the moisture content to 10% or lower by weight. During the process:
 - a. The temperature of the sewage sludge particles shall exceed 80° C, or
 - b. The wet bulb temperature of the gas as the biosolids leave the dryer shall exceed 80° C.
 7. Alternative 7. Heat treatment. The quantity of liquid biosolids treated are heated to a temperature of 180° C or higher for at least 30 minutes.
 8. Alternative 8. Thermophilic aerobic digestion. Liquid biosolids are agitated with air or oxygen to maintain aerobic conditions and the mean cell residence time of the biosolids is 10 days at 55° to 60° C.
 9. Alternative 9. Beta ray irradiation. Biosolids are irradiated with beta rays from an accelerator at dosages of at least 1.0 megarad at room temperature (approximately 20° C).
 10. Alternative 10. Gamma ray irradiation. Biosolids are irradiated with gamma rays from certain isotopes, such as ⁶⁰Cobalt and ¹³⁷Cesium at dosages of at least 1.0 megarad at room temperature (approximately 20° C).
 11. Alternative 11. Pasteurization. The temperature of the biosolids is maintained at 70° C or higher for at least 30 minutes.
 12. Alternative 12. The Director shall approve another process if the process is equivalent to a Process to Further Reduce Pathogens specified in subsections (D)(5) through (D)(11), as determined by the EPA Pathogen Equivalency Committee.
- E.** Biosolids satisfy the Class B pathogen reduction requirements when the biosolids meet any one of the following options:
1. Alternative 1. The geometric mean of the density of fecal coliform in seven representative samples is less than either 2,000,000 Most Probable Number per gram of total solids (dry-weight basis), or 2,000,000 colony forming units per gram of total solids (dry-weight basis);
 2. Alternative 2. Air drying. The biosolids are dried on sand beds or paved or unpaved basins for at least three months. During at least two of the three months, the ambient average daily temperature is above 0° C;
 3. Alternative 3. Lime stabilization. Sufficient lime is added to the biosolids to raise the pH of the biosolids to 12 after at least two hours of contact;
 4. Alternative 4. Aerobic digestion. The biosolids are agitated with air or oxygen to maintain aerobic conditions for a specific mean cell residence time at a specific temperature between 40 days at 20° C and 60 days at 15° C;
 5. Alternative 5. Anaerobic digestion. The biosolids are treated in the absence of air for a specific mean cell residence time at a specific temperature between 15 days at 35° C to 55° C and 60 days at 20° C;
 6. Alternative 6. Composting. Using the within-vessel, static-aerated-pile or windrow composting methods, the temperature of the biosolids is raised to 40° C or higher for five consecutive days. For at least four hours during the five days, the temperature in the compost pile exceeds 55° C; or
 7. Alternative 7. The Director shall approve another process if it is equivalent to a Process to Significantly Reduce Pathogens specified in subsections (E)(2) through (E)(6), as determined by the EPA Pathogen Equivalency Committee.

Historical Note

New Section recodified from R18-13-1506 at 7 A.A.R. 2522, effective May 24, 2001 (Supp. 01-2). Amended by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 8 A.A.R. 4923, effective January 5, 2003 (Supp. 02-4).

R18-9-1007. Management Practices and General Requirements

- A.** An applicator of bulk biosolids that are not exceptional quality biosolids shall comply with the following management practices at each land application site, except a site where bulk biosolids are applied for reclamation. The applicator shall not:
1. Apply bulk biosolids to soil with a pH less than 6.5 at the time of the application, unless the biosolids are treated

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- under one of the procedures in subsections R18-9-1006(D)(2), R18-9-1006(E)(3), or R18-9-1010(A)(6), or the soil and biosolids mixture has a pH of 6.5 or higher immediately after land application;
2. Apply bulk biosolids to land with slopes greater than 6%, unless the site is operating under an AZPDES permit or a permit issued under section 402 of the Clean Water Act (33 U.S.C. 1342);
 3. Apply bulk biosolids to land under the following conditions:
 - a. Bulk biosolids with Class A pathogen reduction. If the depth to groundwater is five feet (1.52 meters) or less;
 - b. Bulk biosolids with Class B pathogen reduction.
 - i. If the depth to groundwater is 10 feet (3.04 meters) or less; or
 - ii. To gravel, coarse or medium sands, or sands with less than 15% coarse fragments, if the depth to groundwater is 40 feet (12.2 meters) or less from the point of application of biosolids;
 4. Apply bulk biosolids to land that is 32.8 feet (10 meters) or less from navigable waters;
 5. Store or apply bulk biosolids closer than 1000 feet (305 meters) from a public or semi-public drinking water supply well or no closer than 250 feet (76.2 meters) from any other water well;
 6. Store or apply bulk biosolids within 25 feet (7.62 meters) of a public right-of-way or private property line unless the applicator receives permission to apply bulk biosolids from the land owner or lessee of the adjoining property;
 7. Apply bulk biosolids at an application rate greater than the agronomic rate of the vegetation or crop grown on the site;
 8. Apply domestic septage or any other bulk biosolids with less than 10% solids at a rate that exceeds the annual application rate, calculated in gallons per acre for a 365-day period by dividing the amount of nitrogen needed by the crop or vegetation grown on the land, in pounds per acre per 365-day period, by 0.0026;
 9. Apply bulk biosolids to land that is flooded, frozen, or snow-covered, so that the bulk biosolids enter a wetland or other navigable waters, except as provided in an AZPDES permit or a permit issued under section 402 of the Clean Water Act (33 U.S.C. 1342);
 10. Apply any additional bulk biosolids before a crop is grown on the site if the site has received biosolids containing nitrogen at the equivalent of the agronomic rate appropriate for that crop;
 11. Exceed the irrigation needs of the crop of an application site;
 12. To minimize odors, apply bulk biosolids within 1000 feet (305 meters) of a dwelling unless the biosolids are injected or incorporated into the soil within 10 hours of being applied; or
 13. Store bulk biosolids within 1000 feet (305 meters) of a dwelling unless the applicator obtains permission from the dwelling owner or lessee to store the biosolids at a shorter distance from the dwelling. If the dwelling owner or lessee changes, the applicator shall obtain permission from the new dwelling owner or lessee to continue to store the bulk biosolids within 1000 feet of the dwelling or move the biosolids to a location at least 1000 feet from the dwelling.
- B.** If biosolids are placed in a bag or other container, the person who prepares the biosolids shall distribute a label or information sheet to the person receiving the material. This label or information sheet shall, at a minimum, contain the following information:
1. The identity and address of the person who prepared the biosolids;
 2. Instructions on the proper use of the material, including agronomic rates and an annual application rate that ensures that the annual pollutant rates established in R18-9-1005 are not exceeded; and
 3. A statement that application of biosolids to the land shall not exceed application rates described in the instructions on the label or information sheet.

Historical Note

New Section recodified from R18-13-1507 at 7 A.A.R. 2522, effective May 24, 2001 (Supp. 01-2). Amended by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 8 A.A.R. 4923, effective January 5, 2003 (Supp. 02-4).

R18-9-1008. Management Practices, Application of Biosolids to Reclamation Sites

- A.** An applicator of bulk biosolids that are not exceptional quality biosolids shall comply with the following management practices at each land application site where the bulk biosolids are applied for reclamation. The applicator shall not:
1. Apply bulk biosolids unless the soil and biosolids mixture has a pH of 5.0 or higher immediately after land application;
 2. Apply bulk biosolids to land with slopes greater than 6% unless:
 - a. The site is operating under an AZPDES permit or a permit issued under section 402 (33 U.S.C. 1342) or 404 (33 U.S.C. 1344) of the Clean Water Act;
 - b. The site is reclaimed as specified under A.R.S. Title 27, Chapter 5, and controls are in place to prevent runoff from leaving the application area; or
 - c. Runoff from the site does not reach navigable waters;
 3. Apply bulk biosolids to land under the following conditions:
 - a. Bulk biosolids with Class A pathogen reduction. To land if the depth to groundwater is 5 feet (1.52 meters) or less;
 - b. Bulk biosolids with Class B pathogen reduction.
 - i. To land if the depth to groundwater is 10 feet (3.04 meters) or less; and
 - ii. To gravel, coarse or medium sands, or sands with less than 15% coarse fragments if the depth to groundwater is 40 feet (12.2 meters) or less from the point of application of biosolids;
 4. Apply bulk biosolids to land that is 32.8 feet (10 meters) or less from navigable waters;
 5. Store or apply bulk biosolids closer than 1000 feet (305 meters) from a public or semi-public drinking water supply well, unless the applicator justifies and the Department approves a shorter distance, or apply bulk biosolids closer than 250 feet (76.2 meters) from any other water well;
 6. Store or apply bulk biosolids within 1000 feet (305 meters) of a public right-of-way or private property line unless the applicator receives permission to apply bulk

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biosolids from the land owner or lessee of the adjoining property;

7. Exceed a total of 150 dry tons per acre to any portion of a reclamation site if bulk biosolids are applied;
8. Apply bulk biosolids with less than 10% solids;
9. Apply bulk biosolids to land that is flooded, frozen, or snow-covered so that the bulk biosolids enter a wetland or other navigable waters, except as provided in an AZPDES permit or a permit issued under section 402 (33 U.S.C. 1342) or 404 (33 U.S.C. 1344) of the Clean Water Act;
10. Apply more water than necessary to control dust and establish vegetation; and
11. Apply bulk biosolids within 1000 feet (305 meters) of a dwelling unless the biosolids are injected or incorporated into the soil within 10 hours of being applied.
12. Store bulk biosolids within 1000 feet (305 meters) of a dwelling unless the applicator obtains permission from the dwelling owner or lessee to store the biosolids at a shorter distance from the dwelling. If the dwelling owner or lessee changes, the applicator shall obtain permission from the new dwelling owner or lessee to continue to store the bulk biosolids within 1000 feet of the dwelling or move the biosolids to a location at least 1000 feet from the dwelling.

- B.** The requirements of R18-9-1007(B) apply if biosolids placed in a bag or other container are used to reclaim a site.

Historical Note

New Section recodified from R18-13-1508 at 7 A.A.R. 2522, effective May 24, 2001 (Supp. 01-2). Former Section R18-9-1008 renumbered to R18-9-1009; new Section R18-9-1008 made by final rulemaking at 7 A.A.R.

5879, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 8 A.A.R. 4923, effective January 5, 2003 (Supp. 02-4).

R18-9-1009. Site Restrictions

- A.** The following site restrictions apply to land where biosolids, which do not meet the Class A pathogen reduction requirements established in R18-9-1006, are land-applied.
1. A person shall not:
 - a. Harvest food crop parts that touch the biosolids, or biosolids and soil mixture, but otherwise grow above the land's surface for 14 months following application;
 - b. Harvest food crop parts growing in or below the land's surface for 20 months following application if the biosolids remain unincorporated on the land's surface for four months or more;
 - c. Harvest food crop parts growing in or below the land's surface for 38 months following application if the biosolids remain on the land's surface for less than four months before incorporation;
 - d. Harvest food, feed, and fiber crops for 30 days after application;
 - e. Graze animals on the land for 30 days after application; or
 - f. Harvest turf to be used at a public contact site or private residence for one year after application.
 2. A person shall restrict public access to:
 - a. Public contact sites for one year after application, and
 - b. Land with a low potential for public exposure for 30 days after application.

- B.** If the vector attraction reduction requirement is met using the method:

1. In R18-9-1010(C)(1) or R18-9-1010(C)(2), the requirements of subsection (A) apply to domestic septage applied to agricultural land, forests, or reclamation sites; or
2. In R18-9-1010(C)(3), the requirements of subsection (A)(1)(a) through (A)(1)(d) apply to domestic septage applied to agricultural land, forests, or reclamation sites.

- C.** Once application is completed at a site, the applicator shall, in writing, provide the land owner and lessee with the following information:

1. The cumulative pollutant loading at the site if it is greater than or equal to 90% of the available site capacity established in Table 4 of R18-9-1005;
2. Any restriction established in this Section that applies to the property and the nature of the restriction; and
3. The signature of a responsible official of the applicator on this document that includes the following statement: "I certify under penalty of law, that the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for false representations, including fines and imprisonment."

- D.** The land owner or lessee shall provide each applicator with a signature indicating receipt of the site restriction statement.

Historical Note

New Section recodified from R18-13-1509 at 7 A.A.R. 2522, effective May 24, 2001 (Supp. 01-2). Former Section R18-9-1009 renumbered to R18-9-1010; new Section R18-9-1009 renumbered from R18-9-1008 and amended by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-1010. Vector Attraction Reduction

- A.** Except as provided in subsection (B), an applicator or person who prepares biosolids shall use one of the following vector attraction reduction procedures if biosolids are land-applied:
1. Reducing the mass of volatile solids by a minimum of 38% using the calculation procedures established in "Environmental Regulations and Technology -- Control of Pathogens and Vector Attraction in Sewage Sludge," EPA/625/R-92-013, published by the U.S. Environmental Protection Agency, Cincinnati, Ohio 45268, 1999 edition. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State;
 2. If the 38% volatile solids reduction cannot be met for anaerobically digested biosolids the reduction can be met by digesting a portion of the previously digested material anaerobically in a laboratory in a bench-scale unit for 40 additional days at a temperature between 30° C and 37° C. Vector attraction reduction is achieved if, at the end of the 40 days, the volatile solids in the material at the beginning of the period are reduced by less than 17%;
 3. If the 38% volatile solids reduction cannot be met for aerobically digested biosolids, the reduction can be met by digesting a portion of the previously digested material, which has a percent solids of 2% or less, aerobically in a laboratory in a bench-scale unit for 30 additional days at 20° C. Vector attraction reduction is achieved if, at the end of the 30 days, the volatile solids in the material at the beginning of the period are reduced by less than 15%;

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4. Treat the biosolids in an aerobic process during which the specific oxygen uptake rate (SOUR) is equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry-weight basis) at 20° C;
5. Treat the biosolids in an aerobic process for 14 days or longer, during which the temperature of the biosolids is higher than 40° C and the average temperature of the biosolids is higher than 45° C;
6. Raising the pH of the biosolids to 12 or higher by alkali addition and, without the addition of more alkali, remain at 12 or higher for two hours and at 11.5 or higher for an additional 22 hours;
7. The percent solids of the biosolids that do not contain unstabilized solids generated in a primary wastewater treatment process is equal to or greater than 75% based on the moisture content and total solids before mixing with other materials;
8. The percent solids of the biosolids containing unstabilized solids generated in a primary wastewater treatment process are equal to or greater than 90% based on the moisture content and total solids before mixing with other materials;
9. Injecting the biosolids below the surface of the land so that no significant amount of biosolids is present on the land surface one hour after injection. If the biosolids meet Class A pathogen reduction, injection shall occur within eight hours after being discharged from a Class A pathogen treatment process; or
10. Incorporating the biosolids into the soil within six hours after application. If the biosolids meet Class A pathogen reduction, application shall occur within eight hours after being discharged from a Class A pathogen treatment process.

B. Biosolids that are sold or given away in a bag or other container, or are applied to a lawn or home garden, shall meet one of the vector attraction reduction alternatives established in subsections (A)(1) through (A)(8).

C. For domestic septage, vector attraction reduction is met by one of the following methods:

1. By injecting as specified in subsection (A)(9);
2. By incorporating as specified in subsection (A)(10); or
3. By raising the pH of the domestic septage to 12 or higher through the addition of alkali and, without the addition of more alkali, holding the pH at 12 or higher for at least 30 minutes.

Historical Note

New Section recodified from R18-13-1510 at 7 A.A.R. 2522, effective May 24, 2001 (Supp. 01-2). Former Section R18-9-1010 renumbered to R18-9-1011; new Section R18-9-1010 renumbered from R18-9-1009 and amended by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-1011. Transportation

- A.** A transporter of bulk biosolids into and within Arizona shall use covered trucks, trailers, rail-cars, or other vehicles that are leakproof.
- B.** A transporter of bulk biosolids in liquid or semisolid form, including domestic septage, into and within Arizona shall comply with the requirements in A.A.C. R18-13-310. A transporter of bulk biosolids in solid form into and within Arizona shall comply with the requirements in A.A.C. R18-13-310.
- C.** A transporter of biosolids shall clean any truck, trailer, rail-car, or other vehicle used to transport biosolids to prevent odors or

insect breeding. A transporter shall clean any tank vessel used to transport commercial or industrial septage or restaurant grease-trap wastes, that is also used to haul domestic septage, before loading the domestic septage to ensure that mixing of wastes does not occur.

D. If bulk biosolids are spilled while being transported, the transporter shall:

1. Immediately pick up any spillage, including any visibly discolored soil, unless otherwise determined by the Department on a case-by-case basis;
2. Within 24 hours after the spill, notify the Department of the spill and submit written notification of the spill within seven days. The written notification shall include the location of the spill, the reason it occurred, the amount of biosolids spilled, and the steps taken to clean up the spill.

Historical Note

New Section recodified from R18-13-1511 at 7 A.A.R. 2522, effective May 24, 2001 (Supp. 01-2). Former Section R18-9-1011 renumbered to R18-9-1012; new Section R18-9-1011 renumbered from R18-9-1010 and amended by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 8 A.A.R. 4923, effective January 5, 2003 (Supp. 02-4). A.C.C. citation corrected in subsection (B) at the request of the Department; Office file number M16-185 (Supp. 16-3).

R18-9-1012. Self-monitoring

- A.** Except as provided in subsection (B) the person who prepares the biosolids shall conduct self-monitoring events at the frequency listed in Table 5 for the pollutants listed in R18-9-1005, the pathogen reduction in R18-9-1006 and the vector attraction reduction requirements in R18-9-1010.

Table 5. Frequency of Self-monitoring

Amount of biosolids prepared (tons/metric tons per 365-day period ⁽¹⁾)	Frequency
Greater than zero but less than 319.6/290	Once per year
Equal to or greater than 319.6/290 but less than 1,653/1,500	Once per quarter (Four times per year)
Equal to or greater than 1,653/1,500 but less than 16,530/15,000	Once per 60 days (Six times per year)
Equal to or greater than 16,530/15,000	Once per month (12 times per year)

⁽¹⁾ The amount of biosolids prepared in a calendar year (dry-weight basis).

- B.** If biosolids are stockpiled or lagooned, the person shall sample the biosolids for pathogen and vector attraction reduction before land application. A person shall sample in a manner that is representative of the entire stockpile or lagoon.
- C.** A person who prepares biosolids shall submit additional or more frequent biosolids samples, collected and analyzed during the reporting period, to the Department with the regularly-scheduled data required in subsection (A).
- D.** The Department may order the person who prepares biosolids or the applicator to collect and analyze additional samples to measure pollutants of concern other than those established in Table 1 of R18-9-1005.
- E.** The applicator, person who prepares biosolids, or a person collecting samples for the applicator or preparer for analysis shall obtain the samples in a manner that does not compromise the

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integrity of the sample, sample method, or sampling instrument and shall be representative of the quality of the biosolids being applied during the reporting period.

- F. A person responsible for sampling the biosolids shall track biosolids samples using a chain-of-custody procedure that documents each person in control of the sample from the time it was collected through the time of analysis.
- G. The person who prepares biosolids or the applicator shall ensure that the biosolids samples are analyzed as specified by the analytical methods established in 40 CFR 503.8, July 1, 2001 edition, or by the wastewater sample methods and solid, liquid, and hazardous waste sample methods established in A.A.C. R9-14-612 and R9-14-613. The person who prepares the biosolids or the applicator shall ensure that the biosolids analyses are performed at a laboratory operating in compliance with A.R.S. § 36-495 et seq. The information in 40 CFR 503.8 is incorporated by reference, does not include any later amendments or editions of the incorporated matter and is on file with the Department and the Office of the Secretary of State.
- H. The person who prepares the biosolids or the applicator shall monitor pathogen and vector attraction reduction treatment operating parameters, such as time and temperature, shall be monitored on a continual basis.
- I. An applicator shall conduct and record monitoring of each site for the management practices established in R18-9-1007 and R18-9-1008.
- J. A person shall maintain, as specified in R18-9-1013, and report to the Department as specified in R18-9-1014, all compliance measurements, including the analysis of pollutant concentrations.

Historical Note

New Section recodified from R18-13-1512 at 7 A.A.R. 2522, effective May 24, 2001 (Supp. 01-2). Former Section R18-9-1012 renumbered to R18-9-1013; new Section R18-9-1012 renumbered from R18-9-1011 and amended by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-1013. Recordkeeping

- A. A person who prepares biosolids shall collect and retain the following information for at least five years:
 1. The date, time, and method used for each sampling activity and the identity of the person collecting the sample;
 2. The date, time, and method used for each sample analysis and the identity of the person conducting the analysis;
 3. The results of all analyses of pollutants regulated under R18-9-1005 and organic and ammonium nitrogen to comply with R18-9-1007(A)(7);
 4. The results of all pathogen density analyses and applicable descriptions of the methods used for pathogen treatment in R18-9-1006;
 5. A description of the methods used, if any, and the operating values and ranges observed in any pre-land application, vector attraction reduction activities required in R18-9-1010(A); and
 6. For the records described in subsections (A)(1) through (A)(5), the following certification statement signed by a responsible official of the person who prepares the biosolids:

"I certify, under penalty of law, that the pollutant analyses and the description of pathogen treatment and vector attraction reduction activities have been made under my direction and supervision and under a system designed to ensure that qualified personnel

properly gather and evaluate the information used to determine whether the applicable biosolids requirements have been met. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

- B. An applicator of bulk biosolids, except exceptional quality biosolids, shall collect the following information for each land application site, and, except as indicated in subsection (B)(6), shall retain this information for at least five years:
 1. The location of each site, by either street address or latitude and longitude;
 2. The number of acres or hectares;
 3. The date and time the biosolids were applied;
 4. The amount of biosolids (in dry metric tons);
 5. The biosolids loading rates for domestic septage and other biosolids with less than 10 percent solids in tons or kilograms of biosolids per acre or hectare and in gallons per acre and the biosolids loading rates for other biosolids in tons or kilograms of biosolids per acre or hectare;
 6. The cumulative pollutant levels of each regulated pollutant (in tons or kilograms per acre or hectare). The applicator shall retain these records permanently;
 7. The results of all pathogen density analyses and applicable descriptions of the methods used for pathogen treatment in R18-9-1006;
 8. A description of the activities and measures used to ensure compliance with the management practices in R18-9-1007 and R18-9-1008, including information regarding the amount of nitrogen required for the crop grown on each site;
 9. If vector attraction reduction was not met by the person who prepares the biosolids, a description of the vector attraction reduction activities used by the applicator to ensure compliance with the requirements in R18-9-1010;
 10. A description of any applicable site restriction imposed by in R18-9-1009 if biosolids with Class B pathogen reduction have been applied and documentation that the applicator has notified the land owner and lessee of these restrictions;
 11. For the records described in subsections (B)(1) through (B)(8), the following certification statement signed by a responsible official of the applicator of the biosolids:

"I certify, under penalty of law, that the information and descriptions, have been made under my direction and supervision and under a system designed to ensure that qualified personnel properly gather and evaluate the information used to determine whether the applicable biosolids requirements have been met. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."
 12. The information in subsections (A)(1) through (A)(6) if the person who prepares the biosolids is not located in this state.
- C. All records required for retention under this Section are subject to periodic inspection and copying by the Department.
- D. If there is unresolved litigation, including enforcement, concerning the activities documented by the records required in this Section, the period of record retention shall be extended pending final resolution of the litigation.

Historical Note

New Section recodified from R18-13-1513 at 7 A.A.R. 2522, effective May 24, 2001 (Supp. 01-2). Former Section R18-9-1013 renumbered to R18-9-1014; new Sec-

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tion R18-9-1013 renumbered from R18-9-1012 and amended by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 8 A.A.R. 4923, effective January 5, 2003 (Supp. 02-4).

R18-9-1014. Reporting

- A. A person who prepares biosolids for application shall provide the applicator with the necessary information to comply with this Article including the concentration of pollutants listed in R18-9-1005 and the concentration of nitrogen in the biosolids.
- B. A transporter shall report spills to the Department under R18-9-1011(D).
- C. A bulk applicator of biosolids other than exceptional quality biosolids shall provide the land owner and lessee of land application sites with information on the concentrations of the pollutants listed in R18-9-1005 and loading rates of biosolids applied to that site, and any applicable site restrictions under R18-9-1009.
- D. A bulk applicator of biosolids other than exceptional quality biosolids shall report to the Department if 90% or more of any cumulative pollutant loading rate has been used at a site.
- E. On or before February 19 of each year, any person land-applying bulk biosolids that are not exceptional quality biosolids shall, by letter or on a form provided by the Department, report to the Department the following applicable information for the previous calendar year:
 1. The actual sites used; and
 2. For each site used, the following information:
 - a. The amount of biosolids applied (in tons or kilograms per acre or hectare);
 - b. The application loading rates (in tons or kilograms per acre or hectare, and gallons per acre for domestic septage);
 - c. The concentrations of the pollutants listed in R18-9-1005 (in milligrams per kilogram of biosolids on a dry-weight basis);
 - d. The pathogen treatment methodologies used during the year and the results; and
 - e. The vector attraction reduction methodologies used during the year and the results.
- F. On or before February 19 of each year, a person preparing biosolids in a Class I Sludge Management Facility, POTW with a design flow rate equal to or greater than one million gallons per day, or POTW that serves 10,000 people or more, that are applied to land, shall, by letter or on a form provided by the Department, report to the Department all the following applicable information regarding their activities during the previous calendar year:
 1. The amount of biosolids received if the preparer purchased or received the biosolids from another preparer or source;
 2. The amount of biosolids produced (tons or kilograms);
 3. The amount of biosolids distributed;
 4. The concentrations of the pollutants listed in R18-9-1005 (in milligrams per kilogram of biosolids on a dry-weight basis);
 5. The pathogen treatment methodologies used during the year, including the results; and
 6. The vector attraction reduction methodologies used during the year, including the results.
- G. All annual self-monitoring reports shall contain the following certification statement signed by a responsible official:

"I certify, under penalty of law, that the information and descriptions, have been made under my direction and

supervision and under a system designed to ensure that qualified personnel properly gather and evaluate the information used to determine whether the applicable biosolids requirements have been met. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

Historical Note

New Section recodified from R18-13-1514 at 7 A.A.R. 2522, effective May 24, 2001 (Supp. 01-2). Former Section R18-9-1014 renumbered to R18-9-1015; new Section R18-9-1014 renumbered from R18-9-1013 and amended by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 8 A.A.R. 4923, effective January 5, 2003 (Supp. 02-4).

R18-9-1015. Inspection

A person subject to this Article shall allow, during reasonable times, a representative of the Department to enter property subject to this Article, to:

1. Inspect all biosolids pathogen and vector treatment facilities, transportation vehicles, incinerators that fire sewage sludge, and land application sites to determine compliance with this Article;
2. Inspect and copy records prepared in accordance with this Article; and
3. Sample biosolids quality.

Historical Note

Renumbered from R18-9-1014 and amended by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 21 A.A.R. 751, effective July 4, 2015 (Supp. 15-2).

Appendix A. Procedures to Determine Annual Biosolids Application Rates

The following procedure determines the annual biosolids application rate (ABAR) that ensures that the annual pollutant loading rates in Table 3 of R18-9-1005 are not exceeded.

1. The relationship between the annual pollutant loading rate (APLR) for a pollutant and the ABAR is shown in the following equation.

$$APLR = C \times ABAR \times 0.001$$

APLR = Annual pollutant loading rate in kilograms of biosolids, per hectare, per 365-day period;
 C = Pollutant concentration in milligrams, per kilogram of total solids (dry-weight basis);
 ABAR = Annual biosolids application rate in metric tons, per hectare, per 365-day period (dry-weight basis); and
 0.001 = A conversion factor.
 metric ton = 1.102 short tons
 hectare = 2.471 acres

2. The ABAR is calculated using the following procedure:
 - a. Analyze a biosolids sample to determine a concentration for each of the pollutants listed in Table 3 of R18-9-1005; and
 - b. Using each of the pollutant concentrations from subsection (2)(a) and the APLRs from Table 3 of R18-9-1005, calculate a separate ABAR for each pollutant using the following equation:

$$ABAR = \frac{APLR}{C \times 0.001}$$

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- c. The ABAR for biosolids is the lowest value calculated in under subsection (2)(b) for any pollutant.

at 7 A.A.R. 2522, effective May 24, 2001 (Supp. 01-2).
Amended by final rulemaking at 7 A.A.R. 5879, effective
December 7, 2001 (Supp. 01-4).

Historical Note

New Appendix recodified from 18 A.A.C. 13, Article 15